

14 Mar 08

CDS

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PUS

DETENTION PRACTICES IN IRAQ AND AFGHANISTAN

ISSUE

To determine whether the UK had and continues to have appropriate accounting procedures to ensure that persons captured by UK forces and transferred to US detention in Iraq are treated in accordance with UK legal and policy requirements.

RECOMMENDATIONS

CDS is requested to note that:

- **UK Forces have exercised their responsibilities towards captured personnel transferred to US forces appropriately. We now have complete visibility of US detainee processing in facilities to which UK captured persons are transferred and can offer a high degree of assurance to Ministers.**
- **Work is ongoing to confirm that no personnel captured by UK conventional forces in Iraq or Afghanistan have been transferred to US custody.**

CDS is requested to endorse the following further action:

- **That further work be conducted to centralise and scrutinise records on the detention operations of conventional forces in Iraq and Afghanistan.**

BACKGROUND

Extent of Review. As directed, **Commander Field Army (CFA)** conducted a short notice 48hr visit to Iraq (4-7 March), accompanied by **DGLS DOIHL, AD Pol2 CT&UK Ops**, to carry out a rapid audit of current practice relating to UK forces' detention operations in Iraq followed by a short period of policy and legal audit at PJHQ and Main Building.

IRAQ

Campaign Phases. In policy and legal terms the campaign in Iraq has transitioned through 4 key phases since March 2003, leading to differing detainee handling and transfer processes applying at different stages. These phases are briefly laid out below.

March 2003 – June 2004. Warfighting and the Occupation. Detentions are covered by a UK/US/AUS MOU as well as obligations under international humanitarian law and the Geneva Conventions which cover treatment of prisoners of war and protected persons. The MOU included a provision that transferred detainees would not be removed from Iraq without consultation. **Transfer of detainees to US forces was authorised, recognising its operational necessity. There was no requirement to track detainees beyond the point of handover to the US.**

June 2004 – September 2004. Operations were conducted by MNF-I under the authority of the UN Security Council Resolutions which permitted security internment, and the 2003 MOU was treated as continuing by the signatories.

September 2004 – March 2006.

Mar 06 – Present.

AFGHANISTAN

Campaign phases: In policy and legal terms the campaign in Afghanistan transited through four phases – international armed conflict, OEF, host nation invitation (for the Mazar-e-Sharif PRT and then ISAF.

November 2001 – March 2002:

March 2002 – May 2006:

September 2003 – March 2004:

May 2006 – present:

CONVENTIONAL FORCES

Iraq. There are numerous records, both of decisions taken and detentions in MND(SE), and are not held in one location. Centralising them would take some considerable time before they could be analysed. The research we have undertaken has revealed no concerns so far and it is worth noting that only two detainees remain in UK detention at the Temporary Detention Facility in Basrah. We have also failed to uncover any indication that Commanders ever failed to be aware of the legal responsibilities and policy guidance.

Afghanistan.

- a. **Op JACANA.** 3 CDO BDE operations in Paktia, Paktika and Khost early 2002. No detainees were taken.
- b. **Kabul Patrol Company.** Operating in Kabul since 2002 primarily tasked with security of Camp SOUTER. Occasionally involved in capture operations which have always utilised ANP or NDS officers as the detaining authority.
- c. **Mazar-e-Sharif PRT.** 2003 to 2005. Military elements of the PRT were focused on security of the compound and support and influence patrols. No detainees taken.
- d. **Taskforce Helmand.** Conducting operations in Helmand since March 2006. Detainees are held under ISAF guidance requiring release or transfer to the Afghan authorities within 96 hours No detainees have been transferred to US detention.

UK policy does not permit transfer of UK detainees to US detention in Afghanistan and there is no reason to think that this policy has ever been breached. I have no reason to believe that unlawful rendition has occurred.

CONCLUSION

21. The picture is a positive one. The UK has met its obligations by a combination of assurances, operational judgement and record keeping. The current system allows Ministers a high degree of reassurance through UK access to US records and facilities. The Department will always be open to baseless speculation that we have been complicit in rendition or ill treatment. To end all speculation would require us to prove a negative. We can say, however, that we have no evidence of unlawful rendition and we have looked.

<Original Signed>

Lieutenant General GCM Lamb CMG DSO OBE
Commander Field Army