

(705)
DECLASSIFIED
STAFF IN CONFIDENCE

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QUESTIONS PROFORMA FOR ADO PERSONNEL WHO MAY HAVE HAD CONTACT WITH PW AND CIVILIAN DETAINEES IN THE MEAO

Strategic Operations Division (SOD) has been tasked to identify personnel who may have had contact with PWs and civilian detainees in the Middle East Area of Operations (MEAO), predominantly Iraq and Afghanistan, in the period 2003-2004.

SOD is aware that there are a number of ADF personnel who have deployed to the MEAO since the start of Op SLIPPER in 2001 whose activities may have meant that they came into contact with PWs and/or civilian detainees.

The objective of this questionnaire is to ascertain if, during your deployment, you had any contact with PWs or detainees (civil or military) or visited prisons or detention facilities, the nature of your contact and the possible need for a more detailed interview. **This questionnaire is not part of a disciplinary investigation or administrative inquiry.**

If you have information relevant to the aim of this questionnaire, that is of a higher classification than restricted, then you are to inform your chain of command.

Sect. 41

I. Personal Details

1.1 Full Name: Michael Joseph Kelly

1.2 Rank: COL

1.3 Service Number: S.41

1.4 Unit to which you are currently posted: TDLS/MLC

1.5 Unit to which you posted or attached during your deployment to the MEAO: CPA/OGC

1.6 Work Contact Number: Sect. 41

II. Potential Contact with PW and civilian detainees.

2.1 During your deployment to the MEAO, did you:

- Have any contact with PWs or civilian detainees ? Yes
- Stop any civilian persons who were later passed on to coalition security forces or Iraqi Police Services ? No
- Conduct/witness interviews/debriefs of detainees or PWs ? Yes
- Escort/guard detainees or PWs ? No

2.2 If so, what was the nature of your contact with these personnel ?

X Interviews for the purposes of criminal processes and information, and observation of "Article 5" tribunals for determination of EPW status for HVDs. I also observed detainees and HVD on a number of occasions when visiting prisons and detention facilities.

2.3 Who were you with ? (If ADO members please provide names)

Coalition personnel other than ADO except in relation to observing the Article 5 hearings where two Australian MP were also present. One of these was S41

S41 I do not remember the name of the other member.

III Detention Centres

3.1 Did you visit any coalition PW or detainee detention centres, holding facilities prisons or interrogation cells ?

Yes

3.2 When and where (dates and locations including the name of the facility or town – the month will suffice if specific dates are not known) ?

I visited the Corps Holding facility at BIAP on perhaps three occasions, the Camp Cropper HVD facility (classified location) on two occasions, Camp Vigilant (within Abu Ghraib walled area) on one occasion, Camp Ganci (within Abu Ghraib walled area) on two occasions, Abu Ghraib civil prison on three occasions and Badush civil prison on one occasion. I also visited criminal detainees and security internees held on board vessels involved in oil smuggling activities both alongside at Um Qasr and in the Smuggler's Box maintained by NAVCENT. I cannot recall exact dates except for Badush which was on 6 June 2004. The other visits were spread between May and November 2003.

3.3 What was the nature of the visit ?

* Visits to Corps Holding Facility were to assess conditions and processes and to evaluate non-lethal weapon options for prisoner control. Camp Vigilant visit was to assess conditions. Camp Ganci visits were to observe progress and conditions of rolling development of camp and on the other occasion to interview two Ukrainian criminal detainees in relation to the NAVSTAR case. Abu Ghraib visits related to assessment of the possibility of rehabilitating the buildings for housing criminal detainees and further visits were to assess progress on building, conditions and protection issues for detainees in relation to FRE mortar attacks. The visit to the Badush prison is classified but related to a criminal detainee interview. The visits to the vessels held in the smug box and at Um Qasr were to assess conditions of detention, conduct interviews with detainees or facilitate Iraqi investigative hearings.

3.4 Who were you with ? (If ADF members please provide names)

On all occasions except one I was accompanied by either UK, US and Iraqi personnel, civil, military or a combination. I have already provided the name of the one ADF member who accompanied me.

IV Other Information

4.1 Were you privy to any official comment or authoritative discussion relating to the mistreatment of PWs or detainees ?

Yes

4.2 If so, in what circumstances, where and when ? (the month will suffice if specific dates are not known)

I was engaged in meetings with Amnesty International, Human Rights Watch, UN Human Rights personnel, the ICRC and detention meetings held at CPA Baghdad involving CJTF 7 and CPA personnel. I do not have precise dates but these occurred over the period from May to November 2003.

4.3 If so, what did you do and who, if anyone, did you report this to ?

These meetings were reported in my sitreps and relevant material annexed. In my official capacity at CPA I drove the development of standards to counteract mistreatment and laws governing detainee treatment and processes were drafted by me. I participated in many discussions involving the effort to improve conditions and

facilities generally and resolve unsatisfactory detainee conditions and processes. I drove the effort to introduce proper process standards for the handling of security detainees and raised concerns to CJTF 7 and within CPA about aspects of detainee handling that appeared to be unsatisfactory.

4.4 Did you have any knowledge of ICRC or Amnesty International reports published in October 2003 through February 2004 ?

I had knowledge of Amnesty Reports and ICRC reports up until the end of November 2003. I also had knowledge of reports by Human Rights Watch and the UN in Baghdad.

4.5 If so, in what context and what did you do and who, if anyone, did you report this to ?

Official meetings. Reported in my sitreps.

4.6 Do you have any other information that you consider relevant ?

I attach the main sitreps where detainee issues were raised. This includes my reference in September to the arrival of the Guantanamo team and the contracting out of interrogation which I stated was disturbing. Also attached are the talking points I prepared for [Sec 4] which provides brief context and sets out the legal position of the CPA of which I am and was a part. The measures referred to in the talking points were all prepared at my initiative.