



Ministry of Defence

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Dear

Thank you for your email of 14 July revising your original request for information in your email of 24 May 2014. Your email of 14 July requested the following information:

1) *The number of cases where ministerial authorization has been granted [for extended detention beyond 96 hours in Afghanistan since 9 Nov 2009] (rather than all cases where it was sought). If you could give the numbers separately for each year covered by the request, that'd be appreciated (but only if that requires no extra effort).*

2) *Further to this, and ONLY if this does not lead to exceeding the S12 threshold, I'd also be interested in the number of cases in 2014 (to date) only, where ministerial authorization was sought but not granted. I hope that by narrowing down to one (half-) year, the request remains within the threshold. However, if not, please disregard this paragraph and process the request just as above. If so, you can just note this fact (that a search for 2014 non-granted requests would exceed the threshold) in your response without issuing a separate S17 Refusal Notice.*

You also asked for the information requested in the first part of your original email dated 24 May which stated:

3) *Is Amendment 2 to SOI J3-9 [Operation Herrick] still in force (in the version of 12 April 2010) as of the time of this request? If not, please send me the amended/new version. If SOI J3-9 has been superseded/replaced rather than amended, please send me the successor document, i.e. the current theatre-level guidance to UK Armed Forces in Afghanistan [Operation Herrick] on detention policy and specifically on extension of detention beyond 96 hours.*

As before, I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that some of information in scope of your request is held.

In answer to questions one and two above, the total number of UK detainees in Afghanistan where Ministerial approval has been granted to extend detention beyond 96 hours from 9 Nov 2009 to date is 845. This breaks down, per year, as:

- 7 in 2009 (9 Nov to 31 Dec only)
- 202 in 2010
- 318 in 2011
- 171 in 2012
- 92 in 2013
- 55 in 2014 (of which all were approved by Ministers)

Before the applications for extended detention were submitted to Ministers, the merits of each case were scrutinised separately, and in detail, by various departments within the Ministry of Defence.

The information you have requested in question three can be found in the latest SOI J3-9 (Amendment 6 dated 17 Sept 2012) attached. Amendment 2 to SOI J3-9 is no longer extant. Some of the information in the attached document falls entirely within the scope of the qualified exemptions provided for at section 26 (Defence) of the FOIA and has been redacted accordingly. Section 26 is a qualified exemption and is subject to public interest testing which means that the information requested can only be withheld if the public interest in doing so outweighs the public interest in disclosure.

Section 26(1)(b) has been applied to some of the information within SOI J3-9 because it contains details which are operationally sensitive regarding the UK's tactical procedures. The redactions made to this document are consistent to the previous version of the document which has been released into the public domain. The balance of public interest was found to be in favour of withholding some of the information in the document given the tactical advantage it would give to our enemies. For these reasons I have set the level of prejudice against release of the exempted information at the higher level of "would" rather than "would be likely to".

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,

PJHQ J8 Secretariat