



Ministry of Defence

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Dear [REDACTED]

As I advised you in my letter of 18 September, your request was being considered under the Freedom of Information Act (FOIA) and a public interest test was being conducted.

You requested the following information:

Investigations carried out by the RMP relating to alleged offences by British Armed Forces Personnel in Afghanistan in each of the years 2010, 2011, 2012, 2013, and so far in 2014, specifically:

- 1. The number of these relating to allegations of the mistreatment (in any form) of Afghan civilians, and a summary of each complaint describing the date of the complaint, the alleged offence described, age and sex of the alleged victim, the regiment and rank of the alleged offender, and the outcome.*
- 2. The number of these relating to allegations of the mistreatment (in any form) of enemy combatants, and a summary of each complaint describing the date of the complaint, the alleged offence described, age and sex of the alleged victim, the regiment and rank of the alleged offender, and the outcome.*

In your e-mail of 24 July, you clarified what you meant by the term 'mistreatment' as follows:

"Any act that would be deemed as a criminal offence under English law. For example, but not limited to: any violent offence against a person, such as assault, wounding, GBH, robbery, attempted murder, manslaughter or murder; any sexual offence against a person, such as indecent exposure, indecent assault, attempted rape and rape; any offence against a person's property, such as theft or criminal damage; and torture."

As you are aware from my earlier letters we do hold information relating to your request and that which can be released is enclosed. The information has been extracted from the database of Royal Military Police investigations and for ease has been placed into a table format. As you are aware from your previous request, for the purposes of investigation no distinction has been made between Afghan civilians and Afghan enemy combatants. If an incident involving either of these categories warrants an investigation then one will be conducted. As such this information covers both your questions.

In determining whether the information you requested can be released I had to consider whether any of the information was subject to exemptions under the FOIA. Section 40(2) (personal information) and Section 21(1) (information accessible to applicant by other means) have been applied to some information. Both of these are absolute exemptions so no public interest test is required and no information will be released where these exemptions apply. Section 21(1) was applied in relation to the information you received previously for allegations in 2010.

Also applicable are Section 27(1) (International Relations), Section 30(1) (investigations and proceedings conducted by public authorities) and Section 31(1) (Law enforcement) all of which are qualified exemptions and require a public interest test to be conducted. In the case of Section 27, we have decided that the balance of interest lies in not releasing this information because it would potentially damage relations with third party ISAF members.

Although it is accepted that there is public interest in such investigations in Afghanistan, the release of information covered by Section 30(1) and Section 31(1) relating to active investigations may prejudice them. In addition, the release may make witnesses in future investigations reluctant to come forward and give evidence in criminal cases if they believe that their information may be disclosed outside the criminal arena; and in cases where decisions have been taken not to proceed, there is a need to be fair to those who have not been prosecuted and protect potential future investigations. We have therefore concluded that the public interest in maintaining these exemptions in whole or in part outweighs the public interest in disclosing information relating to some investigations.


Under Section 23(5) (information supplied by, or relating to, bodies dealing with security matters) the MOD neither confirms nor denies whether it holds any additional information within the scope of your request which if held, would be exempt under Section 23. Section 23 is an absolute exemption and not subject to public interest test.

Under Section 24(2) (National Security) the MOD neither confirms nor denies whether it holds any additional information within the scope of your request, which if held, would be exempt under Section 24. Section 24 is a qualified exemption and to the extent Section 24(2) applies, we have concluded that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether any information is held. Confirmation or denial of whether there is or is not security or intelligence interest and/or specialist capability could be exploited by individuals or organisations with consequent damage to national security.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.gov.uk>.

Yours sincerely,


SO2 Discipline & Welfare 2b