

## **INDEPENDENT INQUIRY RELATING TO AFGHANISTAN**

### **SUMMARY OF N1803'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 N1803, 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.

**N1803 was questioned by Counsel to the Inquiry, Kerry Broome, in a CLOSED hearing in Summer 2024, over approximately two thirds of a day. The following is a summary and, where possible and relevant to do so, a transcript of sections of N1803's evidence, with any sensitive terms redacted and replaced with a gist or cipher in square brackets.**

**N1803 was a Policy Advisor for the Civil Service based in HQ DSF. N1803 gave evidence about her role in the concerns raised about the use of the TTP of using an individual who had been detained to assist with the compound clearance during deliberate detention operations ("the TTP"). N1803 considered the use of the TTP to be an operational issue rather than a policy concern.**

**N1803's evidence was that she did raise concerns about the TTP with N1788 and N1466. N1803 recalled that N1466 was worried about the TTP and the number of deaths occurring as a result of its use. N1803 thought it was likely that she would also have questioned the TTP with N2108, with whom she shared a very close working relationship.**

N1803 confirmed her statement to the Inquiry. CTI took the witness through the key aspects of her 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.

N1803 joined the Civil Service in the early 2000s. She had experience including as a Policy Advisor ("POLAD") at Permanent Joint Headquarters ("PJHQ") and in a military-focused ministerial private office, during which time she had visited Afghanistan.

N1803 confirmed the roles and responsibilities of working in a private office, namely to share information with the Minister and "*divvy up all the work that he was responsible for*". N1803 was not specifically responsible for Afghanistan because that was the role of another staff member, but at that stage in private office she would work on Afghanistan-focused issues.

N1803 had responsibilities in relation to a range of policy matters, including dealing with legislation, policy delivery, development and implementation, media action and strategy, and advising the Minister. N1803 was then questioned on the relationship between her work and other sections of the Ministry of Defence (“MOD”).

As a POLAD, N1803 was responsible for providing a policy perspective on any legal advice. Ministers would take an overarching decision and set certain parameters regarding policy, legal and risk. Thereafter, decision-making would be delegated. N1803 would have to spot if an action went beyond the parameters set by the Minister and decide whether to do a Ministerial Submission.

In the late 2000s, N1803 spent a number of months working on policy at Headquarters Task Force Helmand. N1803 described how hard the team worked and how long the hours were, up to fifteen or sixteen hours a day for seven days a week. N1803 was the only POLAD in her particular camp.

The Chair asked N1803 about how she dealt with her responsibility to adhere to international humanitarian law when legal advice was given by the Legal Advisor (“LEGAD”). In general, there was a “*very close working relationship with the LEGAD, and the LEGAD and the POLAD are quite often seen as a team*”. N1803 outlined that often, before a decision had been made, the Policy Advisor would be responsible for writing a note to a Minister addressing legal advice provided by the LEGAD, which the LEGAD would also comment on. The Chair asked N1803 about what parameters she meant when she said her job was to “*spot whether anything fell out of particular parameters*”. N1803 confirmed that the parameters could be policy, legal or risk parameters. If N1803 spotted anything, she “*would go and talk to the lawyers and say, ‘What do you think?’*”.

N1803 confirmed that Assistant Chief of Staff Policy (“ACOS Policy or ACOS POL”) was her first posting to Special Forces although she had had some experience working with UKSF in Afghanistan.

CTI confirmed with N1803 details regarding her role as ACOS Policy based at HQ DSF, a position she held in the early 2010s. N1803 was referred to her Royal Military Police (“RMP”) witness statement dated 9 March 2016 (MOD-198-0000586-A). As per her RMP witness statement, N1803 confirmed she was responsible for advising on matters of policy regarding UKSF operations and ensuring they were in compliance with Government policy. N1803 would work very closely with the LEGAD and that together they would discuss and decide if something should be questioned.

When asked how frequently permission would be sought from the Secretary of State, N1803 said she, working with others in the MOD policy team, would submit advice to Ministers on a regular basis and as a minimum once a week.

The Minister’s input would be sought on routine matters as well as on matters that were less routine, such as where something went wrong. N1803 explained that “*Ministers were really interested or are really interested in what is going on, quite rightly, and ... if they have agreed that X and Y and Z is going to happen*” they would “*want to know when it has happened.*”

N1803 stated that reporting what had happened and whether it went well or not was also relatively routine, and that would involve making a judgement on what Ministers should know and how that should be imparted. She stated that continual discussion with their private office and the flowing of information would usually be dealt with in “*an ad hoc easy fashion*”.

N1803 had access to DSF by virtue of where she sat in HQ DSF. N1803 was responsible for advising DSF and ensuring that Ministers were sighted on relevant matters. N1803 said that some minor matters that posed a risk to a mission would not always have to go up to the Minister. If there was a risk such that the objective of a particular mission could not be achieved, it would be discussed with PJHQ. N1803 said it would be submitted to Ministers if the matter could not be resolved or if there was an ongoing issue.

CTI asked N1803 whether she would submit to Ministers if an issue arose that posed a risk to UKSF’s reputation. N1803 explained that she would still exercise her judgement as to whether something that could lead to a risk to reputation of UKSF or publicity was a significant risk, and therefore whether to submit to Ministers.

N1803 confirmed that if she found something significant, she would “*run it up the flagpole*” and that “*loss of UK life*” would be something significant. N1803 would submit to Ministers on loss of UK life after it had happened but not in respect of the risk of loss of UK life, as that was to be expected in conflict. N1803 could not be sure whether she always submitted to Ministers in every instance of an allegation of civilian casualties; but at the point at which she thought that there actually had been civilian casualties, she thought she would have submitted. N1803 could not remember exactly at what point in the handling of an allegation of civilian casualties that she would submit to Ministers, whether it was at the start of a Serious Incident Review (“SIR”) or afterwards, or whether Ministers just wanted to see the Incident Tracker every six months. The Tracker was a record of allegations of civilian casualties, as well as anything that was subject to an SIR. N1803 confirmed that whether something ended up at Ministerial level or not would be something N1803 would routinely advise DSF on, who was N1802 at the relevant time, but that those conversations would also happen without N1802. N1802 would always want to see a submission before it went to the Minister so he could review any submission on civilian casualties.

The Chair asked N1803 what principle she applied when deciding whether to refer an issue to Ministers or not. N1803 would submit to Ministers where she required permission to do something outside of the boundary of delegated authority, and also where something was likely to get into the public domain. Ministers did not want to be surprised by something in the newspaper, whether the publicity was good or bad. N1803 would let Ministers know what had happened, whether it was successful or unsuccessful, following conversations amongst policy staff as to whether she should submit on the matter. There was policy staff for different parts of the world and there would be wide liaison across MOD on UKSF issues.

N1803 line managed two people: one individual based in HQ DSF working closely with the Operations Team, and another in a different non-operational team within the Headquarters led by N1803. N1803 described how information sharing took place within the teams. There was a great deal of liaison. N1803 had a very close working relationship with her subordinate based

in HQ DSF and that individual would raise anything they found troubling with N1803, including any concerns they would have had about the use of the TTP.

Although she did not recall recruiting this individual, N1803 recalled their predecessor being in the role. N1803 had a similar relationship with their predecessor, who she expected to have similarly raised any concerns with her. N1803 had no concerns about the predecessor's professionalism.

N1803 explained that she would have contact with SFHQ(A) through various means and would speak to N1786 and N889 as needed.

N2312 was part of N1803's reporting line and N1803 would see him every week to fortnight. N2312 was a senior civil servant. N2312 had significant experience of and ongoing responsibility for Special Forces policy in MOD. N1803 and N2312 would compare notes on how to take things forward. N1803 did not remember whether she raised the concern she had over the TTP with N2312.

### **Relationships within HQ DSF**

CTI then asked N1803 about her relationship with N1802. N1803 had worked with N1802 before on an exercise (not related to UKSF) when N1802 was not in UKSF. N1803 described her relationship with N1802 as good. N1802 would be open to N1803 being part of command conversations within HQ DSF. N1803 respected N1802. N1802 would seek N1803's advice but N1803 could not be sure whether there were issues at times when N1802 should have sought N1803's advice, but did not. N1803 recalled that N1802 worked very hard and made lots of notes. He had very high standards and wanted to have the relevant military, policy and legal advice. Whilst N1802 could get cross, N1803 did not think people were scared of, or intimidated by, N1802.

*Q Were they concerned about their career progression if they did not meet [N1802's] standards?*

*A No more than any military officer is scared about their career progression if their senior officer doesn't think they are doing a good job.*

*Q But was [N1802], you described him as unusual for a military commander and that he was a great thinker and I do not ----*

*A It does not mean that the rest were not.*

*Q I do not think anybody in this room will take that as a slight on anybody else, but by that do you mean that he was careful, detailed, had very good recall of information and expected the Headquarters to work on the same level as him?*

*A Yes, I do mean that.*

*Q And those are particularly high standards, especially for juniors. Would you agree with that?*

*A I mean, he had high standards. Whether they were, I mean, I think, all senior officers, I mean everyone has got high standards. I don't think, I don't think the way that you have just described it is particularly, I think his style was more unusual to be honest*

*and that he was very in the detail. So there are some senior military commanders who are less in the detail. He was in the detail.*

*Q And was in the detail on everything on his portfolio?*

*A Yeah.*

*Q So as his ACOS Policy, did that mean that you had to be with him on the detail?*

*A Um I, I definitely recall times when I said “I don’t know, I will have to get back to you” and I wasn’t in the detail, which wasn’t a problem, but, yes, ideally yes.*

N1803 would exercise her judgement as to when and how to adapt her style to be of best use to N1802. N1803 gave an example of where she simplified a process to save time in the work she was doing for N1802, and that it was typical for N1803 to be able to suggest new ways of working to N1802. Equally, N1803 learned N1802’s style and how best to land the advice.

*Q Being a Policy Advisor, especially in somewhere like HQ DSF but particularly you used the words “difficult job”, not to mean that it is hard but there is a balance because you are an adviser and so you provide the advice but the Commander takes the decision. Is there a challenge in providing the best advice you can and assisting the Commander in the best way you can?*

*A I think I’ve always seen that the best way I can help, be it the Commander, is by providing the challenge that, because if, if I believe he needs challenge on something, that is because of thinking he needs to know it and therefore the two are totally intertwined for me and I don’t mind. That’s a job for him if I’m providing that challenge as long as I’m doing that in a professional way which I think he can take or there’s no point doing that.*

*Q So were there occasions when you had to challenge [N1802] about something that you recall?*

*A I’m just trying to think of a specific incident where I had a really difficult conversation and I can’t really remember a specific. I, he was very policy aware as a Commander, so um from my perspective I would raise something and he would be very open to it and we’d have a conversation. I can’t, I just can’t remember a specific kind of really difficult one.*

CTI then asked N1803 about her relationship with her line manager, N2252. N1803 confirmed that N2252 and N2312 interviewed her for the ACOS Policy role. N1803 had a good, “*quite easy relationship*” with N2252 and “*would be able to walk in and out of his office as needed*”. N1803 “*found him supportive as a line manager*”.

*Q If there were any concerns about what was going on within the HQ [DSF], would you be able to raise it with [N2252]?*

*A Yes.*

*Q What about on operations? Is that something you would raise with [N2252] or would you provisionally raise that with someone else?*

*A So um my recollection is that [N2252] was really focused on trying, on lots of the kind of nuts and bolts on how things were going in the Headquarters and the commercial and the finance and the staffing and stuff and left the operational stuff to [N1802]. So I*

*don't recall regular operational discussions with [N2252], but he stood in for [N1802] obviously if [N1802] wasn't around, so he was part of it, but I ...*

*Q But [N2252] had a different experience set to [N1802]. Is that right?*

*A Well, they came from different units.*

*Q They came from different units and he wasn't [UKSF1] or [UKSF3].*

*A [N1803 confirmed that N2252 had not served in UKSF1 nor UKSF3 but had served elsewhere in UKSF].*

*Q But in terms of operational experience, did you think he left it to [N1802] because his operational experience was different to the particular theatres that were in play at the time?*

*A No, because [UKSF] was operating ... round the world, so I don't think so.*

*Q [N1466].*

*A Yes.*

*Q Who was ACOS Ops.*

*A Yes.*

*Q So you are contemporaries. You are equal in terms of the hierarchy. What was your relationship like with [N1466]?*

*A So um we spent a lot of time together. We got on well. He was always someone who I found to be open to policy advice and er we would spend, we would compare notes um and worked well together.*

*Q What sort of issues did you compare notes over? I know about the TTP Review and the TTP concerns, but what other things would you talk to [N1466] about?*

*A So a lot about um, so a lot of the Headquarters was about planning for military, for what was happening next.*

N1803 explained that she would work with N1466 on military planning and lower down the chain, her subordinate would feed in on policy. N1466 and N1803 often discussed planning and would ask themselves: “*what are the policy implications, what are the considerations, do we need to submit to Ministers?*”

N1803 estimated that she spoke about Afghanistan with N1466 in a minority of the conversations they had, compared to other operations that were ongoing, as Afghanistan was an established operation operating within parameters. N1803 would discuss ad hoc issues and specific concerns about Afghanistan with N1466. Detention policy was dealt with through PJHQ and a specific detention policy team. N1803 did not have to do much on the detention side herself.

*Q ... Were you aware of the frustrations that the detention policy ----*

*A Yeah, yeah.*

*Q -- led to?*

*A Yeah and so I would often be represented to with those frustrations by the team and I would have the relationship with the PJHQ policy team and the London and the main Head Office policy team and quite frequently I would be saying “Could we do this? Could we do that?” or “Could it change?” but I wasn't responsible for the advice to Ministers on detention.*

*Q No. But in terms of the representations to you about the detention policy, how would they, what form would they take and what was the content of those frustrations?*

*A I can't remember the detail of where we were at that stage and what the specific frustrations were, but quite often they would manifest themselves with [N1788] in my office saying "This is really frustrating"*

*Q Pause there.*

*CHAIR: You cannot remember what the problems were with the detention policy at all?*

*A So well the reason it's slightly difficult for me is because in [a later role] I was responsible for detention then, so ...it's just slightly hard to remember the specific concerns between the two dates at this range. The basic difficulty was the legal basis on which to hold people and deny them their freedom in the, on the legal basis on which we were operating in Afghanistan in the first place er and then um so if we handed detainees over to the Afghans that was fine because they obviously had jurisdiction, but the problem was that quite often they would badly treat the people and therefore we couldn't hand them over to them and therefore the basic problem was we couldn't hold onto people and therefore they'd get released and so we would put our own soldiers in harm's way to go and detain people who would walk free four days later. 96 hours was the basic length of time for which we could hold anyone before a Minister had to make a decision about whether they could stay um any longer. Then I think it had to be reviewed every day or two after 96 hours and so it went on and, as I say, I can't quite remember where we were in that policy development in 2011.*

*MS BROOME: Just pause there for a moment. So you said the frustration was that UKSF personnel would put themselves in harm's way to detain someone on the basis of intelligence which suggested -- and agree with me or not on the intelligence side -- suggested they were part of an insurgency but they could not be kept hold of and would be released?*

*A Well, sometimes they could be kept hold of if the bar was met.*

*Q But that was relatively limited, was it not?*

*A Slightly relative to what, but um, but, but yes and I wouldn't be able to remember the numbers in 2011.*

N1803 then explained the nature of N1788's frustration in respect of detention policy. Sometimes N1788 and his team would become frustrated by the opposing views that would arise between policy, legal and military staff in HQ DSF, SFHQ(A), PJHQ, or the Ministry of Defence Head Office as to whether a detainee was important or should be released. UKSF was becoming more professional about trying to gather evidence to build a case for individuals to remain detained but the difference in views would usually arise from the evidence collected on the ground.

N1803 was asked questions about the purpose of Deliberate Detention Operations ("DDOs"), how they furthered UKSF objectives, and how the detention of individuals captured in DDOs was time-limited. N1803 agreed that there was frustration within UKSF around the detention policy time limits which meant that individuals were only removed from the insurgency for a

period of time. However, a key part of DDOs was to obtain information both from the scene of a DDO and from detainees.

CTI asked N1803 questions about her working relationship with N1788.

*Q ...You have explained that he had come to you and would come to you to raise concerns he had about matters. How would you describe your working relationship with him?*

*A Er very good. He er was easy to deal with. He would listen. We could have a good constructive conversation on things that were, he wouldn't just come and see me with concerns, he would also come and see me with other matters.*

*Q ... So if he came to you about matters, would he seek your advice about them*

*A Yes, he would seek my advice*

*Q And did he seem receptive to your advice?*

*A Yes.*

N1786, Commander SFHQ(A), and N889, Chief of Staff ("COS") SFHQ(A), would come to N1803 if there was a particular issue or concern they had. N1803 confirmed that information would be fed in at different levels; if something had been raised by N889 at his opposite number's level, it would find its way to N1803's level. A lot would have been resolved at a lower level, but if needed it could reach N1803 directly or indirectly.

*Q What about so [N1786] was in theatre when you first started your time at [SFHQ(A)]. [N1785] took over from him. What was your working relationship like with [N1785]?*

*A So I had relationships with each of the Commanding Officers in the UK, um so I got to know [N1785] a little bit before he deployed because he was CO [UKSF3] I think just before he deployed.*

*Q Yes.*

*A So, I've got to know him well since, so it's hard to remember what it was like then, but a good working relationship, never any issues.*

*Q What was your contact? You said you knew him as CO [UKSF3] probably for a relatively short period of time when you joined the Headquarters before he was deployed, but what was your interaction with CO [UKSF3] and CO [UKSF1] during your tenure?*

*A Um so remembering my job as disclosure as well, quite a lot of the case work on disclosure would have been about the sort of er, they, all the units had stuff that was going on. There was, I don't know, Soldier X has done something bad and we are trying to protect or not his identity in court. So all those cases were ongoing and actually it was quite a lot of that work that would put me in touch with the Commanding Officers of the units as well as their operational work. Um er I obviously need to get to know and understand their business. I went on visits. I went to visit all of them when I arrived and then they would all often be in the Headquarters. I can't remember the name now of kind of when [N1802] called all the, all the Commanding Officers in and we would have a day of something or other.*

*Q Were you aware of any friction between [UKSF1] and [UKSF3] during your time at ACOS Policy?*



A Yes.

Q And what were you aware of?

A So, there was rivalry, and probably still is, rivalry between particularly those two units, although also in fact between the other units in [UKSF] which in many ways is the kind of professional rivalry you get between two organisations, whether it's, um in, in all walks of life. I think in, yeah, so I think there was I think rivalry is the best way of describing it to the point that, and I suppose, sorry, the additional thought is um their mind set and their kind of they really want to do things. So the decision on whether it was going to be [a UKSF1] operation or [a UKSF3] operation or [a UKSF5] operation, they would almost be wanting to do it. There was never a moment when somebody wouldn't want to be going somewhere around the world and so, and that was always the Director's decision, um er so that's where the rivalry particularly played out.

Q Was that something that particular decisions about which unit did what, so [UKSF1] did something or [UKSF3] did something, was that a current issue for you when you were in the Headquarters or was it more historic?

A It came up frequently because who was going to do what job. I mean, it wasn't an issue for me because it was definitely none of my business as to which unit did what... it was a topic that was quite frequently on the table.

Q You have described this as rivalry because each of the units, all of them, wanted to out and be engaged with the work that they wanted to do, as you have described. Was there anything ever that you thought was unprofessional about that rivalry?

A So I'm not quite sure if it gets to the point where one would describe it as "unprofessional", but there would be, I experienced people being quick to criticise and I would learn to take, to kind of make sure that I formed my own view on it.

Q When you say "quick to criticise", how would that take shape, what sort of criticism?

A So it could be anything from off-hand commentary in the corridor, so "Oh it would be like that, wouldn't it?" because they did it. That would be the chat I think is probably how I would describe it in terms of how it, how I saw it manifested.

Q And would that be in one direction or would it go both ways?

A Both ways.

Q Because in Headquarters it was essentially a mix of different units, was it not?... so there is a melting pot of different parts of [UKSF] and the Civil Service. Was there a theme, as far as you can tell, to the rivalry on either side? Was there a recurring issue about anything that you can remember?

A Um no.

N1803 was then questioned on the way non-military staff were treated by UKSF.

Q Looking at the makeup of Headquarters, as a Civil Servant (and I think you may have answered this in part in already) but there can be a perception, can there not, within the military environment that Civil Servants are not necessarily treated as equally or respected as much as other military colleagues? Was that something that you experienced at Headquarters?

- A *So for Special Forces it's kind of in the name that they're special and they are trained to be special and to do things that nobody else can do um and I think what I experienced and witnessed was that they thought that everybody else wasn't special not just civilians. So all the other groups, the other type of person in the Headquarters was [Support Staff] that were seconded in, so [Armed Forces].*
- Q *Just pause there a minute. [Support Staff]?*
- A *And I saw them needing to earn the respect of the [Trained Personnel] community in the same way that I did and I think that's the way I would describe it, that anybody that, anybody other needed to earn the respect and, once they had earned the respect, they were absolutely treated well and fairly and in a respectful way.*
- Q *What happened if an individual did not earn the respect?*
- A *Um I mean nothing, nothing, nothing um I expect they, I think they kind of got side-lined. Probably whatever their job was, they weren't, I don't know, it slightly depended on the role.*
- Q *By "side-lined" do you mean pushed out of what ordinarily would have been part of in their role or side-lined in terms of promotion, or both?*
- A *Oh no, I don't, I don't think promotion, but I mean it's hard to tell. I doubt, I doubt promotion. I just mean in the daily workings so much happened because of the pace on a very ad hoc basis and it's whether somebody went to go and get you to be part of a conversation or, because they didn't think you would add anything useful, they didn't go and get you. It was really that kind of thing.*
- Q *Did it come down to trust in part as well?*
- A *I, I can only imagine, yes, if I was working with a group of people and you don't trust somebody, then you are going to.*
- Q *So would it be fair that at Headquarters and within SF generally that trust is an important feature?*
- A *I've not really thought about it like that. I think probably in all military environments trust is really important.*
- Q *But if, for example, you had a report from theatre or a witness statement is passed from an SIR procedure, would that document be trusted because it was written by a member of SF or would there be a level of interest ----*
- A *Not by me.*
- Q *We will come back to your view but generally in the Headquarters.*
- A *Um I wouldn't have said, I wouldn't have said for that reason, not just because it has been written by somebody, you know, it would be automatic. I don't, I don't know.*
- Q *Does it not come with, if you are a member of Special Forces, it comes with it, as you say they are special for a reason. It comes with it a badge of a certain quality and therefore ultimately they are trusted?*
- A *No, I don't. No, I think that you can have the quality and not necessarily always trust it. I, I um ...*
- Q *So it was not as if you were in HQ, there was not a level of "Well, such and such said it, so we are not going to doubt it"?*
- A *No, I don't think so.*

- Q And as far as you were concerned, whenever you looked at the operational reporting or the returns, how would you view those documents?*
- A So I'd, I'd view the content on the face value. It never occurred to me that someone had written something, it never occurred to me that someone had written something deliberately wrong on a document, but in terms of the content, as we will come to on the TTP Review, if there was something in it I wanted to question, then I would question it.*
- Q It never occurred to you that somebody had written something deliberately wrong or would write something deliberately wrong? I know that is a very high distinction.*
- A I don't think, um had, I think the easiest way for me to say it is it wasn't on my mind that anyone would deliberately misreport something.*
- Q Civil Servants in the military, you have earned your place by being good at the job from what said earlier and earned the respect of your colleagues. How about being a woman in what is generally a male-dominated profession? Were there any difficulties with your advice being listened to or your initial days there because you were a woman?*
- A It's hard to tell because I can't do the counterfactual.*
- Q I know. I know.*
- A So I didn't experience, I, I didn't experience any um overt um ----*
- Q Discrimination?*
- A -- well, I don't know, overt kind of rejection of my advice because I was a woman. I expect there was and still is gender discrimination um, um ...*
- Q But it was not something that you felt was happening or you were not particularly concerned about that?*
- A I don't recall it being something that was bothering me at the time.*

N1803 confirmed that her role as ACOS required her to demonstrate independence of mind. N1803 had to have a “finger on the pulse” of what was going on in UKSF, understanding and tracking activity but would not have been able to scrutinise everything going on worldwide with UKSF. N1803 stated that, whilst previously the number 1 priority, by 2011, Afghanistan was no longer top of the Director’s list of priority operations. N1803 said the job in HQ fluctuated in terms of tempo and pace but she worked very hard over long days and N2108 dealt with the same.

- Q And how was your relationship professionally and then a bit about the nuts of bolts of how it worked?*
- A So an extremely good professional relationship. I um trusted his legal advice. He and I um would talk a huge amount most days. I would say we were chatting in my office about the breadth of things going on. He was also the only other person that did the operations and the disclosure, so my entire job and I did together. He had a junior lawyer in [another non-operational department] as well. So it was, so um we did a huge amount together.*

## Concerns about the TTP

CTI referred N1803 to the part of her first RMP statement (MOD-198-0000586-A) that dealt with Significant Incident Reports (“SINCREFs”). N1803 confirmed that when she said she read the SINCREFs, N1803 thought she was actually reading the operational summaries (“OPSUMs”). N1803 confirmed that she was familiar enough with the process of a DDO to be able to pick out when something in the operational detail seemed unusual. N1803 agreed the purpose for reading the OPSUMs was both to understand the broader picture and considering each individual operation so that she would know if anything had gone wrong; it was through this process that N1803 first picked up on the TTP that looked odd and unusual.

*Q So when you picked up on the TTP that looked odd, and I do appreciate it is a long time ago, but can you remember, doing your best, what it was particularly that triggered your interest about this particular TTP?*

*A What triggered my interest was the fact that, having got everybody out and therefore had what they thought was everybody under their control, using one of them to go back and help search the compound and that person resulting in, and then subsequently that person resulting in being killed and it looked as if it, that death, could have been avoided because, if they hadn't taken that other person back in, then they wouldn't have ended up being killed. So I was questioning the use of that TTP and how, whether it was the right way of going about it.*

*Q Were you familiar with the TTP of using an individual who had been detained to assist with the search?*

*A So no, I think it was novel for me when I first came across it.*

*Q In terms of taking the individual back in, was that the bit that sounded strange or was it the fact that they ended up being killed as a result of being taken back in?*

*A I think it was, I think it was taking them in. I wasn't questioning that they posed a threat and therefore needed to be dealt with. I was questioning putting them in that position in the first place.*

*Q Just thinking about Special Forces, the guys on the ground are the best at what they do, were you not questioning why, when they had an individual under control, how that individual became free enough to arm themselves?*

*A Um no.*

*Q Because if you think about a DDO and you think about the number of individuals involved in a DDO, you have got the [cover men] on the outside, you have got the [Sub-Unit] inside once everybody has been separated out and it is a lot of members of SF and the Partner Unit who are on the ground who you would think perhaps would be able to control one individual. Did that not seem unusual to you at the time?*

*A Um I suppose what, so I don't, I think, I think, I don't know if it seemed unusual to me, but I didn't question that.*

*Q Did you question it from a force protection perspective? So, yes, there is a duty to the detainee, obviously, but if the force are then at risk of injury by an outburst by a detainee, that is also something to be concerned about as well?*

*A Er yes, but that's why in self-defence they killed them.*

- Q Yes, but is there not that happening once, okay, but if that happened again, would you not also be concerned about the risk to the civilians with this TTP, not just the detainee, but also the rest of the UK military personnel?*
- A I suppose I am at the time from what I can remember I saw the TTP in the round I remember and I think the use of that TTP had not been successful on the occasions where they had ended up killing their detainee because the purpose of using it was to aid the search of the compound as quickly as possible so they could get off the ground, because this isn't a safe environment, and taking somebody in to say "This is where this stuff is and this is where this stuff is", I think, as I understood it, was seen as an efficient way of searching the compound. If you end up killing the person (a) you have killed somebody that did pose a threat whereas, if they had stayed outside, as you say, they were being controlled and so it hasn't worked. So I think I was, I didn't get into the, I don't recall getting into the is that more or less threat to the soldiers or is it, I was thinking about the responsibility to minimise casualties and the fact that if the detainee hadn't have been taken back in he wouldn't have ended up killed and therefore whether it was effective.*
- Q Do you remember how often you had seen this ----*
- A No.*
- Q -- by the time, looking back, given the TTP was unusual and you said it was not working, how many instances do you think you would need to see before you became concerned about something like this, bearing in mind you are in London and it is very difficult to judge actions on the ground so it comes with a long lens, but how many times you think you would have needed to see this to become at least quizzical about it?*
- A I don't know. I would, I don't know.*
- Q And, at the time that you first had concerns about it, do you recall anybody else having concerns?*
- A It's hard to say what I recall. It's apparent from some of the documents that there had been a conversation prior to the document you have given me to read I which included [N2108] and [N1788] at least.*
- Q So, piecing that together ----*
- A Yeah.*
- Q -- you might not be able to say who with or how often or when, but are you pretty certain because of what you were seeing then that either you had raised it or somebody else had raised it with you?*
- A Yes.*
- Q And are you able to assist with your recollection of the viewpoint of others? Were they surprised? Were they concerned? Was it no big deal?*
- A So I recall [N2108] and I questioning. I think that in the document that you have given me to read which has got [N1788] 's response to [N2108] 's email that articulates, I think, very neatly the kind of response which is hard to question tactical commanders on the ground at this range. I think he says the TTP [was] widely used in different theatres....*
- Q Yes.*

- A *And then I can't remember if he says they are having to ask questions in theatre. So, so I think that was, that was, when I read that recently that felt like exactly the kind of response.*
- Q *But nobody said at any stage "Well, yes, okay, they died, but that's just the risk of this particular TTP and that's an acceptable risk"? Nobody thought it was okay?*
- A *Er I wouldn't say that. I think that um the other perspective is that the individual who is surrounded by UK Special Forces has been taken back in and had it explained to him by the interpreter what he is there to do and he has then chosen to arm himself and try and fight and presented a threat to the Special Forces soldier and has ended up killed, I think that there is, that in, that that would be ... I don't, no, no, I don't, if it was as straightforward as you have just said, then presumably it would have stopped if everyone thought that it was a bad idea.*
- Q *What I am interested in is trying to understand if it happened once, of course things go wrong in an operation, happening twice, things might go wrong in an operation, but you said it yourself that an individual surrounded by Special Forces who has had it explained to him by an interpreter decides to arm himself, how would he be able to arm himself and was that a question that you were asking yourselves?*
- A *Sorry, the surrounded bit was, was the prior element. So having been called out of the compound, the compound had been surrounded, they had come out um er and then somebody is selected to go and help with the search. I, I don't recall how many, I don't recall the detail of, if I ever knew the detail of how that search was being conducted um how in terms of the number of Special Forces there inside or outside and I don't, I don't recall ever getting into that level of detail.*
- Q *Is that something you would have expected to get into the level of detail or is that something that you just would not need to concern yourself with because there were others?*
- A *Um I think my responsibility was to ask questions and raise concerns, but, but I asked the question about the TTP and I received information then about it. Um the detail of the, the detail of how it was really done and I just don't think I ever got into and I'm not, there was obviously then a TTP Review that kind of got into the detail of it, I don't know whether it did or it didn't, but I, presumably the aim of it was to get into the detail.*
- Q *It is just that asking questions, that your job was to ask questions and I am just trying to understand the level of the questions you would have got into at this stage. Was it sufficient at your level to say "I've got a question about how this TTP is being used?" and then you would leave others to work it out or you would have a question about how the TTP was being used, why this has happened, what can be done to mitigate it, why is that not being done, this has happened on a number of occasions now, we are a learning organisation, we are not learning, people are dying. I mean, there are a number of questions that follow from "Something is wrong here".*
- A *So that was my, I thought, so I thought that the TTP resulting in um someone being killed meant that it wasn't, it didn't seem to me to be, being successful. It doesn't mean to say that everybody else agreed with me on that um er and I just think it wasn't the objective of the TTP. Um I definitely, as a Civil, as a Civil Servant and not military, um*

*I didn't think it was my place and in fact I thought it was my view that it was, it was not my place to either to kind of comment on whether or not [a number of] SF people should have gone in with for the searches. It, it absolutely isn't something that had been, it would have been right for me to do without having any military training or understanding of the environment or what it had been like on the ground and it's not a policy view. That was a very military tactical thing about the right way of going round an operation.*

*Q So because that was an operational tactical decision as to how the TTP was executed on the ground, that is not something that you felt you would be able to question?*

*A Um I could question, I could question anything I wanted. It's when I felt comfortable questioning the use of the TTP because I didn't think it was meeting its objective. The detail of the kind of the way in which it was being used and if they wanted to change it um went beyond policy and into ----*

*Q But in terms of informing your advice on policy and whether or not the TTP was something that should continue, could continue given it was resulting in detainee deaths, would you not have wanted to understand as much as you could about that so that in forming a view about it you were properly informed as to how it is working, because you have got the email from [N1788] which gives a brief overview, but did you not have or did not think you would have had any conversations to try and really understand the nuts and bolts of it?*

*A So yes, I think I would. I can't remember the specifics but I, er so, but I think I would have had more. Someone, I expect [N1788] would have come and explained it to me or probably somebody as somebody who has probably used it. They would have explained, but I don't think he necessarily would have told me how many SF would have gone in for the search and ----*

*Q No, but there may have been a question and I know we are in the details of this, but there may have been a question about whether or not it was possible for someone to get loose. You would anticipate taking a detainee back into a compound that was dark and dusty and they do not know what is there, whether there are IEDs or weapons that they would be under control. I mean, that is common sense, is it not?*

*A I don't know.*

N1803 was then referred to her RMP witness statement (MOD-198-0000586-A) and asked to explain what she meant by the following:

*'This TTP prompted me to ask questions because of the UK's responsibilities to detainees. I spoke with SO1 Campaigns [N1788] and ACOS [N1466]. They contacted the [Sub-Unit] in theatre to understand the circumstances further.'*

N1803 raised her concerns with N1788 and N1466, and that was why N1788 and N1466 contacted theatre for more information, but N1803 could not recall whether it was N1788 or N1466 or both of them that contacted SFHQ(A). N1803 confirmed that she raised her concern about the TTP at least once with N1788 and N1466 before this and that their conversation took place prior to N1788's TTP Review. N1803 could not recall whether she had this conversation

with N1466 and N1788 together. N1803 could also not recall who N1788 or N1466 then spoke to in theatre. N1803 stated that the 'further details' in the statement refers to further details N1788 might have been able to provide from theatre.

*Q What was their take on it? So, dealing with [N1788] first, what do you remember about his take on it?*

*A I can't remember.*

*Q Well, was he concerned about it? It may stick in your mind if he said "God this is terrible this ----"*

*A So, yes, you're right, that is likely, well that is likely to stick in my mind and I don't think I, he did. The tone of his email that we will come to is ----*

*Q We are coming to that.*

*A -- is probably the tone of the conversation.*

*Q What about [N1466]?*

*A So I'm not, the chronology is difficult for me I have to say I can't ----*

*Q I understand that.*

*A -- but at the point that we get there, at the point that we get to the conversation that I do remember in his office, he was worried.*

*Q Okay. At the point of the conversation in his office, was that before or after, if you can say, you sent the email about "It's been a while since I've seen the ..."?*

*A So I think it was after that because I think it quite soon before the TTP Review.*

*Q At this stage, so dealing with the initial stage, [N1788] or [N1466] 's call into theatre and then providing you with further information, were you aware of anybody else in Headquarters expressing concerns?*

*A [N2108]. I think [N2108] and I would have immediately discussed it, presuming we discussed it.*

*Q At that stage, can you remember what [N2108]'s view, the general theme if that is it? Was it concern? Was it the same as yours? Was it different? Do you remember how --*

*A I think we were questioning. I think that is the way I would describe it.*

N1803 could not recall what details were provided following these conversations and could not recall what steps she took personally to avoid similar circumstances reoccurring, as per her witness statement. It was likely that N1803 would have expressed her view that something should be done to prevent this reoccurring. N1803 could not remember what she thought, at least in general terms, when she saw similar incidents had happened again but clearly thought she wanted to raise it. N1803 was responsive, asking questions over email within a few hours of receiving the OPSUM. N1803 thought the conversation in N1466's office took place at some point between her sending the email on 4 April and the date of the TTP Review, though she did not know the date of the TTP Review.

*Q ...You said [N1466] was worried?*

*A Yes.*

*Q Do you remember why and, if not what he said, the tone of what he said?*



- A *So he was worried um, he was worried about the TTP and I think he was worried about the number of deaths coming from this unit more generally. Um and he was wondering what to do with this worry.*
- Q *So he was worried about the TTP and in particular, to be clear, the TTP being used which resulted in a detainee being killed. Was he worried about the use of the TTP or was he worried about the death of the detainee?*
- A *Um he was definitely worried, he was definitely worried about the death of a detainee um which obviously came as a result of using the TTP.*
- Q *But this TTP had been in use ----*
- A *Yeah.*
- Q *-- for a long time in other theatres.*
- A *Yeah, yeah.*
- Q *And there had been, as [N1788] said, no problems with it. So the TTP seemingly can be used properly.*
- A *The TTP can seemingly be used without that result.*
- Q *And the number of deaths, what did he say about the number of deaths from that particular unit?*
- A *I can't remember what he said.*
- Q *Did you talk about the number of deaths versus weapons?*
- A *I can't recall.*
- Q *Did he raise with you his concerns that the TTP was being abused?*
- A *Er I don't recall that. I'm not quite sure what "abused" means.*
- Q *It means used as a vehicle to bring about the death of an insurgent ----*
- A *Oh I see.*
- Q *-- which would be significant.*
- A *I don't, I don't, I don't recall that.*
- Q *Who determined that it would be appropriate to speak to the Director about this?*
- A *I recall being keen to do so and I recall [N1466] and I agreeing um er that he should be spoken to and I recall [N1466] being keen to speak to him and I think I recall being happy to support him in that.*
- Q *Do you remember being in a meeting with the Director?*
- A *No.*
- Q *When you say [N1466] was worried, how worried was he?*
- A *So [N1466] um was under a lot of pressure at this time. He um was dealing with obviously the global operations at the Headquarters. He was working exceptionally hard and I think he was quite worried about everything, um not everything but he was, I was, he was stressed I would describe him as.*
- Q *He was stressed?*
- A *He was stressed not and, and he was stressed because of the breadth and scale of the work. He was stressed because I suspect he will have felt that the Director wasn't satisfied with the work that his team and he were always providing, but I think it was a very stressful time.*
- Q *Why do you say that?*
- A *Because ----*

*Q Why do you say that you think he was stressed because the Director was not satisfied with the work that he and his team were providing?*

*A Because the Director would quite often say so.*

*Q Okay.*

*A And want things to be redone and “Can I, this needs to be better” and the Ops Team were the focus of the Director’s detailed taskings and so quite often things would come back and would be asked to be redone.*

*Q In what sort of sense? What sort of things would come back and need to be redone?*

*A Operational plans, advice on um what to do next somewhere or had they thought about this or why aren’t they proposing to go to Timbuktu as well as somewhere else.*

N1803 then gave details about UKSF operations in other theatres outside Afghanistan and how UKSF supported wider Government objectives.

*Q Do you think it can be possible that you interpreted [N1466]’s stress as the general level of stress and actually he was very, very stressed about what he was talking to you about?*

*A It could be both. He was definitely stressed about the other stuff as well really. So it could be both of your suggestions, but it was definitely, he was definitely more broadly stressed.*

*Q Did [N1466] talk to you about his own understanding of the OPSUMs and what they showed?*

*A I can’t remember.*

*Q Did [N1788] talk to you about a review of the OPSUMs and what they showed?*

*A A review of the OPSUMs?*

*Q Yes.*

*A Is this in terms of numbers of deaths or generally?*

*Q Numbers of deaths, weapons as opposed to deaths, the use of the TTP, a review to show what the paperwork disclosed.*

*A I’m not sure I would call it a review, but I, I recall kind of um the team looking at the, looking at it all, but I don’t know if you could call it a review. I don’t think it had a capital “R”.*

*Q No.*

*A It was like a bit of work to look at the pattern or patterns.*

*Q And was that something you were aware of at the time? Were you aware of what the patterns were and what they showed?*

*A I think [N1466] spoke to me about it at the time, probably in this, I think in this conversation.*

*Q And the patterns were that on a significant number of occasions the TTP had been used in such a way as to result in the death of an individual.*

*A I am not quite sure what “significant number” means. I mean I don’t know.*

*Q Well, let us take at least ten. Do you remember there being at least ten of them?*

*A I don’t. I don’t, no.*

- Q Is there any reason that [N1788] would not feel comfortable talking about this openly with you?*
- A Not that I can think of.*
- Q Is there any reason why there was a suspicion that the TTP was being manipulated to allow insurgents to be killed as opposed to detained and that that would be kept from you?*
- A I mean the obvious answer is that um the, that they would expect, that they would expect me to raise or um to, they, they would expect me to raise a concern beyond the Headquarters if they raised it to me because that would be, if I had judged that to be the right thing to do, which in the scenario that you have described sounds that it probably would have been, and therefore they could have taken the decision not to share it with me.*
- Q If there was the scenario I have described where the TTP is being used to deliberately kill individuals, is that something that you would have taken straight to your, I say, Chain of Command? I know you are not in the Chain of Command as it is, but within your reporting line before going to DSF?*
- A I'm not sure I can comment on that exact sequence.*
- Q But would you ordinarily take something to DSF or if there was something of such significance would you do both at the same time or would you take it out of Headquarters?*
- A I, the approach I would normally take is to have a discussion with DSF before I went out of the Headquarters if there was something that was worrying me or that I needed to raise, but it would be very much telling him that I was going to raise it rather than asking him.*
- Q Because the reputational harm of an allegation – let us just call it an allegation – that individuals were being deliberately killed would be extremely significant, would it not?*
- A The harm would be wider than reputation though, yes.*

Asked if it could be a problem if damaging reputational events got out of HQ DSF, N1803 answered yes but that she discussed all sorts of difficult reputational things with the MOD, including an incident in another country (not Afghanistan) that was very significant within HQ DSF. N1803 agreed that the allegations underpinning the TTP Review were significant. DSF would want to see N1803's Ministerial Submissions before they were sent up, which she described as "very normal". CTI asked N1803 how she would deal with DSF's proposed changes.

- A So sometimes it would just come back with scribbles and he wanted to rephrase a, rephrase a sentence. Most of the time it was absolutely fine. Sometimes if I disagreed, then I would go and talk to him about it and we would work out how to do it. Very rarely, very rarely did we not come to a view that we could work through, but (inaudible). And sometimes the way, if there is a divergence of opinion, what you then do is have a paragraph that says "The view of DSF is" and then that is his bit and then the note is still signed off by somebody else. That is how you can deal with a difference of view in most scenarios.*

N1803 was then referred to the section of her second RMP statement (MOD-198-0000587-A) relating to a meeting N1803 had with N1466.

*Q ... you go on to say:*

*“... exactly when I cannot be sure I spoke to [N2108] ... We discussed my concerns regarding the TTP and the concern that it might fall outside the remit of the Rules of Engagement.”*

*What do you mean by “the concern that it might fall outside the remit of the Rules of Engagement”?*

*A So on the basis that the Rules of Engagement provide the parameters for the use of force by, by the military, um er I was concerned that on the occasions when the TTP resulted in the death of a detainee, that it might have fallen outside. I can’t remember the specific Rules of Engagement that were in place, so I am going to struggle with ----*

*Q These are all part of it. So the TTP, and we have discussed it briefly, necessitated the use of force in self-defence.*

*A In self-defence, exactly.*

*Q So if that is the Rule of Engagement that is in play, how would this fall outside that?*

*A So I suppose it, it, what I’m, here I am making the same question. I’m questioning the point that we are making. Sorry, I am making the same point that you make in questioning um whether the, whether it, whether a, I suppose in my mind it’s, it’s creating the circumstances for the need for the use of the Card Alpha, for the self-defence, which is your point, like why, if they have got control of this individual, were they able to then arm themselves and therefore end up being killed?*

*Q But that would not be outside the Rules of Engagement, that would just be a badly executed operation.*

*A Um ...*

*Q Did you mean that you had concerns at the time that this was more than just a badly executed operation and it was something more sinister?*

*A I don’t think so. I can’t recall why I used that phrase in that witness statement.*

*Q N1803 if I may, you are a very precise individual and you have taken such great care over your evidence so far and you took such great care over your IIA witness statement and you took such great care over this statement, checking it on the computer and making sure that the words were right.*

*A That wasn’t this statement. That was the other one.*

*Q But do you see my point?*

*“It might fall outside the remit of the Rules of Engagement”.*

*I ask it again. Was that your concern at the time that the [Sub-Unit] in question were doing something that might be unlawful and were deliberately killing detainees?*

*A It was not my view that they were deliberately trying to kill detainees.*

*Q Was it your view that they might be engineering a set of circumstances where they could kill detainees?*

A No.

Q So what you meant by “It might fall outside the remit of the Rules of Engagement” was the use of the TTP itself?

A Yes.

N1803 was then referred to her first RMP witness statement (MOD-198-0000586-A).

CHAIR: ... you say ... that you “recall becoming concerned about a particular ... TTP”. You mentioned that [N1788] and [N1466] were concerned. Just so I can understand who first raised it, was it you who first raised the concern with the TTP or did they raise it with you? Do you recall?

A I don’t recall [N1788] or [N1466] raising it with me. Um whether I raised it first or [N2108] raised it first I can’t recall.

N1803 was referred to an e-mail chain from N1786 to N889 relating to Objective PPP, a non-DDO (MOD-198-0000239-A). CTI directed N1803 to the part of the chain that N1803 was sent, an email from N889 to N1803 and N1466, copied to N1786. In the email chain, there was a First Impression Report (“FIR”) being prepared with supporting documentation.

Q ... Would you ordinarily be copied in for review of First Impression Reports or consequence management?

A I can’t remember.

Q Did Policy -- and I mean Policy broadly within HQ -- have a role within consequence management?

A Yes, but I can say that with certainty having read the document that you asked me to read.

Q So the [SFHQ(A)] Consequence Management document (MOD-198-0000913-A) and which we will look at if we need to but we might not, because is part of that procedure for both Policy and Legal to be involved in any review of any consequence?

A Um er so I think that the text was that we were, that it was the Headquarters and SOI Campaign supported by Policy.

Q Yes.

A I think um that it is therefore, it is hard for me to remember what was normal at around that time in terms of what we would see and what we wouldn’t see and at what level we would see it, whether it was once something was concluded or before. I just can’t remember.

Q Do you understand from this that it has been completed and you are being sent it or that it is still a draft or are you not able to say?

A It is difficult to say. It is version 4, it says, of the ISAF FIR.

CTI referred N1803 to an email in the chain that attached the Objective PPP cover note and updated FIR. N1803 noted that it appeared to be the fifth version of the FIR and could not recall making comments upon the FIR. It would not have been N1803’s job to make comments on FIRs and N1803 confirmed that she would likely have received this email as part of her

consequence management role. N1803 could not recall anything else about this objective. N1803 could also not recall why she would have had a teleconference about it.

CTI then referred N1803 to paragraph 11 of her statement to the Inquiry to confirm that she received that email in her inbox. In her statement to the Inquiry, N1803 confirmed she would track “*the issue of civilian casualties closely*” so logically seemed like something she would have read. CTI queried what N1803 was referring to by ‘*civilian casualties*’. N1803 could not remember whether there was anything in particular that she remembered about the FIR that led her to describe it as ‘*civilian casualties*’.

N1803 stated that as it was an FIR, it was likely that she would have looked at it. N1803 then confirmed that the reference to ‘*civilian casualties*’ in her Inquiry witness statement was a mistake as N1803 did not know whether she received the first email in the chain (MOD-198-0000239-A) that referenced civilian casualties.

*Q ... This first section of the email... to “[N889] ” from “[N1786] ”, you do not recall this?*

*A No.*

*Q It is a list of civilian casualty allegations against [SFHQ(A)], none of them upheld and then it lists a number of objectives. Do any of those objective names look familiar to you?*

*A TYBURN only because it’s been in the other documents. None of them ----*

*Q Jump out or anything like that?*

*A No.*

CTI referred N1803 to the email chain of the Op C(1) Objective 10 OPSUM, dated 4 April at 10:44 (MOD-198-0003470-A). N1803 confirmed that she received the OPSUM email; it was the email N1803 noted earlier in her evidence that she responded to quickly, just a few hours after receiving it. N1803 confirmed that she forwarded this email to N1788, copying in N1466 and N2108. N1803 sent this email on because she wanted to open the conversation about the TTP or continue the conversation about the TTP. N1803 wanted to question the fact that this had happened again with the use of the TTP.

N1803 was then referred to paragraph 15 of her Inquiry witness statement which answers the question of what she meant by the word ‘*routine*’ when she said ‘*ask B to go back in to help clear and end up killing him routine*’, in her email responding the Op C(1) Obj 10 OPSUM from 4 April 2011 (MOD-198-0003470-A).

*Q ... Are you able to assist us a bit more on why you chose the word “routine” because you have not said “First time for a while I’ve seen this TTP in use, first time for a while I’ve seen someone killed as a result of this TTP.” There are any number of ways you could describe it, but the way you describe it suggests a certain scepticism, would you not agree with that?*

*A Scepticism about what?*

*Q The word “routine” could be read as if you do not believe it.*

- A *Oh I, I don't recall um thinking, thinking that at the time. I was trying to describe the activity. We're very used to calling it a TTP now. I'm not sure I was even calling it, I don't know if I was calling it a TTP.*
- Q *But what would you have called it because it is a TTP. What would you have called it at the time?*
- A *I mean um I don't know. I don't think I, I mean they do stuff all the time. They're doing a deliberate detention operation and, if you break that down into segments, what is a TTP and what isn't? I mean, it's not very clear to me what counts as a TTP and what doesn't in the way the military talk about what they do.*
- Q *Well, should we look at how the military were describing it at the time, because we know that the conversations you had with [N1466] you describe them as talking about the TTP. We know there was a TTP Review. We know the ----*
- A *Yeah, but I ----*
- Q *-- TTP was raised.*
- A *-- but was that before or after this, I don't know? So I was definitely aware of the phrase TTP. It just didn't roll off my tongue at the moment that I wrote that email. I don't, I didn't, I don't recall meaning to imply scepticism.*
- Q *Or sarcasm?*
- A *Or sarcasm.*
- Q *Or anything which suggests that in fact you do not believe what the [Sub-Unit] on the ground is saying about their use of the TTP?*
- A *No, I didn't mean to imply that I didn't. I don't recall meaning to imply that I didn't believe what the [Sub-Unit] was saying.*
- Q *What about "end up killing him":*

*"... ask B to go back in to help clear and end up killing him ..."*

- What you were describing, if you are right about your recollection, is a TTP which is used which allows a detainee to be killed lawfully within self-defence because they have presented a threat. What you say here, the words do not amount to the same thing?*
- A *Why not?*
- Q *Because it is the tone. Do you not see the potential interpretation of your tone here?*
- A *I do see the potential interpretation, but it is not an interpretation that I recall from the time. We talked, we talked about killing enemy all the time and we didn't ----*
- Q *In what terms did you talk about killing enemy all the time?*
- A *Well, what, how many, what were the KIA numbers, um like it was, it was, it was an operation that was, the whole of Afghanistan, it was just, it was um in a military headquarters one doesn't only frame the way one talks about killing people within the kind of, within the, we don't frame it in terms of always talking about it within the law, every phrase, if one is just talking in the corridor.*
- Q *But you are not talking in the corridor. You said this is you raising a concern about something that you are questioning ----*
- A *Yeah.*

- Q -- something you have questioned before because there is a problem with it. What you write here does not suggest the reasons you are raising it. It is sceptical about the use of the TTP and why it is being used. Do you not see that, [N1803]?*
- A So, it is questioning the use of the TTP because I was of the view that the TTP was resulting in a, in a, was ending up in a consequence that was not intended and therefore, and that it wasn't achieving the result that they wanted and therefore wasn't effective and therefore should be reviewed and that we were putting the detainees at greater risk than they needed to be and that that balance between putting a detainee at risk versus the effective and speedy search of the compound could be imbalanced, could be out of balance. Those were the questions I was raising and that is what I wanted to raise to reopen the conversation about it through this email.*
- Q And is that what in your conversations afterwards [N2108], [N1788] and [N1466] understood?*
- A I, I can't answer that question I don't think.*
- Q Well, this resulted in further conversations between you. It resulted in conversations where you were going to raise it with DSF.*
- A Yeah.*
- Q But in those conversations was it understood by them that you were not expressing scepticism about the actual use of the TTP, you were concerned about the fact that it was being used and leading to unintended consequences.*
- A Yes. I think so.*

CTI confirmed the conclusion of the e-mail chain.

N1803 was then referred to the email chain between N1788, N2444, N2108 and herself from 4 April (MOD-221-0005163-A). N1803 agreed there was a difference in tone between the email she had written in response to the 4 April 2011 OPSUM and N2108's email. N1803 could not remember what she thought about N2108's response at the time. N1803 could also not remember whether she had been told before that there was nothing inherently wrong with the TTP per se. N1803 could not remember anything else about the comparison between SFHQ(A)'s killed in action statistics and Partner Force 1's statistics.

CTI then referred N1803 back to her email response to the Op C(1) Obj 10 OPSUM (MOD-198-0003470-A). CTI asked N1803 what she remembered about APU1, the Afghan Partner Unit, raising concerns about the TTP.

- A So this is, I can't remember very much and I'm struggling with remembering the sequencing. There was a time, which must have been, well there was a time when the [APU] was uncomfortable with the DDOs and I think that's what I'm referring to there. It would make sense.*
- Q If the [APU] was uncomfortable with the DDOs, was that something that in Policy you would have been involved in, concerned about, asked advice on?*
- A I wouldn't have been asked advice on it I don't think. I don't recall being asked advice on it. Um I would have been concerned and interested to track um, hence asking the question I guess um because it was a very important part of the operations that they*



*were done with Afghan Partner Units and, therefore, if they were unhappy it was a reason to be interested.*

*Q So your question is trying to understand whether or not there is a deliberate cessation of the use of the TTP because the Partner Unit was not happy and that was a deliberate decision taken or whether it just happened to arise at the same time so the concerns of the Afghan Partner Unit had not had any impact on the TTP and that is just coincidence. Did you ever get an answer to this?*

*A I don't know.*

CTI asked N1803 about 'night raids'. N1803 agreed that this was a controversial topic throughout her time at HQ DSF. It was controversial because of culture in Afghanistan "because going into a person's home at night-time and the element of surprise when you are unannounced, invading what is a sacrosanct space in Afghanistan and doing so [details of entry procedure] caused a lot of concern among the locals and it went all the way up to Government and beyond". N1803 agreed that as the question of "night raids" was such a hot topic for the Afghan Government and ISAF, N1803 would have had to have an eye on how this topic developed, and whether there were any changes. CTI asked N1803 whether this tactic was something within her remit that she should have understood. N1803 said it would have been within her remit, but that she was finding it hard to recall whether she was aware of the full details surrounding the issue.

N1803 was referred to an email sent by N2252 to N2108, N1466, N1788, N889 and herself, as well as others, about SIRs and the production of SIRs (MOD-198-0003888-A). N1803 confirmed she had no recollection of this conversation aside from reading this email. As the email references a 'Stocktake', CTI questioned N1803 as to whether N2252 would run stocktakes or discussions about particular issues or whether he did them regularly. N1803 could not remember which of these N2252 did.

CTI then referred N1803 to the part of N2252's email that explained DSF's desire for SIRs to identify and disseminate the appropriate lessons from SIRs. N1803 did not remember having any concerns about the way SIRs were written.

CTI highlighted the part of N2252's email that set out the two-part solution to this problem which had been identified by DSF. The first part was a review of procedures to reinforce Commander SFHQ(A) as the 'owner' of the inquiry rather than the ground commander. N1803 could not remember any concerns about the way SIRs were written, or paperwork generally.

*Q ... If you were copied into something, would it be for your general awareness or your general understanding or would you expect to have to do something eventually about it or would it depend?*

*A It would depend. My interpretation would be that I am copied in because [N2252] doesn't expect me to do anything about it, but he is giving me the opportunity to do something about it should I wish to by copying me in as well as making me aware.*

*Q And the way an SIR is drafted, is that something that normally you would have been involved in or would have wanted to be involved in?*

*A No.*

*Q If there was a wider problem with the way paperwork was completed, paperwork, official reporting, so OPSUMs if they were cut and paste, would that be something you would be involved in or want to be involved in?*

*A I would want it resolved. Whether I was involved in the resolving, whether I was involved in the resolving of it I'm not sure, but I would want it resolved.*

### **Complaint made by a Third Party Entity ("TPE")**

N1803 was then asked questions about the involvement of a TPE. N1803 had been referred to a collection of emails in which a TPE raised concerns to which N1803 was copied. N1803 confirmed that these documents did not assist in her recollection of a TPE's involvement.

N1803 was then referred to a briefing about a TPE written by N2108, in May 2011 (MOD-198-0002033-A). The briefing relates to Objective TYBURN which took place on 16 February 2011. It was sent to DSF and copied to a number of individuals, including N1803, and contains a summary of the complaint by a TPE about Objective TYBURN. CTI referred N1803 to N2108's comment that: *'The aspiration is to deal with the complaint informally at the lowest level without it being raised unnecessarily to the ISAF level'* and questioned why that recommendation was being made. In response, N1803 recalled that as there was a regular dialogue between a TPE and Task Force Helmand, it seemed normal to N1803 to use the mechanism of engaging with a TPE informally when they first raised an issue. Asked if she would have been shocked by a TPE suggesting that the TTP could possibly be abused, she replied no.

*Q Is this a completely and utterly spurious, unfounded, completely out there interpretation perhaps of the TTP? Is that what you are saying, that they are seeing things which just could not be possible?*

*A I am not saying it couldn't be possible. I'm saying that, in my view, that was not the case at the time and I didn't, I don't recall ever thinking that they were um "manufacturing a self-defence scenario".*

N1803 confirmed that she did not know if there were any RMP investigations going on whilst she was at HQ DSF. ACOS Personnel would have dealt with other RMP investigations in theatre within HQ DSF but N1803 could not remember who would have been responsible for monitoring any risk arising from those investigations.

Evidence concluded.