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Australian Government

**Department of Defence
Corporate Services &
Infrastructure Group**

**Minute
The Defence
Legal
Service**

2003/34900/4

TDLS/OUT/22940/2004

Minister for Defence

For Information

**IRAQ: INVOLVEMENT OF ADF PERSONNEL WITH IRAQI PRISONERS
OR DETAINEES**

Recommendation

1. That you note:

- on each occasion the ADF has had contact with Iraqi prisoners, detainees or internees, these Iraqi personnel surrendered to US military personnel or the US military had custody of the Iraqis; and,
- ADF personnel, whether dealing with prisoners or detainees, acted at all times consistently with their international obligations, including under the Geneva Conventions.

Overview

2. While the ADF has taken no prisoners in the course of operations in Iraq, ADF personnel have come into contact with prisoners and detainees in the course of their duties.

Abuse of Iraqi prisoners or detainees

3. No ADF personnel saw or were aware of the abuse of prisoners or detainees such as has been revealed through recent press reporting. Of the 3250 ADF personnel who deployed on Op CATALYST (and those on Op FALCONER who transitioned to Op CATALYST), 302 ADF personnel whose duties may have had led them to have contact with US captured Iraqi PWs or visit US detention or prison facilities have been identified to ascertain if they had any knowledge of possible abuse of PWs or detainees. (The methodology for selecting the 302 ADF personnel is at Attachment A.)

4. These generally included personnel working in the US headquarters, members of the security detachment, members of the Iraq Survey Group, Australian headquarters

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personnel and Defence personnel working for the CPA. To date, 298 responses have been received.

5. Of these 298 personnel, 60 have reported some involvement with Iraqi PWs or detainees by virtue of their official duties. Of these 60 personnel, the initial response from 15 personnel indicated that further follow-up questioning was required. These 15 have been questioned by a senior officer of The Defence Legal Service in more detail to clarify the nature and extent of their involvement.

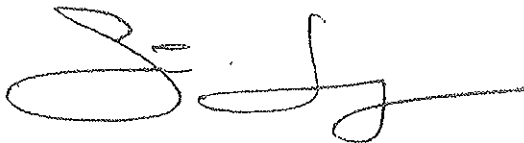
6. Of all ADF personnel contacted, none have reported that they were aware of the serious allegations of abuse prior to the allegations being reported in the media. That is, ADF members only became aware of the allegations when the issue received significant media coverage in April, although at least two members (one of whom was at the time attached to the CPA and the other to CJTF-7) were aware of the reports carried by CNN of an alleged Pentagon investigation of reports of abuse on 20 and 21 January 2004.

7. Some Defence personnel in Iraq were aware of rumour and innuendo regarding treatment of Iraqi detainees, but all personnel who reported hearing such rumours advised that none of these concerns related to abuse of the nature of the recent allegations. That is, the rumour and innuendo concerned relatively minor issues involving the handling and detention of Iraqi prisoners and detainees.

8. Australian forces are trained to ensure that they treat all captives humanely and in compliance with the laws of armed conflict, including the Geneva Conventions. As such the Australian Defence Organisation shares the international community's disgust at the photos and reports of abuse that have emerged, and welcomes the steps by the US Department of Defense to fully investigate the allegations.

Consultation. Strategic Operations Division, International Policy Division

NOTED



AIRCDRE Simon Harvey
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28 May 2004

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/ /

Section 41

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Attachment A

ADF INVOLVEMENT WITH PW/DETAINEE/PRISON – METHODOLOGY

1. In the first instance, HQJTF633 was asked to provide details of personnel who had visited Abu Ghurayb prison or dealt with prisoners/detainees. 11 personnel responded positively. From these responses, it was determined that personnel employed within HQ JTF633, SECDET, CPA, CJTF7, ASISC, CSG (deployed on Op CATALYST) may have had contact with PWs/detainees and/or visited detention facilities.
2. HQJOC provided a listing of all personnel who had been employed within these organisations and were likely to have had contact with PW/detainees and/or visited a detention facility. This list also included all LEGAL and INTEL personnel who had deployed on Op FALCONER who were likely to have been involved. Names were added to the list as more information came to hand. In addition, 23 third country deployment personnel identified as having deployed to the MEAO were added to the list. This list finally comprised 302 names.
3. Of the 302 personnel identified, HQJTF633 has accounted for 96 who are currently deployed. 202 personnel were contacted through their single service headquarters, SOD, DIO, IPDIV, DFAT and Defence Staff in India, London and Washington. This task was made difficult by virtue of the fact that many were on post-deployment leave and scattered across the world. Four personnel remain unaccounted for; two are civilians who were with the ASISC and are now private contractors (one in Iraq and one in Athens) and two have discharged and cannot be located. An e-mail address was sent to the person in Athens on 26 May 04 (it took a while to locate contact details) but he has not yet responded.
4. Of the 298 personnel who responded, 60 confirmed contact with PWs/detainees and/or visits to detention facilities. TDLS followed up 15 of these personnel in order to clarify their responses.
5. The 23 third country deployment personnel were short-listed from the 106 TCD personnel either currently serving overseas or who had since returned to Australia having deployed to the MEAO during their posting. Of the 23, nine confirmed contact with PWs/detainees and/or visits to detention facilities. These nine are included in the 60 positive responses.
6. HQJOC has advised that 3250 personnel have been assigned to Op CATALYST. This includes personnel who were in the MEAO on Op FALCONER and transitioned to Op CATALYST.
7. The statistics described above do not include the five incidents already reported regarding ADF involvement in assisting Coalition forces capturing PWs/detainees during Op FALCONER.
8. SOD SOLO contacted Officers Commanding or operations staff of each of the three Special Forces rotations in Afghanistan. Based on their responses, the search was widened to include personnel involved in specific events related to

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detainee/PW incidents. Superior officers provided the required information for those personnel who were unavailable. Additionally, SASR conducted searches through archive documents and patrol files to determine if any detainee/PW incidents went undetected. No detainee incidents were detected, other than those previously reported involving Australian Special Forces assisting US Forces. The results of this search are not included in the Op CATALYST/FALCONER statistics above.

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