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Army Inspectorate Review into the Implementation of Policy, Training and Conduct of Detainee Handling



Final Report by The Army Inspector

Date: 15 July 2010

File Ref: CGS/ArmyInsp/DH/01

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FOREWORD BY THE CHIEF OF THE GENERAL STAFF

I take great pride in what the Army, alongside the other Services, has achieved on operations in recent years. The vast majority of officers and soldiers have acquitted themselves with courage, integrity and honour, in extraordinarily demanding circumstances.

The Aitken Report in January 2008 identified that a significant number of steps had been taken towards ensuring that abuse of civilians taken into detention would not occur in future. Two years on, I directed the Army Inspector to undertake this Review to assess progress in this critical area. This timely report provides independent assurance that even more is now being done than in 2008, and that officers and soldiers do understand the importance of treating properly those whom we detain whilst on operations.

But we must not be complacent. Nobody should be in any doubt as to the importance I attach to the proper treatment of all persons held in detention. This report makes several specific recommendations. Those that require additional resource will be considered in the context of competing priorities in the present demanding resource environment. There is much, though, that can and must now be done without the need to commit extra resources. In particular, I emphasise the importance of leadership at all levels, and the continued embedding of the Army's Values and Standards in all of our behaviour, at all times, both on and off operations.

CGS

15th July 2010

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Statement of Independent Assurance

I was honoured to be invited by the Army Inspectorate to act as an independent advisor for its 'Review into the Implementation of Policy, Training and Conduct of Detainee Handling', undertaken in 2010. My role has been to -

- Review evidence and assess whether the findings were appropriately supported;
- Where necessary, challenge methodology, evidence collected by the review team and their findings; and
- Provide advice as to comparisons with police and other organisations' policies, procedures and practices.

This document outlines my assessment of the final report dated 9th July 2010. My judgement is informed by experience as a police leader and knowledge gained since retiring from the police service, in particular -

- Leading units responsible for managing police counter terrorism and counter extremism intelligence;
- Leading investigations into serious crimes;
- Consideration of Human Rights requirements in the context of investigation and arrest activities;
- Joint working and cooperation with international police and intelligence agencies (including detention and custodial practices);
- Inspection and review in the areas of police counter terrorism, intelligence and police/prison service cooperation; and
- Support to overseas policing agencies in the development of police/prison service joint practices.

I was engaged by the Army Inspectorate in March 2010. At this stage it had produced and presented interim findings of its ongoing review. My assessment is based upon:

- discussions with Army Inspectorate staff and participation in meetings convened to develop the work;
- access to ongoing work-strand records;
- access to staff in the Ministry of Defence; and,
- fieldwork visits to:
 - the Permanent Joint Headquarters,
 - the Defence Intelligence & Security Centre,
 - the Military Corrective Training Centre Colchester,
 - Headquarters 11 Light Brigade and units in Aldershot Garrison, the Operational Training & Advisory Group,

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- Camp Bastion and Kandahar in Afghanistan.

During the fieldwork visits I was provided with access to key individuals responsible for policy, training, preparation and leadership of forces engaged in operations in Afghanistan, and opportunities to independently speak with soldiers at UK bases and within theatre.

The methodology adopted for the review was appropriate to achieve a clear understanding of the strengths, opportunities and vulnerabilities attached to Defence and Army policies, training and practices for detainee handling –

- Identification of a framework –
 - The Conceptual framework;
 - Training Design, Delivery and Effectiveness for Detainee Handling;
 - The Inculcation of Values and Standards;
 - The Actual Practice on Operations; and
 - The Lessons Learned Process.
- Document review;
- Development of a question framework;
- Interview of key practitioners; and
- Analysis of findings.

The inspection team were professional, capable individuals with relevant experience that enabled them to undertake a searching and thorough review.

I am satisfied that there is evidence to support the findings and recommendations, particularly recognition of the positive measures taken to ensure the appropriate treatment of detainees (including the conduct of detention facilities, training and guidance, and forward deployment of RMP). The key findings can be summarised as falling into three areas -

- Tactical - dealing with developments in policy, guidance and training that prepares forces for deployment;
- Governance and oversight - identifying the necessity for a consistent governance framework that will ensure the embedding of tactical lessons; and
- Confidence and reassurance - dealing with external validation of the measures taken by the Army.



Mark Lewindon BSc(Hons) MSc
Independent Advisor

9 Jul 10

**FINAL REPORT OF THE ARMY INSPECTORATE REVIEW INTO THE IMPLEMENTATION OF
POLICY, TRAINING AND CONDUCT OF DETAINEE HANDLING**

EXECUTIVE SUMMARY

1. In the context of external allegations and judicial reviews into the way in which the Army has handled detainees in the past, CGS directed that the Army Inspector should conduct a Review to provide an independent assessment of the current situation. This is the final report of that Review. Its role has not been to examine the circumstances surrounding specific allegations, but to review what measures are in place now and what improvements are in train.

2. Notwithstanding the independent status of the Army Inspector within the Army, the requirement that the Review should be demonstrably independent led to the engagement of an outside expert with relevant experience to provide an independent perspective and the necessary assurance; his findings are included within this report.

AIM

3. The aim of the Army Inspector's Review is to examine and assess the implementation of policy, training and conduct of detainee handling on operations, and to make recommendations.

KEY FINDINGS

4. Detainee handling has been an issue that has received direct attention from commanders at all levels in the Army and MOD, from the Secretary of State¹ downwards. There has been much change since the Aitken report, and change has continued apace even while this Review has been under way.

5. Doctrine, procedures and training are in place that comply with legal and policy obligations, but which are nevertheless subject to regular review and continuous evolution. Soldiers² clearly understand the basic procedures to follow and the proscribed techniques³; they also understand that there are potential legal and strategic consequences of getting it wrong.

6. There is positive assurance that the UK facilities in Afghanistan are run in compliance with applicable international law, UK regulations and Defence policy. No evidence was seen or obtained to suggest that pre-deployment and in-theatre training are failing to prepare forces to carry out detainee handling in accordance with the law and policy. On operations in Afghanistan, commanders are clearly focused on this issue; governance mechanisms are in place to monitor and assure detainee handling processes, with any allegations of improper behaviour (including complaints by the detainees themselves) being formally investigated.

¹ MOD Strategic Detention Policy Statement dated Mar 10.

² Those questioned and assessed included soldiers from 11 Light Brigade in-theatre and 4 Mechanised Brigade just prior to and just after deployment.

³ Stress positions, hooding, subjection to noise, sleep deprivation, and deprivation of food and drink were proscribed as aids to interrogation in 1972 by direction of the then Prime Minister Mr Heath. The description 'proscribed' is consistent with the Aitken Report and current editions of joint doctrine; to ensure clarity of understanding by all soldiers, in future aide-memoires will use the description 'prohibited'.

7. Nevertheless, there are areas in which there is still room for improvement. This report makes a number of tactical-level recommendations that should be seen as improvements to a system that is now working, rather than as mending a broken system. The report also identifies three issues at a more strategic level:

- a. While governance and oversight of detention activities in the Afghanistan theatre are now robust, it is important that work currently under way in the MOD to deliver a clear and effective higher level governance structure clearly sets out how individuals are to be held to account for delivering on their responsibilities under the Strategic Detention Policy.
- b. Recognition of the need for generic detainee handling skills to be embedded in the instinctive behaviour of every Service person operating in the contemporary and future land environment has yet to be translated into reality; and some soldiers still see this as the business of Provost specialists. Within the Army this is being addressed through the Land Forces Force Development and Training action plan, but leadership at all levels will be needed to drive through real attitudinal change, and really to deliver this 'mainstreaming' of the ethos and skills of detainee handling.
- c. Detention facilities are open to third party inspection by the International Committee of the Red Cross. The Department has recognised that a further level of independent, impartial assurance open to public scrutiny would be beneficial. To that end, Her Majesty's Chief Inspector of Prisons has been asked to explore the feasibility of undertaking this role.

8. **Strand 1 – The Conceptual Framework.**

- a. There is a clear hierarchy from the Secretary of State's Policy Statement through Joint and Single Service doctrine, Operation HERRICK Standard Operating Instructions and down to the procedures set out in aide-memoires; and updated policy on Tactical Questioning and on Interrogation is being written by MOD. Gaps identified by the Review have already been, or are being, addressed; among the improvements not yet fully in place are revision of the Army Field Manual Countering Insurgency to set out the five techniques that are prohibited as an aid to interrogation, and review of all Army tactical doctrine by the Operational Law Branch before publication.
- b. Remaining areas of uncertainty reported by UK Service personnel include how to deal with apparent mistreatment of detainees by Afghan forces, and the direction concerning juveniles.

9. **Strand 2 Training Design, Delivery And Effectiveness.**

- a. The requirement for training in detainee handling is clearly specified. The overall training progression delivers Service personnel (including medical staff and those manning the established facilities) prepared to conduct detainee handling in accordance with the applicable law and with policy. There are differences in approach between the three Services; PJHQ should consider whether it has adequate visibility and assurance of the training standards of those entering the operational theatre. Within the Army, there is also a need for clearer records and audit trails of individuals' training, and for assurance of detainee handling training by Provost subject matter experts. Provision of Military Provost Staff to instruct and exercise detainee handling at OPTAG⁴ has not yet been formalised but an ongoing OPTAG Baseline Review will recommend an MPS uplift.

⁴ The Operational Training and Advisory Group, subordinate to the Land Warfare Centre.

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b. More work is needed to embed generic detainee handling skills in the instinctive behaviour of every person operating in the contemporary and future land environment ('mainstreaming' the relevant ethos and skills).

c. On training for Tactical Questioning, the material taught should continue to be subject to regular review by lawyers; and measures are needed to increase awareness among unit commanders of what is required of those nominated as Tactical Questioners, in part so as to improve the quality of those undertaking the training.

10. **Strand 3 The Inculcation Of Values And Standards.** The Army's Values & Standards are the fundamental building block in the moral approach taken by those on operations and must not be regarded as just a 'peacetime' activity. There is a clear linkage between them and detainee handling; compliance with the mandatory annual training and associated tests should be auditably assured and recorded by the chain of command. Leadership is critical in delivering appropriate behaviour in relation to detainee handling; commanders at all level must lead 'by example', adhering to the Army's Values & Standards, and the equivalent for the other Services.

11. **Strand 4 - Actual Practice on Operations.** No evidence was found that indicated that the UK facilities are run in any way other than in compliance with applicable international and UK law, and Defence policy. No evidence was seen or obtained to suggest pre-deployment and in-theatre training are failing to prepare forces to carry out detainee handling in accordance with the law and desired outcomes. Where risk exists it is in the forward areas; full assurance there might be possible if a Military Provost Staff expert were deployed in every location in which UK forces are based. But these remain a scarce resource; and the level of assurance should be proportionate taking into account all the other risk-mitigation measures.

12. **Strand 5 – The Lessons Process.** Lessons processes (both Joint and Land) are in place and working; but those responsible should ensure that all lessons are being captured, validated and an audit trail maintained.

13. **Strand 6 – Governance and Assurance.** The Strategic Detention Policy provides a clear framework of responsibilities. Ongoing MOD work on the higher level governance should ensure that there is clarity of the mechanism for holding to account those with responsibilities under the Policy. In theatre, recent changes have introduced a clear governance and assurance structure, with separation of assurance from the operational chain of command. Land Forces should review the resourcing of Provost Marshal (Army) and of the Operational Law Branch, to ensure that they can fulfil their responsibilities.

14. **Further Work.** Responsibility for overseeing the consideration and implementation of the recommendations made in this report should lie with the governance mechanism that emerges from current MOD work.

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**FINAL REPORT OF THE ARMY INSPECTORATE REVIEW INTO THE IMPLEMENTATION OF
POLICY, TRAINING AND CONDUCT OF DETAINEE HANDLING**

CONTEXT

1. The Army and the MOD have faced a significant number of allegations of inappropriate and improper handling of persons taken into the custody of UK forces during operations. CGS directed that the Army Inspector should conduct a Review to provide an independent assessment of the current situation within the Army. However, this is a land environment issue, not just an Army one. The previous Minister (AF) endorsed the proposition that the Review should examine detainee handling in the Land Environment, including linkages to Defence organisations and the other Services, drawing on other ongoing strands of work and supported by subject matter experts from across MOD. This is the final report of that Review.

2. It has not been the role of this Review to examine the circumstances surrounding specific allegations. The purpose is to review what measures are in place now and what improvements are in train; to identify any gaps that require further work; and to make recommendations accordingly. The Terms of Reference are at Annex A.

3. Notwithstanding the independent status of the Army Inspector within the Army, the requirement that the Review should be demonstrably independent led to the engagement of an outside expert with relevant experience to provide an independent perspective and the necessary assurance; his findings are included within this report. His CV is at Annex B.

AIM

4. The aim of the Army Inspector's Review is to examine and assess the implementation of policy, training and conduct of detainee handling on operations, and to make recommendations.

KEY FINDINGS

5. Detainee handling has been an issue that has received direct attention from commanders at all levels in the Army and MOD, from the Secretary of State⁵ downwards. There has been much change since the Aitken report⁶, and change has continued apace even while this Review has been under way.

6. Doctrine, procedures and training are in place that comply with legal and policy obligations, but which are nevertheless subject to regular review and continuous evolution. Soldiers⁷ clearly understand the basic procedures to follow and the proscribed techniques⁸; they also understand that there are potential legal and strategic consequences of getting it wrong.

⁵ MOD Strategic Detention Policy Statement dated Mar 10.

⁶ An Investigation into Cases of deliberate Abuse and Unlawful Killing in Iraq in 2003 and 2004. Published on 25 Jan 08.

⁷ Those questioned and assessed included soldiers from 11 Light Brigade in-theatre and 4 Mechanised Brigade just prior to and just after deployment.

⁸ Stress positions, hooding, subjection to noise, sleep deprivation, and deprivation of food and drink were proscribed as aids to interrogation in 1972 by direction of the then Prime Minister Mr Heath. The description 'proscribed' is consistent with the Aitken Report and current editions of joint doctrine; to ensure clarity of understanding by all soldiers, in future aide-memoires will use the description 'prohibited'.

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7. There is positive assurance that the UK-run facilities in Afghanistan are run in compliance with applicable international and UK law, and Defence policy. No evidence was seen or obtained to suggest that pre-deployment and in-theatre training are failing to prepare forces to carry out detainee handling in accordance with the law and policy. On operations in Afghanistan, commanders are clearly focused on this issue; governance mechanisms are in place to monitor and assure detainee handling processes, with any allegations of improper behaviour (including complaints by the detainees themselves) being formally investigated.

8. Nevertheless, there are areas in which there is still room for improvement. This report makes a number of tactical-level recommendations that should be seen as improvements to a system that is now working, rather than as mending a broken system. The report also identifies three issues at a more strategic level:

a. While governance and oversight of detention activities in the Afghanistan theatre are now robust, it is important that work currently under way in the MOD to deliver a clear and effective higher level governance structure clearly sets out how individuals are to be held to account for delivering on their responsibilities under the Strategic Detention Policy.

b. Recognition of the need for generic detainee handling skills to be embedded in the instinctive behaviour of every person operating in the contemporary and future land environment has yet to be translated into reality; and some officers and soldiers still see this as the business of Provost specialists. Within the Army this is being addressed through the Land Forces Force Development and Training action plan, but leadership at all levels will be needed to drive through real attitudinal change, and really to deliver this 'mainstreaming' of detainee handling.

c. Detention facilities are open to third party inspection by the International Committee of the Red Cross. The Department has recognised that a further level of independent, impartial assurance open to public scrutiny would be beneficial. To that end, Her Majesty's Chief Inspector of Prisons has been asked to explore the feasibility of undertaking this role.

THIS REPORT

9. The Review was structured according to five work strands, a structure also adopted for this report:

a. Strand 1 – The Conceptual Framework. This strand sought to test the integrity of the chain from law, through policy to doctrine and tactics, techniques and procedures (TTPs), such that an individual who adheres to TTPs will both do all that he should and do nothing that he should not.

b. Strand 2 – Training Design, Delivery and Effectiveness for Detainee Handling. This strand involves the validation of training specification (in accordance with the valid TTPs) and design; confirmation that the training is being properly delivered; and assessment of the effectiveness of the training through engagement with the force and individuals under training (principally 4 Mechanised Brigade and 11 Light Brigade).

c. Strand 3 – The Inculcation of Values and Standards (V&S). This strand makes an assessment of the inculcation of the Army's V&S in initial training and continuation training within the Field Army, including consideration of whether the value of Loyalty might be being inappropriately or inadvertently interpreted in such a way as to prevent the exposure of improper behaviour. Also, that V&S are not being regarded as a 'peacetime' issue and disregarded when preparing for operations. This strand includes a review of Military Annual

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Training Tests (MATTs) 6 & 7⁹ as they contribute to the overall delivery of the detainee handling capability.

d. Strand 4 – Actual Practice on Operations. This strand draws on the work conducted by Provost Marshal (Army) in his review of current practice on Operation HERRICK from point of capture to point of release or handover, and on visits to theatre by the Review team (including the external member).

e. Strand 5 – The Lessons Process. This strand seeks to confirm what lessons have been identified in this area; then to track the audit trail to identify what remedial action has been taken.

10. Implicit in each work strand is the requirement to identify and validate assurance and governance mechanisms; the report therefore includes a sixth strand addressing governance. This sought to analyse the governance arrangements for Detainee Handling and verify that they are satisfactory and fit for purpose. It also sought to identify appropriate points of authority, responsibility and accountability within the chain of command from MOD downwards for this complete activity.

11. The Review began by focusing its effort within the Army. Having produced interim recommendations, it then widened its view to encompass practise on operations in Afghanistan; to consider practise within Joint organisations, including instruction provided by the Defence Intelligence and Security Centre; and to compare the Army's provisions within this field with those of the Royal Navy¹⁰ and Royal Air Force. This final report covers the whole Review, including the interim recommendations, on which it assesses progress to date.

12. While recognising the importance of remaining independent, the Review has drawn on the work of others. This includes inspection visits¹¹ by the Provost Marshal (Army)¹² to detention operations on Operation HERRICK, and work led on behalf of the Commander in Chief Land Forces by Commander Force Development and Training¹³. This Review was able to provide independent assurance of that Force Development and Training work, which was conducted by Director General Land Warfare and the staff of the Land Warfare Centre. Undertaken in parallel with the early stages of this Review, it used the same five strands; the early findings of both were incorporated in April into an action plan that has ensured that Land Forces have taken action as soon as possible to address identified shortcomings.

13. Whereas the Force Development and Training work assessed the systems that the Army has in place, the approach taken by this review has been to test outcomes by: talking to those directly involved in the production of doctrine; witnessing the delivery of training; interviewing training staff and personnel undergoing training prior to deployment; and visiting forces deployed on Operation HERRICK to test current practise on operations. A list of those organisations visited and consulted during the review is at Annex C.

14. In January 2008 the Army published the Aitken report, on "an investigation into cases of deliberate abuse and unlawful killing in Iraq in 2003 and 2004". Brigadier Aitken examined six

⁹ MATT 6 (Values and Standards) and MATT 7 (Operational Law). See paragraph 36.

¹⁰ Including the Royal Marines.

¹¹ In January and May 2010.

¹² PM(A) is the Competent Army Authority and Inspectorate (CAA&I) for Custody and Detention and, as such, is the special advisor to CJO for detention matters on operations. A fuller description of his role can be found in paragraph 114.

¹³ A Lieutenant General within Land Forces Command.

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cases, identifying¹⁴ failures in leadership, education, training (including clear doctrine to support it), and in the effective operation of the military criminal justice system. He identified 16 measures taken since 2003 to prevent abuse on operations. This Review examines the situation after a further 2 years.

SCOPE

15. Joint Doctrine¹⁵ states that “*During the course of military operations, members of UK Armed Forces must expect and be prepared to hold personnel who are no longer willing or able to continue fighting, as well as other personnel who merit detention or internment on other grounds. Prisoner Handling describes all aspects of dealing with persons who fall into the hands of UK Armed Forces during operations, whether categorised as Prisoners of War, internees or detainees.*” Moreover, “*During hostilities not amounting to International Armed Conflict, UK Forces can expect to deal with 2 classes of captured or detained persons*”, those being internees and detainees.

16. This Review is concerned not with the grounds for detaining an individual, but with the processes and behaviours involved when undertaking such detention¹⁶. The Ministry of Defence Strategic Detention Policy¹⁷ uses the term ‘detained persons’ to cover “*Prisoners of War, protected persons as defined in the Geneva Convention IV, and detainees and security internees, whether or not the Geneva Conventions apply*”. This report therefore uses the term ‘detainee handling’ generically, to cover the complete process, from the point of detention to release from UK custody, to which persons detained by UK forces on current operations are subjected.

17. It will never be possible to produce a completely watertight system that guarantees that no individual detained by UK forces will ever be inappropriately treated. This is an activity conducted by human beings. Humans make mistakes, particularly when subjected to stress; and however well individuals are selected and trained, some may still harbour malicious intent. But the aim must be to deliver an end-to-end system that reduces the possibility of maltreatment of detainees to a level as low as reasonably practicable, whilst ensuring that any such maltreatment is detected and dealt with. The system should also engender confidence amongst external observers that detained persons are indeed properly treated. The Review has sought, within its terms of reference, to assess the extent to which these goals are achieved.

REVIEW FINDINGS

STRAND 1 - THE CONCEPTUAL FRAMEWORK

18. The aim of this strand was to test the integrity of the chain from applicable law, through policy and doctrine, to tactics techniques and procedures, such that every Service person who followed the direction he or she was given would both do all that they should do and nothing that they should not do.

19. Early in its work the Review noted the lack of an overarching MOD policy statement on the handling of detainees. In March 2010 the Strategic Detention Policy statement by the Secretary of

¹⁴ The Aitken Report, 25 January 2008, paragraph 15.

¹⁵ Joint Doctrine Publication 1-10, Prisoners of War, Internees and Detainees.

¹⁶ And in doing so it concentrates in particular on the current operating environment in which hostilities do not amount to International Armed Conflict.

¹⁷ Signed in March 2010 by the then Secretary of State for Defence. The reference here is to foot note 2.

State for Defence was published. That statement clearly sets out policy “*to be observed whenever UK Armed Forces undertake detention in an operational theatre*”. It recognises that “*The standards that can be achieved will clearly be dependent on the precise nature of the operational environment, and it is likely that facilities will improve as operations endure, but at all times they must meet our legal obligations*”. The policy states a requirement for “*appropriate and comprehensive doctrine*”, and for “*All persons involved in detainee handling (including civilian employees and contractors) ... to receive appropriate instruction and training*”. Intelligence collection during detention is specifically subjected to the minimum standards set out by the policy. Finally, specific responsibilities are allocated to the Chief of Joint Operations; to the Provost Marshal (Army) (who is designated as the Defence Subject Matter Expert for operational detention on overseas operations); and to commanders and leaders. Thus, this new policy statement provides the necessary linkage to the law, while providing clear direction and framework for subordinate documents.

20. Below the Strategic Detention Policy, the hierarchy of doctrine provides appropriate and understandable publications for each level of command. The joint doctrine publication JDP 1-10 is the cornerstone, and is an easily readable and thorough document which is currently undergoing a regular review by the Development, Concepts and Doctrine Centre (DCDC)). Detention operations on Operation HERRICK are governed by the Permanent Joint Headquarters Standard Operating Instruction (SOI) J3-9 “*Stop, Search, Question and Detention Procedures in the HERRICK JOA*”¹⁸.¹⁹ This document is discussed further under Strand 4 (Actual Practice on Operations), but it clearly sets out detention criteria, nominates the detention authority and specifies responsibilities, and sets minimum standards of treatment. Further generic direction is provided by Joint Service Publications (JSP) 381 (Aide-Memoire on the Law of Armed Conflict) and 383 (Joint Service Manual of the Law of Armed Conflict).

21. Within the Army, the principal relevant Land Environment doctrine is published in Army Field Manual Part 1 Volume 10, Countering Insurgency²⁰. Beneath that lie Army Formation Standard Operating Procedures (AFSOPs)²¹ and Army Unit Standard Operating Procedures (AUSOPs)²², the Operation Herrick Tactical Aide-Memoire (issued to all commanders at section commander level and above), and the Operation HERRICK Individual Aide-Memoire issued to every Army, Royal Navy, Royal Marine and Royal Air Force service person deploying to Afghanistan.

22. In 1972 the UK Government prohibited the use of 5 techniques (wall-standing²³; hooding; subjection to noise; sleep deprivation; deprivation of food and drink) as an aid to interrogation²⁴. Issues surrounding the Heath Ruling are discussed in detailed in the MOD’s Closing Submissions on Modules 1 – 3 for the Baha Mousa Public Inquiry and are not repeated here. For the purpose of this Review, it is sufficient to note that early in its work the Review identified that although the prohibition of those five techniques was clearly set out in JDP 1-10, it was not set out clearly and unambiguously in the Tactical and Individual Aide Memoires; a reprint for the forces deploying to Operation HERRICK 12 from April 2010 now does set them out in such terms. Similarly, although

¹⁸ JOA: Joint Operational Area.

¹⁹ The current version is dated 12 April 2010.

²⁰ The latest version was published in January 2010.

²¹ AFSOP (now referred to as Land Handbook Formation SOPs) dated Jan 05.

²² AUSOP (now referred to as Land Component Handbook USOPs) dated Jul 01.

²³ This has subsequently been widened within policy and doctrine to encompass all stress positions: forcing captured or detained persons to adopt a posture that is intended to cause physical pain and exhaustion.

²⁴ In 1972 the then Prime Minister Mr Heath said in the House of Commons that “... the Government ... have decided that the techniques ... will not be used in future as an aid to interrogation ... The statement that I have made covers all future circumstances”. This position was restated in 1977 by the Attorney General: “The Government ... now give this unqualified undertaking, that the five techniques will not in any circumstances be reintroduced as an aid to interrogation”.

the Army Field Manual states the need to treat any captured persons lawfully with no inhumane or degrading treatment or punishment of anyone, and that “*Under no circumstances may hoods or sandbags over the head be used on detainees*”, it does not specify the other four techniques; this will be addressed during the next revision of the Manual, but in the meantime clear direction is provided by JDP 1-10, PJHQ SOI J3-9 and the aide-memoires. Hitherto, the techniques have been variously described as ‘proscribed’ or ‘prohibited’. This Review found that many soldiers did not understand the meaning of ‘proscribed’; in the interests of clarity, aide-memoires will henceforth describe them as ‘prohibited’ as an aid to interrogation.

23. The Review noted that the aide-memoires also did not specify the prohibition on ‘trophy’ photographs of detained persons. That, too, has been corrected in the latest versions.

24. Notwithstanding the absence of specific reminders in the previous editions of aide-memoires, the Review has found that these prohibitions are clearly and fully covered in training. Both the Provost Marshal (Army)’s visit to Afghanistan in January 2010 and this Review’s discussions with troops on Operation HERRICK 11 and those training for and deployed on Operation HERRICK 12 indicated a universal awareness and understanding of them.

25. Alongside this generalist doctrine and direction, the Surgeon General has issued specific direction to medical personnel. His Operational Policy Letter²⁵ is comprehensive and thorough in its direction on the medical treatment of detained persons. The Review noted that this policy letter is very Operation HERRICK-centric and contains some direction which could not be applied outside that theatre of operations. However the Review also notes that it is intended to incorporate the generic medical policy into JDP 1-10 while detailing HERRICK-specific medical support arrangements for detainees within PJHQ SOI J3-9. The Review endorses both of these approaches as an aid to clarity and to ensuring compliance with policy.

26. Documents at all levels in the hierarchy are frequently reviewed. However, the Army-owned documents are authored by a range of different staff branches. It became clear to the Review that not all land environment tactical doctrine publications were routinely passed in draft to legal officers for their comment and input, nor were documents containing any reference to the handling of captured persons all passed to the Provost Marshal (Army)’s staff for their consideration. Action is being taken²⁶ to revise the guide to the production of tactical doctrine to include a requirement for validation by the Operational Law Branch. The Land Warfare Centre should also ensure that any land environment doctrine that relates to detention or detainee handling should be passed to the staff of Provost Marshal (Army) for their consideration before being finalised.

Recommendation 1: The Land Warfare Centre should ensure that any land environment doctrine that relates to detention or detainee handling should be passed to the staff of Provost Marshal (Army) for their consideration before being finalised.

27. While the Review found that the hierarchy covered current operations in Afghanistan well, it identified that there was a risk of becoming too Afghan-focused and losing the generic applicability that would ensure that policy, doctrine and directives remain widely applicable. For example, while PJHQ’s SOI J3-9 is specifically written for the Operation Herrick joint operational area, PJHQ ought also to have a generic SOI for the handling of detainees, to cover other operations including short-notice contingencies. PJHQ recognises this, and is developing such a document.

28. The foregoing paragraphs address the general treatment and handling of detainees. On the separate but related issues of Tactical Questioning and of Interrogation, the MOD currently has a

²⁵ SGOPL No 9/09. Reference SGD/29/01/01 dated 18 Dec 09.

²⁶ By the Land Warfare Development Group, part of the Land Warfare Centre

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single directive covering both types of investigative dialogue. That is in the process of being rewritten as two documents. The purpose of Tactical Questioning is to obtain information of a tactical nature from captured persons, the value of which would deteriorate or be lost altogether if the questioning was delayed; it therefore takes place in the period immediately after an individual is taken into detention and in locations that are not specialist facilities. Interrogation is the systematic longer term questioning of a selected individual by a trained and qualified interrogator. Under extant policy, neither tactical questioning nor interrogation may be conducted other than by specially trained and qualified experts, who have been properly authorised to engage in such activity; although JDP 1-10 notes that *“in limited circumstances it will be necessary for an individual to be questioned immediately upon apprehension by troops not qualified in tactical questioning. Such questioning should be confined to establishing an individual's status or eliciting information vital to preserve force protection”*. The current MOD Policy on Tactical Questioning and Interrogation²⁷ refers explicitly to the prohibited 5 techniques which are reiterated as techniques that are expressly and explicitly forbidden as an aid to interrogation.

29. The Review has considered where the boundary should lie between ‘Tactical Questioning’ and ‘Interrogation’. Questioning an individual at the point of detention to determine identity and the nature of any immediate threat to the force is clearly the former. But once away from the point of detention, the boundary becomes blurred. The Review believes that it should be exceptional for further questioning to be undertaken in advance of the detainee reaching a trained interrogator in facilities that ensure appropriate safeguards, but that it would be wrong to ban such questioning completely; this must be for the commander’s judgement according to the tactical situation, and in the knowledge that he will be held fully to account for his and the Tactical Questioner’s actions.

30. In its discussions with deployed personnel, the Review has identified two areas in which some individuals were uncertain as to the policy to be followed: their responsibilities when mentoring Afghan National Security Forces (ANSF) as to the conduct of the members of those forces with respect to detained persons; and the detention (or not) of juveniles.

a. SOI J3-9 states that *“ANSF working alongside UK forces are, wherever possible, to take the lead in detention operations and the role of UK forces should be to ensure that there is a safe and secure environment in which such operations can take place and to assist if necessary”*. It further states that *“if it is believed that an ANSF detainee will be mistreated or that the ANSF are unable to safely and correctly facilitate the detention process, the detainee is to be processed by the [Temporary Holding Facility/Detainee Transfer Facility] staff in accordance with normal procedures. UK personnel should take control of the detainee and then carry out action in accordance with [the SOI]”*. Nevertheless, UK personnel recognise that they are partnering Afghans within the latter’s sovereign state, and that they need to maintain a good working relationship with those partners. Although PJHQ explained to the Review that their guidance is that where an issue cannot be resolved face-to-face for whatever reason then soldiers should raise their concerns up the UK chain of command, the Review found that there is uncertainty in some soldiers’ minds over whether to impose perceived western standards; whether to intervene at the time where they perceive Afghans to be treating a detainee inappropriately; or whether to report any such incident to be addressed higher in the chain of command. It is recommended that PJHQ should examine whether there is a need to provide clearer guidance for such situations.

b. SOI J3-9 states that *“Children under the age of 15²⁸ should not be detained unless necessary to prevent imminent danger to UK forces. In certain circumstances, those under*

²⁷ Support to Operations, dated 7 Nov 08.

²⁸ Or who appear to be younger than 15 (footnote in the original).

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the age of 15 may be removed from a location to be protected from danger and passed to [Host Nation] authorities for their own safety. This is best achieved by alerting [Afghan National Security Forces/Afghan National Police] to any child in danger. Children must be supervised by female troops where possible". It further states that "No persons under the age of 18 may be the subject of [Tactical Questioning]; however, physical evidence with them may be retained in the normal manner. Minimal questioning to establish name, age and place of residence are however permitted. If there is any doubt as to the age of an individual, examination by a medical professional of the same gender as the individual is permitted in order to attempt to determine this issue." Some soldiers feel that this direction places them in a dilemma, in that it is often very difficult to determine the age of Afghan youths; and in that they see themselves as directed to place potentially vulnerable detainees (i.e. juveniles) in what they perceive may be a less well protected situation than other detainees (i.e. in the hands of the Afghan forces). There are legal, moral and ethical judgements to be made by soldiers on the ground; the clearer the guidance they can be given, the better.

Recommendation 2: PJHQ should examine whether there is a need to provide clearer guidance for situations when UK forces work alongside Afghan National Security Forces with regard to detainee handling, host nation practices and juveniles.

31. In respect of the conceptual framework, by comparison the position of the other Services is:
- a. JDP 1-10 is used as the main reference for RN doctrine, in particular for on-going work to update BRd1920 (the Boarding BR) and to produce class-specific guidance. BR 3012, the Handbook on the Law of Maritime Operations also refers to JDP 1-10 in a footnote to Chapter 11, the chapter that deals with non-combatants; and the Handbook refers to JSPs 381, 383 and 398 (United Kingdom Compendium of National Rules of Engagement) and to Joint Warfare Publication (JWP) 3-46 (Legal Support to Joint Operations).
 - b. The Royal Marines undertake the Army Military Annual Training Tests²⁹ adjusted to encompass the Royal Marine ethos. They refer to JDP 1-10, and JSPs 381, 383 & 398.
 - c. The Royal Air Force adheres to AP 3002 (Air & Space Warfare) for airborne rules of engagement, otherwise defer to JDP 1-10 and JSPs 381 & 383.
 - d. All use the same Operation HERRICK Individual Aide-Memoire.

Recommendation 3: For the avoidance of doubt, MOD should stipulate that JDP 1-10 is to be used as the authority and quoted reference source for all single Service publications in order that, when JDP 1-10 is amended, the requirement to amend single Service publications is automatically apparent.

32. PJHQ is conducting a review of the Standard Operating Instructions being used in other theatres³⁰. Their aim is to ensure that locally-relevant instructions are in place, that conform with central policy and directives.

²⁹ See paragraph 36 below for more detail.

³⁰ Such as British Forces South Atlantic Islands, Gibraltar, and Diego Garcia.

Strand 1 - Conclusion

33. With regard to the Conceptual framework, the Review has found that:

- a. There is a clear hierarchy from the Secretary of State's Policy Statement through Joint and Single Service doctrine, Operation HERRICK Standard Operating Instructions and down to the procedures set out in aide-memoires. Gaps identified by the Review have already been, or are being, addressed. Together, this hierarchy sets out a framework of positive measures and prohibitions that, if followed, will ensure that Service personnel fulfil their legal obligations while ensuring the safety and proper treatment of detainees.
- b. Some improvements are being implemented but are not yet fully in place. Of these, the key ones are to ensure that the next update of Army Field Manual Countering Insurgency sets out the five techniques that are prohibited as an aid to interrogation, and that all Army tactical doctrine should be formally reviewed by Operational Law Branch to ensure legal compliance before finalisation. The Land Warfare Centre should also ensure that any land environment doctrine that relates to detention or detainee handling should be passed to the staff of Provost Marshal (Army) for their consideration before being finalised.
- c. Updated policy on Tactical Questioning and on Interrogation is being written by MOD.
- d. Outstanding areas of uncertainty reported by UK Service personnel include how to deal with apparent mistreatment of detainees by Afghan forces, and the direction concerning juveniles.

STRAND 2 - TRAINING DESIGN, DELIVERY AND EFFECTIVENESS FOR DETAINEE HANDLING

34. This work strand involved the validation of training specification and design; confirmation that the training is being properly delivered; and assessment of the effectiveness of the training through engagement with the force and individuals under training.

35. Within the Army, elements of the handling of captured persons are embedded throughout the spectrum from initial training through whole-life career education to individual and collective training and into Mission Specific Training through the Campaign Force Operational Readiness Mechanism (FORM) cycle. The Campaign FORM mechanism aims to deliver a single progressive training regime focusing on today's hybrid operations. In broad terms the cycle begins with individual and collective training on core skills using core equipment (Hybrid Foundation Training – HFT), becoming increasingly focused on a specific operation as the training progresses (Mission Specific Training – MST), leading to deployment, conduct of the operation, and then recuperation. For Operation HERRICK, the final stage of MST is a package of In Theatre Training.

Training Specification

36. **Individual Generic Training.** All Army personnel are required each year to undertake mandatory Military Annual Training Tests (MATTs). These include MATT 6 (Values and Standards) and MATT 7 (Operational Law)³¹, for each of which an instructional package must be delivered before the test is conducted. MATT 6 is to be completed in full by all personnel. For personnel in non-deployable units or non-deployable headquarters posts MATT 7 consists of a

³¹ MATT 7 was introduced as a separate MATT in 2008, following the Directorate of Operational Capability (DOC) Audit 4/07 and the Aitken Report.

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single module on the Law of Armed Conflict. Those in deployable units, and all individuals deploying on operations, are required to complete a more comprehensive MATT 7 package that includes a module on Search and Prisoner Handling; this includes specific coverage of the five prohibited techniques, direction for “humane treatment for all persons at all times”, and instruction that tactical questioning and interrogation may only be conducted by qualified personnel. Initial training for both officers and non-commissioned ranks is based on the full MATT 7 package.

37. **Individual Education.** Army officer career courses include an operational law element delivered by members of the Army Legal Services. The Operational Law Branch has updated its presentations to incorporate all the latest doctrinal and legal changes. Its staff now brief at all levels: from the Higher Command and Staff Course and the Brigade Commanders’ Programme, through Intermediate Command and Staff Course (Land) to the Junior Officers’ Tactics Course and the commissioning courses at the Royal Military Academy Sandhurst³². Currently the equivalent for non-commissioned ranks covers prisoner of war handling but not specifically detainees. Given that in most cases any direct contact between the military and detainees will be overseen by non-commissioned officers³³, the Review believes that the responsibilities of Army junior commanders with respect to detainee handling should be incorporated into the syllabus for their Command, Leadership and Management training. Work is in hand within Headquarters Land Forces to this end.

38. **Generic Collective Training.** The generic collective training requirement within Land Forces is set out in the Mission Task List (Land) (MTL(L)). This list, which is derived from the Military Tasks laid out in Defence Strategic Guidance and the PJHQ-generated Joint Task List, is a list of all the tasks that Land Forces might expect to undertake during Hybrid Conflict. Commander Field Army designates a subset of the MTL(L) as the Directed Mission Task List (Land), which allocates priorities to tasks in order to allow training to be directed in a manner that most effectively supports the operational requirement. “Prisoner and Detainee Handling”³⁴ is specified as high priority training³⁵. Collective Training Objectives and the associated doctrine that underpins them provide detail to enable the tasks in the Directed Mission Task List (Land) to be trained for. In the case of Prisoner and Detainee Handling they specify (for each level of collective training) the five prohibited techniques, prohibitions on cruel, inhumane or degrading acts, and the prohibition on trophy photographs; they also specify that “*Tactical Questioning and interrogation operations must only be conducted by those trained and specifically authorised to do so*”, and refer to the Surgeon General’s Operational Policy Letter with respect to medical treatment of detainees. For the sub-unit and battle group level, the Objectives also specify the requirement to train for “*effective planning and preparation after thorough mission analysis*”.

39. **Mission Specific Training.** For Operation HERRICK, the requirement to conduct specific detainee handling training prior to deployment is now³⁶ included in the PJHQ Joint Commander’s Operational Training Requirement (JCOTR). The latest JCOTR (for the current Operation HERRICK 12) formally reflects the requirement to conduct specific detainee handling training prior to deployment. In further work, PJHQ is conducting a comprehensive review into the training of individuals for operations; and is considering options to provide appropriate resources for the

³² The generic Operational Law, Law of Armed Conflict and Rules of Engagement briefings range from 45 to 150 minutes. This may be supplemented by discussion groups after the presentations.

³³ Forward operating bases and patrol bases are now much more numerous and commanded at a lower level than at any time in recent campaigns. Therefore it is imperative that junior NCOs are made fully aware and trained to carry out their duties and responsibilities correctly.

³⁴ Task L1.3.1.8.

³⁵ There are three categories: High Priority, Priority and Low Priority. High Priority Training is defined as “Training that HQLF believe must be conducted as a high priority in order to deliver immediate operational success”.

³⁶ As of Operation HERRICK 12, for which the forces deployed in April 2010.

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oversight of detention operations. The Land Forces Operation HERRICK Mounting Instruction, in addition to a requirement to train for detainee handling³⁷, also specifies that “*troops deploying with an expectation of conducting detainee handling are to contact [Provost Marshal (Army)] for specific training*”. To date none have, relying on the training provided by the Operational Training and Advisory Group (OPTAG)³⁸ and by Brigade Provost Companies.

40. **Other Services.** In comparison with the Army, the position of the other Services is:

a. Royal Navy.

(1) The Royal Navy do not conduct any form of annual refresher training on the treatment of captured personnel, however there is an intention to introduce such training in 2010. The training will be in the form of a maritime version of MATT 7 as part of the Royal Navy’s Core Maritime Skills (CMS) project. CMS 7 will require all Royal Naval personnel to receive annual training in Operational Law; one of the 3 modules in CMS 7 is Operational Detention which will address issues concerning the proper treatment and handling of captured persons.

(2) The fundamental principles of handling and treating captured persons are addressed (normally as part of generic training in the Laws of Armed Conflict) in the individual training of: all officers and ratings in Phase 1 training; all Rates on compulsory promotion Courses (Leading Rates Leadership Course and Senior Rates Leadership Course); officers’ Command courses (the Intermediate and Advanced Staff Courses); Principal Warfare Officers’ Course; Commanding Officers’ Designate Course; and as part of the training syllabus for a number of specialist courses (such as Boarding training). Unit level training may also take place for ships during both Basic Operational Sea Training and Deployment Continuation Training under the control of Flag Officer Sea Training, Devonport. Warships may, depending on their planned future tasking, be required to undergo training which will cover the treatment and handling of captured persons in the maritime environment. The maritime exercises which specifically address issues of captured persons are currently based around the scenario of detaining suspected pirates. For those individuals deploying to Afghanistan, pre-deployment training is conducted at the Royal Navy Pre-Deployment Training and Mounting Centre at Portsmouth. This delivers a two-week progressive package whose syllabus takes into account the unfamiliarity of most naval personnel with the land operational environment, and is therefore pitched at a relatively low level. Royal Marines also utilise this facility to provide pre-deployment training, predominantly for individuals not deploying with or as part of their formed units. On arrival in the Afghanistan theatre, Royal Navy personnel complete the mandatory in-theatre training package, which includes a lesson on detainee handling.

(3) The Royal Marines apply the same MATTs regime as the Army, with MATT 6 enhanced to include a specific linkage to Royal Marine ethos. They also conduct the mandatory training package on arrival in theatre.

³⁷ The Land Forces Mounting Instruction requires all deploying forces not only to be current on MATTs 6 and 7, but also stipulates training in detention criteria, Detention Authority, treatment standards, governance and assurance, record keeping and the use of qualified personnel for Tactical Questioning.

³⁸ The Operational Training Advisory Group (OPTAG) is a team, subordinate to the Collective Training Group of the Land Warfare Centre, whose task is “to provide appropriate specialist training in order that designated forces are prepared for operations in specified theatres”.

b. Royal Air Force.

(1) The RAF Generic Education and Training Requirement (GETR) stipulates a through life training requirement in Phase 1 to 3 training for both officers and airmen in, for example, Force Protection, military skills, ethos, Law of Armed Conflict and Air Power. Detainee handling is embedded in RAF Generic Education and Training and all training is conducted in accordance with MOD policy direction. It is envisaged that detainee training will be developed further as updates and amendments are recommended/directed as a result of assurance reports or a new requirement.

(2) Generally, RAF personnel do not conduct generic annual refresher training on the treatment of captured personnel, although there are some exceptions according to role and capability. The RAF operates a 3-category pre-deployment training system in accordance with PJHQ Individual Pre-Deployment Training (IPDT) Policy.³⁹ Law of armed conflict and detainee handling is delivered on all 3 categories of courses

(3) RAF personnel also undertake the same in-theatre training package as others, with the exception of those deploying for employment solely within Kandahar Air Force base, who attend a 1-day NATO induction package.

41. **Training Specification – Conclusion.** The Review concludes that the requirement for training in detainee handling is clearly specified. It notes the difference in approach between the three Services, and recommends that as part of its review of the training of individuals for operations, PJHQ should consider whether they have adequate visibility and assurance of the training standards of those entering the operational theatre.

Recommendation 4: As part of its review of the training of individuals for operations, PJHQ should consider whether it has adequate visibility and assurance of the training standards achieved by those entering the operational theatre.

Training Design

42. The Review found, even amongst individuals already in theatre and undergoing their final in-theatre training, some who did not understand that they might be responsible, during their tour of duty, for conducting detainee handling. Some soldiers who were interviewed, despite having received the mandatory training, did not see this as a key skill. This view was corroborated by forward-deployed Royal Military Police personnel, who indicated that the handling of detainees was still seen by some officers and soldiers as a responsibility of specialists.

43. The Review believes that all Service personnel in the land environment should have as a core skill a clear understanding of the correct treatment of all captured persons⁴⁰ combined with a thorough understanding of the procedures relating to detainees. Training for this should be embedded throughout individuals' careers and throughout the Campaign Formation Operational Readiness Mechanism training cycle, so that there is an instinctive understanding of the importance of this subject for all military personnel operating in the contemporary land environment. The requirement during Mission Specific Training (that is, in the final preparation for

³⁹ PJHQ/J7/77/7700/0 dated 7 May 09 – PJHQ IPDT Policy. Category 1 IPDT is delivered at regional training centres throughout the UK for those individuals who routinely operate within the confines of a main operating base. Category 2 is for those who conduct missions off-main operating bases and is delivered at the RAF Force Protection Centre (for individuals) and at three dispersed training locations for formed units. Category 3 training is aimed at those individuals who are routinely involved in a direct close combat role – the RAF Regiment – and is delivered by OPTASS (Operational Training Advisory & Standardisation Squadron) in accordance with PJHQ Mounting Instructions and Joint Commander's Operational Training Requirement (JCOTR).

⁴⁰ Including Prisoners of War, internees and detainees.

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a planned operational deployment) for detainee handling should be for no more than refresher training and a specific-to-theatre update. The Review's early work identified that while some training establishments had successfully 'contemporised' their training⁴¹ others had yet to do so and remained focused on prisoners of war rather than other types of captured persons.

44. The Action Plan developed by Commander Force Development and Training⁴² includes the production of an "Army Law of Armed Conflict Training Directive ... that embeds the proper treatment of all Captured Persons and the procedures for handling detainees throughout the training cycle". A report by Commander Force Development and Training in February 2010 recommended that this training directive should "provide an appropriate balance of training for the handling of [captured persons] in all categories"; this Review supports the need for such a directive, and recommends that the balance should be tipped firmly towards detainees in the current operating environment, and away from prisoners of war in conventional combat operations (while still fulfilling the UK's obligations under applicable international humanitarian law and the Geneva Conventions when applicable). Detainee handling serials should be included as a norm in field and command post exercises; this would allow more hands-on practice to be undertaken throughout the training cycle.

45. There is progress in this direction, as set out in the 'Training Specification' section (paragraphs 36-41) above; and there is evidence that progress is being made in contemporising training, a move that is at least in part supported by the numbers of personnel who have now completed at least one tour of Afghanistan. The Force Development and Training Action Plan also directs that initial training, individual training, and collective training all be reviewed to ensure that Detainee Handling is embedded, consistent, and subject to appropriate assurance.

46. In addition to giving direction on the processing and handling of detainees within the established holding and transfer facilities, PJHQ's SOI J3-9 gives clear guidance on actions to be taken by detaining forces from the point of detention to the point of handover to a facility manned by members of the Military Provost Staff. This is a comprehensive document that includes detailed and easily understood flow diagrams, and is a good source document on which to base training design. Director Training (Army) and the Land Warfare Centre should draw on this during their reviews of individual and collective training.

47. OPTAG-led training and courses are designed based on the Land Forces Operation HERRICK Mounting Instruction and upon the extensive current operational experience of the OPTAG team members. All training in specialist areas is approved, and normally delivered, by the subject matter experts – including Military Provost Staff for detainee handling. Until recently there was, however, no capability or capacity within OPTAG for the Training Development function mandated by the Defence Systems Approach to Training (DSAT), which should provide the means to convert training requirements into detailed, validated training specifications. Following 1st and 2nd Party Audits on OPTAG individual training by the Land Warfare Centre Training Development Team and by the Army Inspectorate, work is under way to introduce a formalised and DSAT-compliant regime; and Director Training (Army) has been designated as the Training Requirements Authority.

⁴¹ In accordance with Land Forces Operation ENTIRETY measures.

⁴² Who was recently tasked with developing and implementing a plan to embed Detainee Handling throughout the training continuum - OP ENTIRETY Fragmentary Order IV dated 30 April 2010.

Training Delivery

48. The Review found that MATT compliance, as recorded on the Joint Personnel Administration system, the authoritative repository of individual training records, is poor⁴³. While ad hoc records are being maintained by units (4 Mechanised Brigade, for instance, have spreadsheets with a comprehensive record of the training undertaken by those soldiers liable to deploy during Operation HERRICK 12) and show much higher levels of compliance, such records give no central view of compliance levels, nor a central audit trail of soldiers' training and qualifications that remains valid as individuals move between units. The Land Forces chain of command should decide on a single system of recording this training and of archiving the records; they should hold subordinate commanders accountable⁴⁴ for both for ensuring that all members of units for which they are responsible undertake the mandated MATT training and testing, and that auditable records are maintained.

Recommendation 5: Headquarters Land Forces should decide on a single system of recording individuals' mandatory annual training tests and of archiving the records; they should hold subordinate commanders accountable for ensuring both that all members of units for which they are responsible undertake the mandated MATT training and testing, and that auditable records are maintained.

49. It has been suggested that in the past some soldiers may have learned false lessons about how detainees should be handled, from participating in conduct after capture training. The Review has examined two aspects:

a. The Review believes that sufficient safeguards exist to prevent 'contamination' from formal training in what is now known as Survive, Evade, Resist, Extract (SERE). In this training, participants may be subjected, under carefully controlled conditions, to handling and techniques that members of UK armed forces are prohibited from applying to those in detention. It is clearly explained to them that such techniques are prohibited, but they experience them so as better to prepare them for what may happen should they fall into the hands of captors who do not abide by internationally agreed norms. Furthermore, those involved in inflicting such techniques, including questioners and interrogators, are prohibited from subsequently undertaking real tactical questioning or interrogator roles until they have undergone formal re-accreditation training.

b. However, the Review is less convinced that adequate safeguards are in place to prevent inappropriate lessons being learned from informal, unit-organised, 'escape and evasion' training. There is no formal guidance from the Director Training (Army) to Field Army units on whether they may or may not conduct such activity, the view being that at present only directed activity should be undertaken, and unit-based 'escape and evasion' or other SERE is not so directed. However, for the purpose of clarity, and to minimise the risk, the Review recommends that Headquarters Land Forces should issue direction that if any 'escape and evasion' training is undertaken other than under the auspices of the authorised Defence SERE training centre, this activity may not include any form of conduct after capture or resistance to interrogation training.

Recommendation 6: Headquarters Land Forces should direct that if any 'escape and evasion' training is undertaken other than under the auspices of the authorised Defence

⁴³ As at 17 Mar 10 (with 14 days remaining to the end of the training year) only 33,853 pers had completed MATT 6 and 14,654 MATT 7. This from a JPA total Army audience of 113,059.

⁴⁴ Such a system of accountability should include performance targets, and consequences when targets are not achieved.

SERE training centre, this activity may not include any form of conduct after capture or resistance to interrogation training.

50. Detainee handling training that is conducted as part of the Campaign FORM cycle must be subject to assurance and validation. This Review believes that brigade provost units are best placed to provide that assurance within manoeuvre brigades; an equivalent mechanism needs to be identified for those units that sit elsewhere in the Field Army. However, the provost units will need to be resourced for this task, ideally with either embedded or earmarked Military Provost Staff. Provost Marshal (Army) should assess the requirement and submit it to HQLF.

Recommendation 7: Brigade Provost units should be tasked and resourced to provide assurance and validation of detainee handling training within Field Army units, particularly as they progress through pre-deployment training.

Recommendation 8: Provost Marshal (Army) should assess the resource requirement to provide assurance and validation of detainee handling training that is conducted as part of the Campaign FORM cycle, and submit it to Headquarters Land Forces.

51. During Mission Specific Training by 4 Mechanised Brigade for Operation HERRICK 12, 150 Provost Company Royal Military Police (the Brigade's Provost unit) worked hard to ensure that the Brigade's other units understood and were prepared for their detainee handling responsibilities. However, a consequence was that they were delivering training to other units at the time when they should have been concentrating on integrating their own augmentees and conducting their own training. This is not a new issue for combat service support units, and is one that Campaign FORM should begin to ameliorate.

Recommendation 9: The provision of training support from outside the training audience is an aspect of Campaign Force Operational Readiness Mechanism that Headquarters Land Forces should monitor closely. It should be rapidly amended if no improvement is evident in the ability of combat service support units to participate fully as part of the training audience rather than trainers/facilitators.

52. There is currently no purpose-built detention facility where units or specialist custodial staff can train as part of their Mission Specific Training. Having such a facility would both allow units to practise the appropriate drills, and provide a practical guide on how to build a Unit Holding Area in the field.

Recommendation 10: Headquarters Land Forces should consider the building of a detainee handling training facility, against other resource priorities.

53. The Review has found Mission Specific Training (MST) generally fit for purpose. The law of armed conflict and detainee handling lectures and demonstrations during the Operational Training and Advisory Group (OPTAG) training⁴⁵ were found to be comprehensive and well delivered by legal officers and members of the Military Provost Staff. However, time is limited during this training programme, there is a great deal of information to be absorbed, and the instruction consists of lecture and demonstration, not of practical involvement by the personnel under training. There are opportunities for a very few soldiers to participate in detainee handling activities during MST field exercises.

⁴⁵ Attended by Army and Royal Marines personnel; some RAF personnel also attend the Individual Reinforcement courses.

54. One of the strategic lessons drawn by the MOD from the Aitken report in 2008 was that “*the Provision of Military Provost Staff to instruct and test Prisoner Handling at the Operational Pre-deployment Training Advisory Group (sic) should be formalised*”. This has not yet happened: Military Provost Staff support to OPTAG training is provided through pragmatic ad hoc arrangements from the staff at the Military Corrective Training Centre, at risk to their primary task. Provost Marshal (Army) has quantified the requirement for additional Military Provost Staff to fulfil both training and operational requirements in addition to their firm base role, and Headquarters Land Forces is considering how the requirement could be resourced.

Recommendation 11: Headquarters Land Forces should formally review the manner in which Military Provost Staff support is provided to OPTAG training and courses.

55. The Review has a number of other concerns with respect to the trainee learning experience at OPTAG. The size of the Individual Reinforcement courses⁴⁶ and thus the instructor to trainee ratio, combined with limited facilities during adverse weather, impacts adversely on the ability of trainees to absorb what they are being taught. OPTAG experience is that a small percentage of those attending the Individual Reinforcement course do not subsequently deploy into the operational theatre; this is a waste of a valuable resource, and prohibiting attendance by such individuals would improve the learning of those for whom attendance is essential. A few individuals returned to their units before finishing the entire course⁴⁷. OPTAG has introduced a new monitoring and recording system with effect from June 2010; OPTAG now maintains formal records of training elements attended and omitted, so that training shortfalls are acknowledged and mitigated with these records now being handed to the chain of command. Separate reports produced on the Defence Systems Approach to Training and trainee learning experience aspects following a combined first and second party assurance evaluation in mid-February have resulted in the creation of a training development cell and the designation of Director Training (Army) as the Training Requirements Authority.

Recommendation 12: The Land Warfare Centre should formally validate the effectiveness of the new arrangements for monitoring and recording the completion of each element of training by participants, for training development within OPTAG and for the Training Requirements Authority.

56. All personnel deploying to Afghanistan undergo a period of In-Theatre Training⁴⁸. This training takes place under the oversight of, and much is delivered by, elements from OPTAG as part of the newly established Bastion Training Centre. Review members observed in-theatre training on detainee handling being conducted by in-place Royal Military Police personnel and members of the Military Provost Staff.

57. The Review found that the In-Theatre Training was providing effective refreshment with respect to detainee handling, and the messages being delivered were consistent with those delivered in UK. However, time pressures mean that the training does not provide any opportunity for practical run-through by those under training; nor is any confirmation conducted other than an opportunity for the trainees to ask questions at the end of the session. Moreover, training facilities are austere and subject to significant environmental factors of heat and dust / sand. While these environmental factors contribute to the acclimatisation process for those newly arrived in-theatre, and the in-theatre package is undoubtedly an important element of the whole training progression, it ought to be no more than refresher training and familiarisation with the very latest tactics, techniques and procedures and the in-theatre situation.

⁴⁶ Up to 550 per course, divided into 16 groups of up to 35.

⁴⁷ On the Individual Reinforcement course monitored by the review in Feb 10 about 7% did not complete the package.

⁴⁸ Also referred to as “Reception, Staging, Onward movement and Integration” (RSOI) training.

58. In discussion with a number of those undergoing the in-theatre training, the Review found that a number of personnel, predominantly Royal Navy, claimed to have received no training for handling detainees prior to arriving in-theatre. This underscores the importance of the in-theatre training as a back-stop to ensure that none slip through the net; but it also underscores the importance of establishing an effective mechanism whereby the front line commands (Navy, Land Forces and Air) can auditably certify to PJHQ and thus to in-theatre commanders that the requirements of the Joint Commander's Operational Training Requirement have been met.

Recommendation 13: Included in the MOD's ongoing work on governance of detainee handling, there should be an effective mechanism whereby the front line commands (Navy, Land Forces and Air) can auditably certify to PJHQ and thus to in-theatre commanders that the requirements of the Joint Commander's Operational Training Requirement have been met.

59. In those discussions, the Review also found that of the Service personnel to whom they spoke, all understood the importance attached to conducting detainee operations in accordance with the training given, and understood the requirements and prohibitions to which they were subject. However some questioned why they were being given this training when they believed their in-theatre role would never expose them to detainees at all. There was evidence that some personnel saw detainee handling as a specialist activity to be undertaken by Royal Military Police and Military Provost Staff and not the business of others such as themselves. It is true that many of those in theatre, chiefly those in the main bases, will not be directly involved in the handling of detainees. Nevertheless, in the contemporary operating environment, which recognises no front lines and in which every individual should be a 'soldier first', this finding emphasises the importance of every soldier being imbued with an understanding of the proper handling of detainees, embedded from the very earliest stages of his or her training (see paragraph 43-45 above).

60. The Review saw evidence of the training being given to staff manning both the Temporary Holding Facility in Camp Bastion and the facility at Kandahar. They also examined the arrangements for training medical staff for dealing with detainees at the Camp Bastion Role 3 hospital. In both cases the training was judged to be thorough and effective.

61. Limited specialist training in operational detention is available to some non-Military Provost Staff/Royal Military Police personnel. The All Arms Unit Custody Staff Course is run to train NCOs to operate unit custody facilities for service personnel in their home base locations. Since 2006, the course has included a short operational detention phase that builds on the principles taught during the preceding non-operational phase. This operational phase⁴⁹ helps prepare these same Unit Custody Staff to act as their Unit Commander's adviser on detention on operations.

62. The Unit Custody Staff course content has been contemporised to include teaching in control and restraint in a custodial environment which is taken from the UK HM Prisons approved techniques (and delivered by HM Prisons approved instructors); it includes teaching in the dangers of positional asphyxiation and associated issues. They also receive training in the use of approved restraints which includes handcuffs and plastic cuffs (for use on operations only).

63. One training gap identified during the Review's visits to Afghanistan was in the area of evidential collection. An improvement in front-line evidential collection would support the provision of evidence to the Afghan Criminal Justice System; alternatively, efficient and timely marshalling of

⁴⁹ Subjects covered in the operational phase include: principles and ethos of operational custody; role of the ICRC and the Geneva Conventions; categorising and requirements for PW's and PW camps; use of restraints and use of force (including the safe use of swivel and curb chain; actions at the point of detention; requirements of a Unit Holding Area; escorting prisoners on operations; and the prisoner evacuation chain.

evidence could confirm the veracity of exculpatory accounts and thus enable the early release of other detainees. The Force Provost Marshal is leading on work to deliver such an improvement.

64. On their first visit to theatre the Review found that Commander 11 Light Brigade, as Commander Task Force Helmand, had directed that members of his force should undertake a period of mid-tour refresher training, to include detainee handling. The Review was unable to ascertain whether Commander 4 Mechanised Brigade intended to do the same, but recommends that, when operational circumstances allow and the requirement exists, such refresher training should be regarded as good practice.

Recommendation 14: The provision of mid-tour refresher training, when operational circumstances permit and the requirement exists, should be regarded as good practice.

Training for Tactical Questioning and Interrogation

65. The issues of detention and of tactical questioning and interrogation are separate but closely related.

66. The training of Tactical Questioners (whose purpose is to obtain information of a tactical nature from captured persons, the value of which would deteriorate or be lost altogether if the questioning was delayed) is conducted at the Defence Intelligence and Security Centre. The training provided in the one-week course has been checked and approved by lawyers and is subject to regular such review; and there are lawyers embedded in the Defence Intelligence and Security Centre to ensure continuing compliance.

Recommendation 15: The material taught on the Tactical Questioning course should continue to be reviewed regularly by lawyers.

67. There is evidence that the quality of personnel being sent by units to be trained as Tactical Questioners is variable, and in some cases lower than would be hoped for. Whilst some units send only senior NCOs, others are reluctant to send their best and only send those who can be spared from the unit at the time of the course. This emphasises the importance of units identifying suitable individuals very early in the training cycle, well before Mission Specific Training. In order for this to work, commanding officers and sub-unit commanders must understand the priority to be placed on identifying the right individuals with suitable experience and judgement; yet the Review found a lack of awareness amongst commanders of either the qualities needed, or the rules and constraints governing Tactical Questioning. Thus, some form of briefing to battle group commanders very early in the training progression once a unit or formation has been identified for operations would help reduce the risk of the wrong people being nominated for training as Tactical Questioners, and thus contribute to assurance of the overall system. This would also be an opportunity to introduce commanding officers to their own responsibilities for oversight of Tactical Questioning.

68. The next question is who should be responsible for such briefing. The higher level governance arrangements for detainee handling are currently being reviewed (see paragraph 110 below). The identified owner of the detainee handling process should also become responsible for ensuring that these command briefings are made available, and the Front Line Commands should be accountable for ensuring that they are delivered.

Recommendation 16: The individual identified by ongoing work into the governance of detainee handling as responsible for the overall process should hold the Front Line Commands accountable for ensuring that commanding officers receive early briefing as to their responsibilities with respect to Tactical Questioning, and as to the importance of

identifying and qualifying the right individuals in good time before operational deployments.

69. The Tactical Questioning qualification is valid for 2 years from the date of the course, after which the qualification lapses unless the individual re-qualifies. It was suggested to the Review that the 2-year currency period should run not from the date of the course, but from the date an individual last conducted a 'live' tactical questioning. The Review strongly opposes this suggestion, which could lead to an individual not receiving refresher training for several years, during which it would be possible for them to diverge from approved techniques, and during which they would not be updated on any changes to approved techniques. The Review would also question how such a system could be effectively governed and assured.

70. The Defence Intelligence and Security Centre is understaffed in this area; but if fully manned it might be possible for it to run some form of web-based 'Tactical Questioners' Forum' that would allow the dissemination of updated policy or techniques to currently-qualified Tactical Questioners within the period of their 2-year currency.

Recommendation 17: The validity of the qualification of an individual to conduct Tactical Questioning should continue to run from the date of attending the relevant training course. The Defence Intelligence and Security Centre should consider how best to maintain the currency of individuals even within the 2-year qualification period.

71. The Review did not examine the training of interrogators; but it noted the importance of continuity of professionals in the role (as occurs, for example, in the police service). The Review was assured that the Defence Interrogation Course has undergone an extensive review and rewrite, and now includes a pre-course assessment to ensure that the right people are trained as interrogators. A proposal to establish permanent interrogator posts within the Defence HUMINT Unit is being staffed, to create a permanent cadre of interrogators; and a recently-created Steering Group will consider further ways to professionalise interrogation.

Training for Commanders' Responsibilities

72. The education and training of commanders for their responsibilities is embedded throughout the training continuum, as described above. In addition, SOI J3-9 requires that: "TQ policy including oversight, governance and responsibilities for the welfare and treatment of [captured persons] is detailed in [MOD Policy on Tactical Questioning dated 7 Nov 08] and **must be read by personnel with chain of command and/or oversight and governance responsibilities for personnel engaged in TQ.**" (emphasis in the original).

73. PJHQ has proposed to Land Forces Command that as part of the preparation for deployment, battle group commanding officers should travel to PJHQ to receive a briefing on their responsibilities⁵⁰ with respect to detainee handling. The Land Warfare Centre, however, has recommended that a PJHQ representative should brief unit or formation commanders' cadres, which are attended by much more junior members of the chain of command, including non-commissioned officers, because of the importance of this subject, the direct involvement of junior leaders, and the inability (for reasons of geographical dispersion) of commanding officers to exercise direct personal supervision across their dispersed forces. The Review supports the latter approach, and understands that the new Ministry of Defence Tactical Questioning policy will stipulate that PJHQ is to issue a theatre-specific Tactical Questioning directive and deliver a Tactical Questioning brief to deploying units. The brief will outline the purpose of Tactical

⁵⁰ Noting that, in the words of SOI J3-9, "TQ Command and Control (C2), oversight and governance is a chain of command responsibility down to the tactical level".

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Questioning, constraints, conduct of Tactical Questioning, record keeping, individual responsibilities, subject matter expert advice and guidance, and the qualities required of those conducting Tactical Questioning.

Strand 2 Conclusions

74. **Training Specification.** The requirement for training in detainee handling is clearly specified. There are differences in approach between the three Services; as part of its review of the training of individuals for operations, PJHQ should consider whether they have adequate visibility and assurance of the training standards of those entering the operational theatre.

75. **Training Design.** More work is needed to embed generic detainee handling skills in the instinctive behaviour of every Service person operating in the contemporary and future land environment ('mainstreaming' the relevant ethos and skills); some soldiers still see this as the business of Provost specialists. Necessary changes are being made to the structure of the Operational Training and Advisory Group (OPTAG).

76. **Training Delivery.** The Review found that the overall training progression was delivering Service personnel prepared to conduct detainee handling in accordance with the applicable law and with policy, including the responsibilities of medical staff and of those manning the established facilities. However, within the Army there is a need for clearer records and audit trails of individuals' training. Provision of Military Provost Staff to instruct and test in detainee handling at OPTAG has not yet been formalised but the ongoing OPTAG Baseline Review will recommend an MPS uplift. There is a need for assurance of detainee handling training by Provost subject matter experts. On training for Tactical Questioning, the material taught should continue to be subject to regular review by lawyers; and measures are needed to increase awareness among unit commanders of what is required of those nominated as tactical Questioners, in part so as to improve the quality of those undertaking the training.

STRAND 3 - THE INCULCATION OF VALUES AND STANDARDS

77. This work strand assesses the inculcation of the Army's Values & Standards (V&S)⁵¹ in initial training and continuation training within the Field Army, including consideration of whether the value of Loyalty might be being inappropriately or inadvertently interpreted in such a way as to prevent the exposure of improper behaviour. Also it considered whether V&S are seen just as a 'peacetime' issue and disregarded when preparing for operations. This strand includes a review of Military Annual Training Tests (MATTs) 6 & 7⁵² as they contribute to the overall delivery of the detainee handling capability.

78. There is a clear linkage between the Army's V&S (covered by MATT 6) and detainee handling (covered by MATT 7). The proper treatment of detainees, in addition to being a legal obligation, falls under the Value 'Respect for Others', while moral courage and integrity may be needed to ensure that any transgressions are reported and investigated. In the latter case, this requirement clearly overrides the loyalty that the Army seeks amongst small teams – loyalty to the unit and to the wider Army applies in this case. All three core standards are directly applicable to detainee handling.

⁵¹ Values: Selfless Commitment, Respect for Others, Loyalty, Integrity, Discipline, Courage. Standards: Lawful, Appropriate Behaviour, Total Professionalism.

⁵² MATT 6 (Values and Standards) and MATT 7 (Operational Law). See paragraph 36.

79. V&S are thoroughly inculcated during initial Army training, including an understanding of the linkage between them and operational effectiveness. This is achieved both through MATT 6 and by the ethos and techniques of Values Based Leadership taught to all instructors and espoused throughout the Army Recruiting and Training Division (ARTD). However, there is evidence that the ethos of living by the V&S is not always carried through into the Field Army, despite officers and soldiers professing understanding of, and agreement with, their tenets.⁵³ Many soldiers come from backgrounds where the Army's V&S are unfamiliar; it is therefore essential to maintain the effort to instil them once the soldier joins the Field Army, both by instruction and by example. Recent attention to the issue of V&S from the Commander in Chief Land Forces down through the chain of command is expected to provide impetus.

80. It is a command responsibility, led at unit level by the Commanding Officer and Regimental Sergeant Major, to emphasise the importance of living by the V&S, and to set the tone within a unit. Following a recent Army Leadership Study, Land Forces are considering proposals to reinforce the inculcation of V&S; measures to help achieve this could include broadening the application of the Values Based Leadership instruction given by the ARTD Staff Leadership School. But, as a first step, compliance with MATTs 6 and 7 should be audited by the chain of command⁵⁴ as there is no formal robust First Party assurance regime which is able to guarantee that MATTs are conducted in accordance with current direction and that attendance is recorded and archived (see Recommendation 5). Similarly there is no system to measure which Commanding Officers and Regimental Sergeant Majors are carrying out their responsibilities to lead on V&S briefings: and therefore to assess the standard of the presentation given to the soldiers.

Recommendation 18: Headquarters Land Forces should progress the recommendations made in the Army Leadership Study with regard to the inculcation of Values and Standards.

81. Where possible, the inculcation of V&S in those presently on, or recently returned from, operations was examined. Officers and soldiers interviewed, within 4 Mechanised and 11 Light Brigades, understood instinctively where and what the 'red lines' were and why they were there. Commander 11 Light Brigade set out very clearly his direction⁵⁵ on discipline and in particular the treatment of civilians and detainees to each and every one of his Battle Group Commanders. All sub-units also received a copy of the written version. There is also other evidence, such as that from the recent Court Martial of Royal Marines personnel convicted of abusing a detainee as well as other events being investigated within the chain of command, that even the most junior NCOs have the integrity and moral courage to report the inappropriate and wrong actions of others, irrespective of their rank. For all operations, and counterinsurgency operations in particular, the Army's V&S are the fundamental building block in the moral approach taken by our soldiers participating in those operations and should be to the fore, not seen as a 'peacetime' activity.

Recommendation 19: During the build-up to deployment, Commanders must highlight the importance of adhering to the Army's Values and Standards (and the equivalent for the other Services) in their training and preparatory directives.

82. Adherence to the Army's V&S is, fundamentally, a leadership issue. As the contemporary operating environment has become more challenging and complex (especially in the era of "*courageous restraint*"), so has the need for all commanders at every rank to display and exercise exemplary leadership. Analysis of the citations for outstanding leadership in the recent operational

⁵³ Sources include recent work on Equality and Diversity by the staff of the Director of Manning (Army), and a number of other pieces of work being reviewed within the chain of command.

⁵⁴ Attendance records and test papers should be retained for such audit. Commander Force Development and Training's report identified that I (UK) Armoured Division had instituted good practice in this area.

⁵⁵ Commander 11 Lt Bde Tactical Directive dated 08 Jun 09.

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honours and awards lists⁵⁶; testimonials to those who have fallen in action; and post-operational de-briefs⁵⁷ all bear witness to this facet. Leadership is critical in delivering appropriate behaviour in relation to detainee handling and nowhere is this more evident at the moment than across the Army chain of command.

Recommendation 20: During the individual training phase of pre-deployment training Commanders could run specific 'leadership' seminars to highlight the behaviours expected by all those on operations. This would not only benefit situations involving detainee handling but also have more widespread utility, especially when junior commanders become casualties and subordinates (including private soldiers) unexpectedly take over command.

Strand 3 Conclusions

83. In summary:

- a. There is a clear linkage between the Army's Values & Standards (covered by MATT 6) and detainee handling (covered by MATT 7).
- b. The Army's Values & Standards are the fundamental building block in the moral approach taken by those on operations and are not just a 'peacetime' activity.
- c. Compliance with MATTs 6 and 7 should be assured by the chain of command to record and demonstrate compliance in accordance with policy.
- d. Commanders at all level must lead 'by example', adhering to the Army's Values & Standards, and the equivalent for the other Services.
- e. Leadership is critical in delivering appropriate behaviour in relation to detainee handling.

STRAND 4 - ACTUAL PRACTICE ON OPERATIONS

84. Members of the Review visited the Afghanistan operational theatre twice, once during Operation HERRICK 11 (11 Light Brigade) and once during Operation HERRICK 12 (4 Mechanised Brigade). For the second visit they were accompanied by the Review's independent assurer. The Review has also drawn on the findings of Provost Marshal (Army), who has also visited Afghanistan twice during the same timescale, in his role as Defence Subject Matter Expert.

85. Provost Marshal (Army)'s in-theatre inspections in January 2010 found that all Afghan detainees within UK detention facilities were being held in a safe and secure environment. All the personnel to whom he spoke, from the Task Force Commander down to battle group level, understood the importance of getting detainee handling right, and their part in that. Some felt that pre-deployment training had included insufficient hands-on practice although the Task Force Commander had instituted a series of positive actions, including a programme of mid-tour training with appropriate oversight and records. Provost Marshal (Army) identified the key area of risk as from the point of capture until arrival at the Temporary Holding Facility at Camp Bastion; this risk

⁵⁶ For example Op Honours & Awards Lists Nos 34 (19 Mar 10), 33 (11 Sep 09) & 32 (6 Mar 09).

⁵⁷ Post Op de-briefs from 16X, 19X & 11X; Leadership on Operations update at Director Royal Armoured Corps' Conference on 30 Mar 10 from CO Light Dragoons & OC Viking Group.

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could be mitigated by the introduction of Unit Holding Facilities under Royal Military Police control, and surging Royal Military Police and Military Provost Staff assets to cover particular operations when detainees are expected.

86. Since then, PJHQ has taken steps to provide Royal Military Police detention expertise down to battle group level, and further forward for specific operations. This has extended the reach of oversight and expertise, and the availability of advice and support to forward deployed officers and NCOs. However, these staff are spread thinly and are rarely on the scene when detainees are taken by patrols; the area of highest risk of inappropriate handling of detainees remains in forward battle group areas. Battle Group Commanding Officers should ensure that their personnel who have been trained on the All Arms Unit Custody Staff Course are used to fill the gaps in professional Provost staff, while ensuring that effective assurance arrangements are in place.

87. With respect to practice within deployed battle groups, the Review took evidence that troops on the ground knew what to do (and sought advice from attached Royal Military Police personnel when they felt unsure what to do). However, one Military Police detachment commander observed that commanders at battle group and sub-unit level were not thoroughly familiar with SOI J3-9 and had had to be challenged about their activities on a number of occasions; this observation underlines the importance of deploying detention expertise forward into battle group locations.

Recommendation 21: PJHQ should continue to push professional Provost staff forward as resources permit; battle group commanding officers should use their personnel who have been trained on the All Arms Unit Custody Staff Course to fill the gaps in the coverage by professional Provost staff, while ensuring that effective assurance arrangements are in place.

88. SOI J3-9 requires that "*individuals detained by UK Forces must be transferred to the [Temporary Holding Facility in Camp Bastion] as soon as practicable and no later than 36 hours from the point of detention. All evidence, detainee possessions and Tactical Questioning reports must be transferred with the detainee*". The Royal Military Police are seeking to improve evidence gathering at the point of detention, a move which should support both intelligence exploitation and case preparation. The Review found evidence of thorough planning for deliberate detention operations, including contingencies for the immediate extraction of detainees, thereby minimising their exposure in forward positions and expediting their transfer into supervised regimes. However, there are occasions where forward deployed units cannot have detainees extracted rapidly, and they can remain within forward operating bases for extended periods. In some cases they have been released as a result of a judgement that they are unlikely to be convicted and there was little chance of an early extraction.

89. With respect to the in-theatre detainee handling facilities and procedures carried out in them, the Review observed procedures at both the Camp Bastion Temporary Holding Facility and the facility at Kandahar by in-place Military Provost Staff and attached staff (including the assigned Medical Officer at Camp Bastion). It saw evidence of the control arrangements for both facilities, and of the arrangements for conducting medical inspections of detainees in accordance with SGOPL 9/09 and for monitoring environmental health issues at the Camp Bastion facility. The Review found no evidence to indicate that either facility was run other than in full accordance with applicable international law, UK law, and Defence policy. An effective audit trail of retrievable records is maintained, that accounts for the treatment of all detainees. The Review notes that the Military Provost Staff personnel manning the facilities both in Camp Bastion and in Kandahar have been provided 'at risk' by Provost Marshal (Army) and the Commandant of the Military Corrective Training Centre since, as yet, there is no established deployable MPS capability; providing this capability is a top priority issue for Headquarters Land Forces at the moment.

90. Evidence was also seen of effective processes for investigating allegations of abuse, and complaints by detainees. On arrival at the Temporary Holding Facility, the Force Provost Marshal requires custody staff specifically to ask detainees if they wish to make a complaint about their treatment and this is repeated 24 hours later. The question is again asked before and after every move of location and prior to handover to the Afghan Authorities. Any allegations are investigated by the Special Investigation Branch of the Royal Military Police. The majority of cases amount to alleged common assault; cases where evidence is uncovered to support the allegation are then turned over to the Service Prosecuting Authority.

91. Anecdotal evidence suggests that insurgents may be using the complaints system in an attempt to tie up UK military resources and damage the reputation of UK forces. The full investigation of every case, including the interview (often under caution) of soldiers, is resource intensive. In addition to resource usage, negative consequences could include impact upon the confidence of soldiers to handle detainees (arising from trepidation about potential Service police investigation); and an erosion of trust and confidence arising from a stark statistic about the number of complaints made. Consideration could be given to the possibility of allegations being written off at an early stage when the nature of the allegation, in itself, demonstrates that soldiers did not behave inappropriately. Complaints could also be categorised, including the identification of the number that did not involve wrongdoing. This would defuse the impact of malicious complaints but would need careful handling to prevent an impression that the Army was 'whitewashing' complaints.

Recommendation 22: PJHQ should consider whether there is any scope for earlier dismissal of vexatious complaints whilst ensuring that all valid complaints are fully investigated.

92. At both the Bastion and Kandahar holding facilities, the Review also observed procedures for control of interrogation, collation of evidence and feed-back to intelligence staff of the product of interrogation. Both facilities have good monitoring capabilities (ambient video recording in Kandahar and, in Bastion, tape recording of interviews, tapes having been switched on before arrival in interrogation of detainees). The independent assurer judged both to be examples of good practice, describing the Kandahar facility in particular as "*a purpose built facility that provides excellent conditions for those detained*".

93. Governance of the detainee handling process has advanced significantly in the time that the Review has been under way. The new regime is taut, with a command-led focus, supported by appropriate activity throughout the chain of command. Governance has been separated from the Task Force Helmand chain of command, removing a potential conflict of interest for the Task Force Commander: a different UK brigadier, the Commander Joint Force Support (Afghanistan), is now designated as the Detention Authority. He chairs a daily Detention Review Committee responsible for monitoring the continuing necessity and authority to detain each individual. As each case is reviewed, representations are heard from legal and policy advisors, the Intelligence and Police disciplines, and the Task Force chain of command. There is evidence that decisions are actively challenged within the Detention Review Committee forum, which is by no means a rubber stamp for decisions as to continued detention.

94. A new OF-5 level (colonel or equivalent) post has been created, as deputy to the Commander Joint Force Support (Afghanistan) for detention issues. Assurance of in-theatre processes and facilities is provided by the Force Provost Marshal and the Theatre Provost Group. Nevertheless, there remain a number of areas of concern, addressed in the following paragraphs.

95. Paragraph 30a (above) identified the need for clear direction to soldiers as to their responsibilities with respect to detainees taken and held by Afghan forces with whom the UK

soldiers are embedded partners. Cultural and legal differences make this a difficult area. PJHQ explained that their guidance was that where an issue could not be resolved face-to-face for whatever reason, then UK soldiers should raise their concerns up the UK chain of command, to be addressed either at a higher military-military or military-police level, or at the diplomatic/political level through the Embassy staff.

96. Paragraph 30b (above) outlines the difficult situation in which soldiers find themselves with respect to the detention of young Afghans: age determination is challenging; and the instruction in SOI J3-9 that the protection of those under the age of 15 should be the responsibility of Afghan forces, with the cultural differences involved, may pose ethical dilemmas to individuals. Similarly, the direction that those below the age of 18 may not undergo tactical questioning may lead people to err on the side of caution.

97. The Surgeon General's Operational Policy Letter is comprehensive and thorough in its direction on the medical treatment of detained persons and the required associated record-keeping. While fully familiar with the policy direction, Commander Medical for Operation HERRICK 12 judged that, in the context of the operational situation and the resources available, his staff could only conduct the required medical inspection and examination once a detainee had been delivered to either of the Bastion or Kandahar detainee holding facilities. The Review has ascertained that the Surgeon General's Department is aware of this policy variation by PJHQ and is content with it in the circumstances that pertain on Operation HERRICK.

98. The issue of lack of feedback to battle groups was raised to the Review in a number of contexts. News of positive outcome of Afghan prosecutions would incentivise effective evidence-gathering. Better feedback on intelligence gained from individuals being interrogated could reduce any perceived incentive for battle groups to undertake additional tactical questioning before passing detainees back to established facilities. And feedback on the outcome of any concerns raised up the chain with respect to Afghan forces' misbehaviour would encourage such reporting.

Recommendation 23: PJHQ should consider how feedback to battle groups might be improved, in order to give added confidence to those who raise issues of concern, and to help minimise any residual risk of mistreatment of detainees.

99. The Review did not find evidence of data and trend analysis being conducted on the current detainee cycle in-theatre, from which to inform policy direction and resource allocation. Examples of such data include: numbers of convictions; numbers and reasons for non-conviction; the nature, timeliness and utility of intelligence being gained from tactical questioning or from interrogation; and the number and nature of complaints or injuries (which could help to inform the way in which detainees are handled). This could produce two benefits: better understanding of risks; and increasing confidence.

Recommendation 24: PJHQ should consider how data which could drive further improvements in detainee management could be better recorded, analysed and exploited.

Strand 4 - Conclusions

100. Governance is taut in theatre with a command-led focus and appropriate activity throughout the chain of command. No evidence was found that indicated that the UK-run facilities are run in any way other than in compliance with applicable international and UK law, and Defence policy. No evidence was seen or obtained to suggest pre-deployment and in-theatre training are failing to prepare forces to carry out detainee handling in accordance with the law and desired outcomes. Where risk exists it is in the forward areas.

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101. With respect to the forward areas, full assurance might be possible if a Military Provost Staff expert were deployed in every location in which UK forces are based. But while there may still be scope for introducing more detention experts in some locations, particularly at the sub-unit or battle group level, and while there are a number of enhancement options being considered that may lead to an increase in the number of Military Provost Staff personnel, these remain a scarce resource; and the level of assurance should be proportionate taking into account all the other risk-mitigation measures. The view of the Review's independent assurer was: *"In terms of method of detention, responsibilities of the person detaining, handover to a 'custody officer' and subsequent investigation (interrogation) by a separate department; practices are comparable with the police service. The Army is pursuing an additional safeguard by forward deploying RMP thereby, in many cases, delivering oversight and expertise to the point of detention"*.

102. Finally, leadership at all levels remains key to ensuring detainees are handled in accordance with policy and doctrine.

STRAND 5 - THE LESSONS PROCESS

103. While the progress that Aitken identified has been maintained, and most of the lessons derived from his report have been taken forward⁵⁸, very few lessons concerned with detainee handling have been formally processed either through the Defence Lessons Identified Management System or by the Land Forces Lessons Exploitation Centre. However, the close contact between OPTAG and theatre, and the close-knit nature of the small Military Provost Staff branch, mean that lessons are continuously incorporated into training; such lessons should be formally captured and recorded, and the Lessons Exploitation Centre needs to ensure that it has full visibility of all lessons concerning detainee handling and detention; following recommendations to this effect earlier in the Review, this has been addressed by the Land Warfare Centre. Also following earlier recommendation, the Land Warfare Centre is changing its processes, so that the Operational Law Branch will review all land tactical doctrine before publication; the processes should be further amended to ensure that Provost Marshal (Army), as the Defence Subject Matter Expert, is consulted in the staffing of any lesson that relates to detention or detainee handling.

Recommendation 25: The Land Warfare Centre Lessons Exploitation Centre needs to ensure it has full visibility of all issues concerning detainee handling and detention, and to ensure that these are linked into the Defence Lessons Process.

Recommendation 26: Land Warfare Centre processes should be further amended to ensure that Provost Marshal (Army), as the Defence Subject Matter Expert and Competent Army Authority and Inspectorate, and the Operational Law Branch are consulted in the staffing of any lesson that relates to detention or detainee handling.

104. OPTAG instructors regularly visit theatre to operate alongside forces that they have been involved in training and to learn lessons to incorporate into future training. This ensures that the instructors receive direct external validation of the training they deliver, and that their instruction always reflects the latest lessons. This gives great agility, but it is important to ensure that any changes to OPTAG training are properly validated, so as to avoid inadvertent in-theatre divergence from best practice being picked up and amplified in training. The Review has found no evidence of such divergence with respect to detainee handling, but the new training development cell must guard against this risk.

⁵⁸ As identified in Strand 2 above, two have yet to be implemented.

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Recommendation 27: The Land Warfare Centre Lessons Exploitation Centre should ensure that changes resulting from low-level lessons incorporated into Operational Training and Advisory Group training are formally captured and recorded.

105. During Operation HERRICK 11, 11 Light Brigade instigated a weekly Detainee Register which incorporated lessons identified. This was sent to each unit in-theatre and also to PJHQ. This is an example of good practice as a means to inform continuous improvement across the deployed force.

106. As part of the process for learning lessons from those returning from operational tours, all those in command and senior staff posts, from battle group commander upwards, are individually interviewed by the Land Warfare Centre staff. The transcripts and key points are circulated as part of the lessons process. Currently all remarks are attributed. The Land Warfare Centre should consider whether there would be benefit in giving commanders the opportunity also to make unattributable comment, so as to encourage full candour and disclosure of mistakes from which others could learn⁵⁹.

Recommendation 28: The Land Warfare Centre should consider whether there would be benefit in giving commanders the opportunity also to make unattributable comment in their post-operation interviews, so as to encourage full candour and disclosure of mistakes from which others could learn.

Strand 5 - Conclusion

107. Lessons processes (both Joint and Land) are in place and working; but those responsible should ensure that all lessons are being captured, validated and an audit trail maintained.

STRAND 6 - GOVERNANCE AND ASSURANCE

108. This work strand sought to analyse and verify that the governance arrangements for Detainee Handling are satisfactory and fit for purpose. It also sought to identify appropriate points of authority, responsibility and accountability within the chain of command from MOD downwards for this whole activity.

109. The MOD's Strategic Detention Policy sets out a hierarchy of responsibilities. It designates the Minister of State for the Armed Forces as the ministerial focus for detention issues. The policy is owned by the Director General Security Policy⁶⁰, with the Assistant Chief of Defence Staff Development, Concepts and Doctrine responsible for the provision of doctrine to fulfil the strategic policy. The single Services are responsible for the appropriate training of all force elements. The Chief of Joint Operations is responsible for ensuring that effective arrangements are in place to ensure compliance with the policy on operations. Provost Marshal (Army), as the Defence Subject Matter Expert, is responsible for the inspection and monitoring of all UK-run detention facilities within operational theatres. Finally, the policy directs that while intelligence collection is governed by separate policy and oversight arrangements, the minimum standards set out in the Strategic Detention Policy apply equally to periods of intelligence collection during detention.

⁵⁹ This would in no way affect these individuals' obligations under Section 113 of the Armed Forces Act 2006, whereby if a Commanding Officer becomes aware of certain allegations or circumstances he must ensure that the service police are aware of them.

⁶⁰ The lead for strategic detention policy lies with the Operations Directorate.

110. This provides the basis for a robust hierarchy of governance for detainee handling issues descending from the Secretary of State. Key to success will be the linkages between MOD as the strategic headquarters and on the one hand PJHQ and the operational chain of command and, on the other hand, the single Services' Front Line Commands. Those linkages need to provide a means of holding to account those to whom the strategic policy assigns responsibilities; and 'holding to account' implies a means of monitoring and assurance that the responsibilities are being fulfilled. Work is under way within MOD to deliver such a mechanism.

111. Within the operational chain, the Review has confirmed that significant progress has been made. The creation of the in-theatre Detention Review Committee, chaired by Commander Joint Force Support (Afghanistan), has introduced a clear focus through which individual detainees' cases are regularly reviewed, and which provides an effective mechanism for holding to account those in-theatre with responsibility for aspects of detainee handling. Effective assurance arrangements are in place for the proper conduct of the formal facilities, with first party oversight from the Force Provost Marshal, second party from Provost Marshal (Army) and third party from the International Committee of the Red Cross. As identified in the section above on Strand 4, the stage in the process at which it is most difficult to mitigate the residual risk is in the forward areas, in the time between detention of a detainee and transfer of that detainee to an established holding facility; commanders at all levels are alert to this, and acting to narrow the gap as far as is possible.

112. Within the force preparation chain, the MOD's mechanism will need to define who is responsible for holding to account the Front Line Commands for the fulfilment of their responsibility "for ensuring that all force elements for which they are respectively responsible have been appropriately trained in detainee handling prior to deployment on operations"⁶¹.

Recommendation 29: Current work within MOD on the governance structure should make clear who is responsible for holding to account the Front Line Commands for the fulfilment of their responsibilities under the MOD's Strategic Detention Policy.

113. Notwithstanding the creation of an effective MOD end-to-end governance mechanism for detention, the Review's independent assurer advised that there could be benefit in greater transparency. The Department has recognised that a further level of independent, impartial assurance open to public scrutiny would be beneficial. To that end, Her Majesty's Chief Inspector of Prisons (HMCIP) was asked to explore the feasibility of undertaking this role. HMCIP visited Afghanistan in late 2008 and is currently developing inspection criteria that the Inspectorate believes to be appropriate to a military custodial setting, following which there will be further consideration of whether inspection by HMCIP is feasible in the circumstances.

114. Within the Army, Provost Marshal (Army) is the designated Competent Army Authority and Inspectorate (CAA&I) for detention. The role of a CAA&I is to provide functional advice to the chain of command, to put in place a responsive mechanism to monitor adherence to that advice, and to report on that assurance⁶²; the appointment does not imply responsibility for conducting all the activity within the area of competence. As part of an ongoing update of the policy and responsibilities for all Competent Army Authorities, Provost Marshal (Army)'s responsibilities will be clarified as incorporating the whole process from the point of detention to the point of release or hand over. His functional advice should include review (and support to development) of tactical doctrine, procedures and training for detention-related issues, including assurance of training, within Land Forces. However, in order to fulfil those responsibilities in addition to the other significant current demands on him he will need to be appropriately resourced.

⁶¹ Quoted from the Ministry of Defence Strategic Detention Policy, paragraph 4.2.

⁶² APRC/P(08)14 dated 3 Jun 08 The Policy for Competent Army Authorities and Inspectorates.

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Recommendation 30: Provost Marshal (Army) should be resourced to fulfil the inspection and advisory functions associated with his roles as Defence Subject Matter Expert, specialist adviser to the Chief of Joint Operations for Operational Custody and Detention Practice and Competent Army Authority and Inspectorate, both in the home base and in operational theatres.

115. The Land Warfare Centre has amended its processes to ensure that Army tactical doctrine is scrutinised for legal compliance by the Operational Law Branch, who should also be consulted on any changes to procedures or training for detention issues. However, the ability to fulfil this responsibility is currently met at risk to the Branch's other responsibilities. Brigadier Operational Law has reviewed the functions and resourcing of the Branch; his recommendations include the establishment of new legal posts within the training organisation.

Recommendation 31: The establishment of the Operational Law Branch should be reviewed by Headquarters Land Forces, to ensure that they are able to discharge their responsibilities including: to ensure that Army tactical doctrine remains legally compliant; to design, deliver and validate training for the handling of all categories of captured persons; and to support the Collective Training Group, the Operational Training and Advisory Group and the Defence Intelligence and Security Centre in their training activities.

Strand 6 - Conclusion

116. The Strategic Detention Policy provides a clear framework of responsibilities. In theatre, recent changes have introduced a clear governance and assurance structure, with separation of assurance from the operational chain of command. Ongoing MOD work on the higher level governance should ensure that there is clarity of the mechanism for holding to account those with responsibilities under the Policy. Land Forces should review the resourcing of Provost Marshal (Army) to ensure that he is able to fulfil his responsibilities as Defence Subject Matter Expert, as CJO's Adviser for Operational Custody and Detention Practice, and for assuring training in detainee handling. They should also review the resourcing of the Operational Law Branch, to ensure that it can fulfil its responsibilities.

RESOURCE REQUIREMENTS

117. In the course of undertaking the Review there were a number of functional areas where it was identified that additional manpower would be required if the intent and outcomes the chain of command sought were to be achieved. The areas were:

- a. Provost Marshal (Army):
 - (1) The creation of a deployable Military Provost Staff capability.
 - (2) An increase in deployable Royal Military Police (Special Investigation Branch) capability.
- b. Army Legal Services: the creation of new military posts to provide the training environment with dedicated permanent Legal Advisors.
- c. Defence Human Intelligence Unit: the establishment of a permanent cadre of interrogators.

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118. These requirements have already been identified and action to address them is in hand within the respective chains of command. The Review recognises that the Ministry of Defence faces a challenging resource environment, and that the priority of the measures recommended in this report will have to be judged against competing priorities.

FURTHER WORK

119. The recommendations from this report are summarised at Annex D, with a list of those actions identified as already under way but which need to be seen through at Annex E.

120. Responsibility for overseeing the consideration and implementation of the recommendations made by this Review should lie with the governance mechanism that emerges from current MOD work.

Annexes:

- A. Terms of Reference.
- B. CV and Credentials for Mr Mark Lewindon.
- C. List of those Consulted.
- D. Summary of Recommendations.
- E. Summary of Actions Already Under Way That Should Also Be Tracked by the New MOD Governance Mechanism

**ARMY INSPECTORATE REVIEW INTO THE IMPLEMENTATION OF POLICY, TRAINING AND
CONDUCT OF DETAINEE HANDLING**

TERMS OF REFERENCE

BACKGROUND

1. Despite considerable effort and progress since the Aitken Report⁶³, the Army is facing a significant number of allegations relating to inappropriate and improper handling of detainees. It is important that the Army takes steps to ensure that its policies, practices, and conduct are as good as can be in this vital area. The Army Inspector, who reports to the Chief of the General Staff, will undertake a review.
2. However, this is a Land Environment issue, not just an Army one, and one in which Ministers and MOD have a particular interest. Min(AF) has endorsed the proposition that the review should examine detainee handling in the Land Environment, including linkages to Defence organisations and the other Services, drawing on other ongoing strands of work and supported by subject matter experts from across MOD; and that CGS submit to Ministers and the Defence Board on the review's findings.

TERMS OF REFERENCE

3. In the context of Detainee Handling, the review is to:
 - a. Assess the fitness for purpose of the Detainee Handling direction and training specification for units preparing for operations.
 - b. Examine the current training delivery and its validation for the Field Army, and assess the levels of compliance with the current Detainee Handling policy of units preparing for operations. This work is to include focus groups with soldiers preparing for operations.
 - c. Assess whether appropriate assurance mechanisms are in place for Detainee Handling training.
 - d. Compare the Army's performance in this respect with that of the other Services.
 - e. Assess the effectiveness of processes to learn lessons relating to detention from operational experience.
 - f. Examine the inculcation of Values and Standards, including Military Annual Training Tests 6 & 7⁶⁴. Judge whether these adequately educate/train to the required standard; and whether the metrics are enforced and monitored with sufficient rigour.
 - g. Draw on the findings of the Provost Marshal (Army) concerning current practice on Op HERRICK.⁶⁵

⁶³ The Aitken Report dated 25 Jan 08.

⁶⁴ MATT 6: Values and Standards. MATT 7: Operational Law.

⁶⁵ PM(A) is conducting an in-theatre review of detention practices in the week commencing 11 Jan 10.

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- h. Draw on the expertise of an independent expert with relevant experience to provide an independent perspective on the review's work.
 - i. Make recommendations for any action considered necessary to address any identified shortcomings.
4. The Army Inspectorate will lead the review. It will concentrate its own evidence gathering efforts on the specification, conduct and effectiveness of training, including individual, collective, and command and leadership training; on the learning of lessons; and on the inculcation of Values and Standards. The Army Inspectorate will draw on:
- a. Provost Marshal (Army)'s in-theatre review of detainee handling in practice, from the moment of detention until release.
 - b. Work by the Permanent Joint Headquarters and the Land Warfare Centre to review policy, standing operating instructions and standing operating procedures.
 - c. Work by Director General Land Warfare to review whether the recommendations of the Aitken Report have been or are being implemented appropriately.
 - d. Work undertaken by the Detention Policy Implementation Review.
5. **Constraints.** The following constraints apply:
- a. The Review will not investigate specific allegations of abuse, including those that are subject to ongoing public inquiry or legal process. However, the allegations made may be used by the Review as an indicator of issues to consider.
 - b. The Review will assess compliance of the Army: in particular those units preparing to deploy on operations.
 - c. The Review will draw on but not repeat work undertaken by the Detention Policy Implementation Review.
 - d. The Review will not assess whether the recommendations made by the Aitken Report were correct.
6. **Consultation.** The following are to be consulted (as a minimum):
- a. Permanent Joint Headquarters (PJHQ).
 - b. Directors Judicial Engagement Policy (DJEP) and Operational Policy (D Op Pol).
 - c. Director General Land Warfare (DGLW); Land Warfare Centre (LWC) and the Operational Training Advisory Group (OPTAG).
 - d. Headquarters Land Forces (HQLF) (including Headquarters Field Army).
 - e. Provost Marshal (Army) (PM(A)).
 - f. Key Detainee Handling personnel within: Regular Units (including from 4 & 20 Bdes), 2 X Type A brigade headquarters (4 & 20 Bdes); and a division headquarters.
 - g. Army Recruiting and Training Division (ARTD).
 - h. HQ NAVY and RM.

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- i. HQ AIR and RAF Regt.
- j. Defence Intelligence and Security Centre (DISC).
- k. Director of Operational Capability (DOC).

7. **Manpower Support.** This review will be undertaken by the Army Inspectorate using internal resources. It will be supported by the organisations named in paragraph 6, and by Army Legal and PM(A)'s staffs.

8. **Required Output.**

- a. An interim briefing note for ECAB members by 31 Jan 10.
- b. An interim report to CGS by 28 Feb 10, with a draft ministerial submission.
- c. A subsequent final report through CGS to Ministers and the Defence Board, with timings dependent upon findings.

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CV AND CREDENTIALS FOR MR MARK LEWINDON

Overview

Mark Lewindon served for 31 years in the Police Service retiring as a detective superintendent. His experience includes counter terrorism & extremism intelligence development, investigation of serious crimes, working with international policing and intelligence agencies (including a one year secondment to the Russian Ministry of Interior Police (MVD)), and inspection and review. He is an accredited Senior Investigator, has been trained to advanced level in the management of Covert Human Intelligence Sources (CHIS) and has been trained to National Police Improvement Agency (NPIA) standards in intelligence management. His projects as a police officer within Her Majesty's Inspectorate of Constabulary (HMIC) included a review of Police/Prison Service intelligence management and two inspections into the capability of Royal Military Police Special Investigations Branch (RMP SIB) to investigate serious crime. Since retiring from the police service, he has continued to work for HMIC undertaking a number of reviews into police counter terrorism and both the RAF Police and Royal Navy Police SIB capability to investigate serious crimes. He has also delivered private projects facilitating organisational improvement including support to the Healthcare Commission in developing its covert investigations capability and the Croatian police and prison services in establishing arrangements for intelligence gathering in prisons.

He has a Bachelors Degree (2.1 hon) in Social Sciences, a Masters Degrees from the London School of Economics, a qualification from the Russian MVD University and is an excellent Russian speaker.

Career Background

Current:

Member of Her Majesty's Inspectorate of Constabulary
Specialist Staff Officer (Counter Terrorism)

Past:

Adviser to the Croatian Ministry of the Interior (MUP)
The Healthcare Commission - Associate Advisor
Essex Police and Metropolitan Police Service, including:
Specialist Staff Officer (Specialist Operational Support)
Head of Special Branch Domestic Extremism
Seconded to Russian Ministry of Interior Police
Head of Special Branch Local Liaison
Head of Special Branch International Terrorism Intelligence Unit

Training & Education Qualifications

Masters Degree in Russian & Post Soviet Studies - London School of Economics 1996
BSc (honours) degree in Social Sciences – Open University 1993
Qualification of Higher Education from the Ministry of Interior University, St Petersburg, Russia in Russian Language, Investigative Processes and Criminal Law – 2003
Trained and accredited as a Police Senior Investigating Officer (SIO)
Trained and accredited as an advanced Covert Human Intelligence Source (CHIS) Handler/Controller
NPIA trained in Intelligence Management
British Standards Institute Lead Auditor.
Strategic Risk Management Trained at Cabinet Office Emergency Planning College.

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LIST OF THOSE CONSULTED

MOD	Policy staff Legal staff Surgeon General's Department
Doctrine and Concepts Development Centre	Legal staff
Defence Intelligence and Security Centre	Chief of Staff and training staff
Defence HUMINT Unit	Commander and staff
PJHQ	J2 Intelligence staff J3 Operations & Operations Support staff J7 Training staff J9 Secretariat & Legal staff
HQ British Forces South Atlantic Islands	Commanding Officer Falklands Islands Support Unit
LAND FORCES	
HQ Land Forces	Individual Training staff Collective Training staff Organisational Plans staff Command & Battlespace Management staff Legal staff Medical staff Personnel staff Personnel Support staff
HQ Joint Helicopter Command	G3 staff
HQ 1 (UK) Armoured Division	G3 & G7 staff
HQ Theatre Troops	Chief of Staff G3 staff G4 staff
HQ Army Recruiting and Training Division	G7 staff
Royal Military Academy Sandhurst	G7 staff
Infantry Training Centre (Catterick)	HQ staff School of Infantry staff Infantry Battle School Chief Instructor and staff

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Land Warfare Centre	Chief of Staff Deputy Chief of Staff Commander Collective Training Group and staff Command & Control Development Centre staff Commanders (x2) OPTAG and staff Operational Law Branch Commander and staff Lessons Exploitation Centre staff
HQ Director Infantry	Chief of Staff Deputy Chief of Staff G7 staff
HQ Provost Marshal (Army)	Provost Marshal (Army) and staff
Military Corrective Training Centre	Commandant and staff
HQ 11 Light Brigade	Commander and staff
HQ 4 Mechanised Brigade	Chief of Staff Deputy Chief of Staff Various staff officers
1 st Battalion Scots Guards	Commanding Officer and Battalion members
1 st Battalion Welsh Guards	2IC and Battalion members
1 st Battalion The Mercian Regiment	Battalion staff and members
1 st Battalion The Duke of Lancaster's Regiment	Commanding Officer and Battalion members
3 Medical Regiment RAMC	Commanding Officer and Staff
150 Provost Company RMP	Officer Commanding and Staff

ROYAL NAVY

HQ Navy Command	Training staff
RN Pre-Deployment Training and Mounting Centre	Training staff
Commando Training Centre Royal Marines	Training staff

ROYAL AIR FORCE

HQ Air Command	Training staff
HQ 22 Group RAF	Training staff

POLICE

Wiltshire Constabulary	Chief Inspector, Devizes
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OPERATION HERRICK (In-theatre visits)

HQ Joint Force Support (Afghanistan)	Commander Detention staff Commander Medical Provost staff Legal staff Political Advisor
Temporary Holding Facility Camp Bastion	Commander and staff
Intelligence Exploitation Facility	2IC and staff
Temporary Holding Facility Kandahar	Commander and staff
Theatre Medical Group	Commander and staff
Bastion Training Centre	J7 staff (from OPTAG UK)
1 st Battalion Grenadier Guards	RMO, QM and Battalion members
2 nd Battalion Yorkshire Regiment	Commanding Officer

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SUMMARY OF RECOMMENDATIONS

1. Recommendation 1: The Land Warfare Centre should ensure that any land environment doctrine that relates to detention or detainee handling should be passed to the staff of Provost Marshal (Army) for their consideration before being finalised. **LF - LWC**
2. Recommendation 2: PJHQ should examine whether there is a need to provide clearer guidance for situations when UK forces work alongside Afghan National Security Forces with regard to detainee handling, host nation practices and juveniles. **PJHQ**
3. Recommendation 3: For the avoidance of doubt, MOD should stipulate that JDP 1-10 is to be used as the authority and quoted reference source for all single Service publications in order that, when JDP 1-10 is amended, the requirement to amend single Service publications is automatically apparent. **MOD**
4. Recommendation 4: As part of its review of the training of individuals for operations, PJHQ should consider whether it has adequate visibility and assurance of the training standards achieved by those entering the operational theatre. **PJHQ**
5. Recommendation 5: Headquarters Land Forces should decide on a single system of recording individuals' mandatory annual training tests and of archiving the records; they should hold subordinate commanders accountable for ensuring both that all members of units for which they are responsible undertake the mandated MATT training and testing, and that auditable records are maintained. **HQLF**
6. Recommendation 6: Headquarters Land Forces should direct that if any 'escape and evasion' training is undertaken other than under the auspices of the authorised Defence SERE training centre, this activity may not include any form of conduct after capture or resistance to interrogation training. **HQLF**
7. Recommendation 7: Brigade Provost units should be tasked and resourced to provide assurance and validation of detainee handling training within Field Army units, particularly as they progress through pre-deployment training. **HQLF**
8. Recommendation 8. Provost Marshal (Army) should assess the resource requirement to provide assurance and validation of detainee handling training that is conducted as part of the Campaign FORM cycle, and submit it to Headquarters Land Forces. **PM(A)**
9. Recommendation 9: The provision of training support from outside the training audience is an aspect of Campaign Force Operational Readiness Mechanism that Headquarters Land Forces should monitor closely. It should be rapidly amended if no improvement is evident in the ability of combat service support units to participate fully as part of the training audience rather than trainers/facilitators. **HQLF**
10. Recommendation 10: Headquarters Land Forces should consider the building of a detainee handling training facility, against other resource priorities. **HQLF**
11. Recommendation 11: Headquarters Land Forces should formally review the manner in which Military Provost Staff support is provided to OPTAG training and courses. **HQLF**

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12. Recommendation 12: The Land Warfare Centre should formally validate the effectiveness of the new arrangements for monitoring and recording the completion of each element of training by participants, for training development within OPTAG and for the Training Requirements Authority.

LF - LWC

13. Recommendation 13: Included in the MOD's ongoing work on governance of detainee handling, there should be an effective mechanism whereby the front line commands (Navy, Land Forces and Air) can auditably certify to PJHQ and thus to in-theatre commanders that the requirements of the Joint Commander's Operational Training Requirement have been met. **MOD**

14. Recommendation 14: The provision of mid-tour refresher training, when operational circumstances permit and the requirement exists, should be regarded as good practice. **PJHQ**

15. Recommendation 15: The material taught on the Tactical Questioning course should continue to be reviewed regularly by lawyers. **MOD - DISC**

16. Recommendation 16: The individual identified by ongoing work into the governance of detainee handling as responsible for the overall process should hold the Front Line Commands accountable for ensuring that commanding officers receive early briefing as to their responsibilities with respect to Tactical Questioning, and as to the importance of identifying and qualifying the right individuals in good time before operational deployments. **MOD**

17. Recommendation 17: The validity of the qualification of an individual to conduct Tactical Questioning should continue to run from the date of attending the relevant training course. The Defence Intelligence and Security Centre should consider how best to maintain the currency of individuals even within the 2-year qualification period. **MOD, DISC**

18. Recommendation 18: Headquarters Land Forces should progress the recommendations made in the Army Leadership Study with regard to the inculcation of Values and Standards. **HQLF**

19. Recommendation 19: During the build-up to deployment, Commanders must highlight the importance of adhering to the Army's Values and Standards (and the equivalent for the other Services) in their training and preparatory directives. **HQ NAVY, HQLF, HQ AIR**

20. Recommendation 20: During the individual training phase of pre-deployment training Commanders could run specific 'leadership' seminars to highlight the behaviours expected by all those on operations. This would not only benefit situations involving detainee handling but also have more widespread utility, especially when junior commanders become casualties and subordinates (including private soldiers) unexpectedly take over command. **HQ NAVY, HQLF, HQ AIR**

21. Recommendation 21: PJHQ should continue to push professional Provost staff forward as resources permit; battle group commanding officers should use their personnel who have been trained on the All Arms Unit Custody Staff Course to fill the gaps in the coverage by professional Provost staff, while ensuring that effective assurance arrangements are in place. **PJHQ**

22. Recommendation 22: PJHQ should consider whether there is any scope for earlier dismissal of vexatious complaints whilst ensuring that all valid complaints are fully investigated. **PJHQ**

23. Recommendation 23: PJHQ should consider how feedback to battle groups might be improved, in order to give added confidence to those who raise issues of concern, and to help minimise any residual risk of mistreatment of detainees. **PJHQ**

24. Recommendation 24: PJHQ should consider how data which could drive further improvements in detainee management could be better recorded, analysed and exploited. **PJHQ**

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25. Recommendation 25: The Land Warfare Centre Lessons Exploitation Centre needs to ensure it has full visibility of all issues concerning detainee handling and detention, and to ensure that these are linked into the Defence Lessons Process. **HQLF, LWC**
26. Recommendation 26: Land Warfare Centre processes should be further amended to ensure that Provost Marshal (Army), as the Defence Subject Matter Expert and Competent Army Authority and Inspectorate, and the Operational Law Branch are consulted in the staffing of any lesson that relates to detention or detainee handling. **HQLF, LWC**
27. Recommendation 27: The Land Warfare Centre Lessons Exploitation Centre should ensure that changes resulting from low-level lessons incorporated into Operational Training and Advisory Group training are formally captured and recorded. **HQLF, LWC**
28. Recommendation 28: The Land Warfare Centre should consider whether there would be benefit in giving commanders the opportunity also to make unattributable comment in their post-operation interviews, so as to encourage full candour and disclosure of mistakes from which others could learn. **HQLF, LWC**
29. Recommendation 29: Current work within MOD on the governance structure should make clear who is responsible for holding to account the Front Line Commands for the fulfilment of their responsibilities under the MOD's Strategic Detention Policy. **MOD**
30. Recommendation 30: Provost Marshal (Army) should be resourced to fulfil the inspection and advisory functions associated with his roles as Defence Subject Matter Expert, specialist adviser to the Chief of Joint Operations for Operational Custody and Detention Practice and Competent Army Authority and Inspectorate, both in the home base and in operational theatres. **HQLF**
31. Recommendation 31: The establishment of the Operational Law Branch should be reviewed by Headquarters Land Forces, to ensure that they are able to discharge their responsibilities including: to ensure that Army tactical doctrine remains legally compliant; to design, deliver and validate training for the handling of all categories of captured persons; and to support the Collective Training Group, the Operational Training and Advisory Group and the Defence Intelligence and Security Centre in their training activities. **HQLF**

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SUMMARY OF ACTIONS ALREADY UNDER WAY THAT SHOULD ALSO BE TRACKED BY THE NEW MOD GOVERNANCE MECHANISM

1. Action is being taken by the Land Warfare Development Group, part of the Land Warfare Centre, to revise their guide to the production of land tactical doctrine to include a requirement for validation by the Operational Law Branch.
2. PJHQ recognises the need to have a generic SOI for the handling of detainees, in addition to SOI J3-9 which is specific to Operation HERRICK, to cover other operations including short-notice contingencies
3. PJHQ is conducting a review of the Standard Operating Instructions being used in other theatres, to ensure that locally-relevant instructions are in place, that conform with central policy and directives
4. While officer career courses include an operational law element delivered by members of the Army Legal Services, currently the equivalent courses for non-commissioned ranks cover prisoner of war handling but not specifically detainees. The Land Forces Force Development and Training Action Plan includes a measure to incorporate the responsibilities of Army non-commissioned officers with respect to detainee handling into the syllabus for their Command, Leadership and Management training.
5. Within Land Forces, some training establishments have successfully 'contemporised' their training others have yet to do so and remain focused on prisoners of war rather than other types of captured persons. A report by Commander Force Development and Training in February 2010 recommended that this training directive should "provide an appropriate balance of training for the handling of [captured persons] in all categories"; this Review supports the need for such a directive, and recommends that the balance should be tipped firmly towards detainees in the current operating environment, and away from prisoners of war in conventional combat operations (while still fulfilling the UK's obligations under international humanitarian law and the Geneva Conventions). The Force Development and Training Action Plan also directs that initial training, individual training, and collective training all be reviewed to ensure that Detainee Handling is embedded, consistent, and subject to appropriate assurance.
6. Director Training (Army) and the Land Warfare Centre should draw on the clear guidance contained in PJHQ's SOI J3-9 with respect to actions to be taken by detaining forces from the point of apprehension to the point of handover to a facility manned by members of the Military Provost Staff, as they develop the direction they give on training.
7. Until recently there was no capability or capacity within OPTAG for the Training Development function mandated by the Defence Systems Approach to Training (DSAT), which should provide the means to convert training requirements into detailed, validated training specifications. Work is under way to introduce a formalised and DSAT-compliant regime; a training development cell has already been created, and Director Training (Army) has been designated as the Training Requirements Authority.
8. PJHQ and the Land Warfare Centre have been considering how best to prepare battle group commanding officers for deployment, in the context of detainee handling. Whether the decision is that they travel to PJHQ for a briefing or (as this Review believes) a PJHQ representative should brief unit or formation commanders' cadres, which are attended by much more junior members of the chain of command, including non-commissioned officers, such a briefing must be introduced.

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9. Measures taken by the Land Warfare Centre to ensure that the Operational Law Branch reviews all land tactical doctrine before publication must be fully embedded in the process.
10. Action is already in hand within respective chains of command to address identified resourcing requirements, including deployable Military Provost Staff, deployable Royal Military Police (Special Investigation Branch), additional Army Legal Services posts, and the establishment of a permanent cadre of interrogators for the Defence Human Intelligence Unit.