



MOD-83-0000446-A

RESTRICTED



PERMANENT JOINT HEADQUARTERS (UK)

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Reference: D/PJHQ/1/1610/1/1

See Distribution

Date: 08 Nov 04

OP TELIC: POLICY FOR THE REPORTING, RECORDING, REVIEW AND INVESTIGATION OF SHOOTING INCIDENTS

References:

- A. HQ MND(SE) J3/3072 dated 19 Feb 04.
- B. HQ MND(SE) J3/3072 dated 24 Apr 04.

INTRODUCTION

1. The requirement to investigate thoroughly shooting incidents involving UK Service personnel that may have resulted in death or injury has recently been brought into sharp focus during recent operations. The need to investigate matters where it is alleged that the law, and therefore our standards of conduct, may have been breached is fundamental but it should not detract from the ability of UK personnel to open fire within the relevant law and applicable ROE. Our ability to ensure and, if necessary demonstrate, that the decisions of COs are informed decisions, that Service Police investigations take place where that is appropriate, and that UK forces are able to maintain a robust audit trail of all incidents, serves both the Serviceman and the Service in cases where unfounded allegations may be made in the future. UK personnel should understand that a Service Police investigation will be conducted only where warranted in the circumstances.

AIM

2. The aim of this policy is to set out the procedure for reporting, recording, reviewing and, where necessary, investigating shooting incidents during OP TELIC, in order to ensure that there is transparency and consistency in the process. The policy applies to all UK Service personnel serving in Iraq under the Command of COMBRITFOR (Iraq).

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### APPLICATION

3. This policy applies to the use of force in shooting incidents<sup>1</sup>. For the purposes of this policy, a "Shooting Incident" is defined as:

"An incident where shots are fired by UK Forces resulting in the death or injury of any person or where death or injury is believed to have occurred".

4. In circumstances where shots are fired, but death or injury are not suspected, existing single-Service procedures for reporting of such incidents continue to apply.

### POLICY

5. The policy can be summarised as follows:

- a. Report. Every shooting incident must be formally reported at the earliest opportunity using the serious incident report (SINCREP) format.
- b. Record. Every shooting incident must be formally recorded through the collation of as much data relating to it as reasonably practicable in the judgement of the CO at the earliest opportunity<sup>2</sup>.
- c. Review. Every shooting incident must be the subject of a Shooting Incident Review (SIR). An SIR should commence at the earliest opportunity and be completed within 48 hours or otherwise as soon as is practicable<sup>3</sup>. An SIR is to be used to inform the decision of the CO to propose courses of action and may deal with a series of related incidents otherwise the subject of a number of SINCREPS.
- d. Investigate. A shooting incident must be referred immediately to the Service Police for investigation where there are any grounds to suspect that a criminal act has or might have been committed by Service personnel and /or if the ROE have been breached.<sup>4</sup> Even where a CO believes that there are no grounds to suspect that a criminal act has or might have been committed and /or if ROE have been breached, he may refer a matter to the Service Police if, for some other reason, he believes that such an investigation would be appropriate<sup>5</sup>.
- e. Delay or Dispense With Investigation. If the CO believes that a Service Police investigation is required, but that there are exceptional reasons why it should be delayed (the reasons are outlined at Annex A paragraph 9), he must obtain the authorisation of Higher Authority (HA) to delay the investigation. Where a CO believes there are no grounds to justify a Service Police investigation he must obtain the authorisation of HA not to initiate a Service Police investigation.

<sup>1</sup> Allegations of other serious offences are outside the scope of this policy and will continue to be dealt with under single Service procedures.

<sup>2</sup> See Appendix 1 to Annex A.

<sup>3</sup> COs must be prepared to justify to HA a delay beyond 48 hours in the completion of any SIR.

<sup>4</sup> Except in circumstances as detailed at Para 5.e. above.

<sup>5</sup> Examples where a CO might recommend a Service Police investigation include where he believes that the incident would best be investigated by an independent agency, or where the incident in question might have wider ramifications e.g. an incident involving the death of or injury to a high profile figure, or where ROE or other CONOPS issues are raised.

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GUIDANCE

6. The Policy and guidance on the application of the policy is at Annex A and is to be followed throughout OP TELIC. All units are to comply with its provisions with immediate effect.
7. References A and B are revoked.

CJO

Annex:

- A. Policy for the Reporting, Recording, Review and Investigation of Shooting Incidents – Op TELIC.

Distribution:

External:

Action:

COMBRITFOR (Iraq)

Information:

Comd UK Bde  
Comd NSE  
DSBMR-I  
DSF  
HQ FLEET – DCINC  
HQ LAND – COS  
HQ STC – DCINC  
DPSA (PS(2))  
HQ PM(A) – Col Ops

Internal:

Information:

DCJO(Ops)  
DCJO(Ops Sp)  
ACOS J1/J4  
ACOS J3  
DComd Sec

POLICY FOR THE REPORTING, RECORDING, REVIEW AND INVESTIGATION  
OF SHOOTING INCIDENTS – OP TELIC

REPORTING OF SHOOTING INCIDENTS

1. All shooting incidents must be reported to the chain of command at the earliest opportunity using the serious incident report (SINCREP) format and outlining the immediate facts as understood at that time. SINCREPs are to be passed immediately to formation Legal and Provost staffs by Operations personnel<sup>1</sup>.

RECORDING OF SHOOTING INCIDENTS

2. All shooting incidents must be formally recorded. Initially this will involve the collation of all documentary evidence in relation to the incident, including unit logs, ledgers and reports (see Appendix 1). The aim is to preserve all documentary evidence within a single source. The record will demonstrate the transparency of the process and may provide a source of further information if required.

CO'S SHOOTING INCIDENT REVIEW (SIR)

3. After all documentary evidence has been collated the CO must cause a Shooting Incident Review (SIR) to be carried out by an officer not below the rank of Captain (OF2) acting on behalf of the CO. The aim of the SIR is to assist the CO in forming a view as to the further action required. A SIR should commence at the earliest opportunity and be completed within 48 hours or otherwise as soon as is practicable<sup>2</sup>. Guidance on the content and completion of a SIR is at Appendix 2.

4. Issues to be addressed in a SIR are at Appendix 2. The following points are to be noted:
- a. The advice of Provost and Legad staffs is to be sought wherever possible by the conducting officer prior to commencing the SIR. Commencement of the SIR should not be delayed if the Provost and Legad staffs are not available.
  - b. Where a Service Police investigation is not immediately initiated, nothing is to be done which may amount to dismissal or stay of a charge or condonation of conduct or otherwise prejudice a future Service Police investigation or disciplinary action, for example if additional evidence is unexpectedly

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<sup>1</sup> The transmission of a SINCREP does not absolve the CO of his responsibility to report the incident directly to the Service Police without delay in accordance with single Service instructions if there are grounds to suspect that a criminal act has or might have been committed by Service personnel and /or if the ROE have been breached.

<sup>2</sup> COs must be prepared to justify a delay beyond 48 hours in the completion of any SIR.

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forthcoming. This caveat is to be explicit in the wording of the published decision.

5. If at any time during the SIR it becomes clear that there are grounds to suspect that a criminal act might have been committed and/or ROE breached, the officer conducting the review shall recommend to the CO that matter be immediately referred to the Service Police. If the CO agrees, he shall halt the SIR process and follow that recommendation, recording the action on the SIR. If the CO does not agree, he shall require the officer conducting the review to complete the SIR. On completion of the SIR, the CO will have a number of possible courses of action.
6. The courses of action available to COs<sup>3</sup> following a SIR are:
  - a. Initiate an immediate Service Police investigation.
  - b. Propose to Higher Authority (HA) that, due to exceptional operational circumstances<sup>4</sup>, a Service Police investigation be delayed.
  - c. Where a CO believes that a Service Police investigation is not required (because there are no grounds to suspect that a criminal act has or might have been committed by Service personnel and if the ROE have not been breached) he may propose to HA that no Service Police Investigation is initiated.<sup>5</sup>

### INSTIGATION OF A SERVICE POLICE INVESTIGATION

7. A shooting incident must be referred to the Service Police for investigation immediately if there are any grounds to suspect that a criminal act has or might have been committed by Service personnel and /or if the ROE have been breached, or if, for any other reason, a CO believes that an investigation by the Service Police would be appropriate. If this occurs during a SIR, then the SIR is to cease immediately and the evidence collated thus far be retained for the Service Police. In every case, COs are to ensure that all relevant information (including the SIR) and, wherever practicable exhibits, are secured and retained.

### PURPOSE OF A SERVICE POLICE INVESTIGATION

8. The purpose of a Service Police investigation is to ascertain the facts surrounding the incident and provide a basis for any appropriate action by the CO and HA thereafter. This action might include:
  - a. Reporting that, based upon all of the evidence available, there are no grounds to suspect that an offence has been committed and /or ROE breached, or that there is insufficient evidence to proceed, in which case the matter is at an end unless new evidence later becomes available. If this is the case, individuals involved in the incident should be so informed by the chain of command, using words to the effect that "the Service Police investigation has not disclosed sufficient evidence upon which to proceed. Should any new or additional evidence be identified it will be reviewed by the Service

<sup>3</sup> This does not preclude the staffing of any Lessons Identified following single service procedures.

<sup>4</sup> See para 9.

<sup>5</sup> A CO may of course instigate a Board of Inquiry or other administrative steps he considers appropriate to deal with wider Service issues.

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Police. You will be informed if this calls into question the conclusions of the current investigation, which may be formally reopened if required.”

- b. Reporting an individual where there is evidence that an offence has been committed.

**IMPACT OF OPERATIONAL CIRCUMSTANCES ON THE TIMING OF A SERVICE POLICE INVESTIGATION**

9. The operational situation, in which the incident and subsequent Service Police investigation occurs, may have an impact on when an investigation may proceed.

10. Delaying the Service Police Investigation. If the CO believes that a Service Police investigation is required he may, in **exceptional circumstances**, submit a formal proposal for the HA to delay an immediate Service Police investigation (In the format at App 2). Factors that might lead to such a conclusion might include but are not limited to:

- a. High tempo of operations.
- b. High intensity of operations (this could include high intensity but in a localised area).
- c. The local commander has insufficient forces to allocate force protection for the investigation, or to do so could otherwise hinder operations or the operational capability of the unit.
- d. Where an investigation could cause an already hostile situation to deteriorate further.

11. Reporting. Where a CO decides to propose that an investigation be delayed, his proposal is to be made as part of his SIR (and therefore within 48 hours of the incident). The completed review will form part of the audit trail. On receipt of any such application the HA will consult his Legal and Provost staff before determining whether such delay should be authorised. Guidance on the information to be included in the SIR is provided at Appendix 2.

12. Recording of HA decision. If the HA does not agree with the CO’s proposal to delay, he must direct that an immediate Service Police investigation be initiated. Where a HA concurs with the proposal of the CO and a Service Police investigation is delayed, the HA is formally to record the reasons for concurrence and this, with the CO’s proposal, is to be passed to the Service Police and placed on record. This decision will be subject to weekly review by the HA in consultation with the CO or sooner if it is determined that exceptional circumstances no longer apply. A Service Police investigation will then commence.

**NOT INITIATING A SERVICE POLICE INVESTIGATION**

13. When a CO is satisfied, from the facts presented by the SIR, that there are no grounds to suspect that a criminal act has or might have been committed and if the ROE have not been breached and that there is no other requirement for a Service Police investigation, he is to forward the SIR to the HA setting out his proposal not to initiate a Service Police investigation within 48 hours of the incident, or as soon as practicable thereafter. The CO is not to publish his

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findings or proposals until they are authorised by HA. Guidance on the information to be included in the SIR is provided at Appendix 1. On receipt of any proposal not to initiate an investigation the HA will consult his Legal and Provost staff before determining whether to authorise the proposed course of action. If the HA does not concur with the proposal, he will direct the CO to initiate an immediate Service Police investigation. If the HA concurs with the COs proposal not to initiate a Service Police investigation, this and the reasons are to be recorded formally on the SIR and passed to the Service Police and placed on record. Should new information on the incident become available at a later stage that indicates a Service Police investigation is necessary it is to be initiated without delay.

14. Prejudicing of Future Investigations. COs and HAs are to ensure that the publication of any decisions not to instigate a Service Police investigation do not preclude the reopening of that investigation, or prejudice its conclusion, in the event that new evidence, which calls into question the basis of their decision, is forthcoming. This caveat is to be explicit in the wording of the published decision.

### DISCIPLINARY ACTION

15. If on review of the findings of a Service Police investigation the formation Legad recommends that disciplinary or other action is appropriate, this will be taken forward under normal Service procedures.<sup>6</sup>

### ARCHIVING

16. Archiving of Information. Where the HA agrees that a Service Police investigation is not required, all documentation is to be archived in accordance with single Service Police instructions. This will assist any subsequent investigation by Service Police or other agencies. Documents included are to be original where possible, or certified as true copies. Information from all sources should be included; examples of which are listed at Appendix 2.

### CONCLUSION

17. The importance of correctly reporting, recording, reviewing and, where necessary, investigating shooting incidents cannot be over emphasised. It is the responsibility of Commanders at all levels to ensure that the use of force is proportionate, reasonable and necessary and that such incidents are accurately reported, recorded and reviewed. Where there is evidence of criminality and /or if the ROE have been breached then the matter must be referred to the Service Police. It is the responsibility of the Service Police to conduct investigations impartially and without hindrance and report to the Command. The role of COs in ensuring due process, for which they are accountable, remains the central tenet of this process.

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<sup>6</sup> If, after a CO has dismissed a charge, new information becomes available the Attorney General could in exceptional circumstances refer the case to the CPS for action to be taken in the criminal justice system. Affected personnel should be informed of this possibility by the chain of command.



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Appendices:

1. Guidance on documentation to be collated by a Shooting Incident Review.
2. Guidance for Completion of CO's Shooting Incident Review and Proposal to Delay or Not to Initiate a Service Police Investigation.

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**APPENDIX 1 TO**  
**ANNEX A TO**  
**D/PJHQ/1/1610/1/1**  
**DATED 08 NOV 04**

**GUIDANCE ON DOCUMENTATION TO BE COLLATED BY UNITS**

1. The CO of the unit involved in the incident should identify an officer who was not involved in the incident to collate as much information practicable about the incident. The aim of this process is to preserve as much documentary evidence as practicable by collating and passing certified true copies of Unit logs, ledgers and reports to the Service Police for archiving. This will allow any future investigation to be effectively undertaken.

2. The Commanding Officer is to sign the covering letter certifying that all possible information possible has been collated. The following list proposes likely items for inclusion. It is not exhaustive.

- a. Details of the incident: DTG, Grid, list of UK personnel involved.
- b. Patrol reports.
- c. Ops Room log.
- d. Radio log.
- e. Battalion Ops Watchkeeper's log.
- f. SINCREPs.
- g. NOTICAS signals and medical reports.
- h. Lists of witnesses (including civpop if known) and addresses.
- i. Material pertinent to weapon and ammunition natures used.
- j. Weapon and ammunition issue logs.
- k. Armourer's reports.

**RESTRICTED – INVESTIGATIONS  
(When Completed)**

**APPENDIX 2 TO  
ANNEX A TO  
D/PJHQ/1/1610/1/1  
DATED 08 NOV 04**

**GUIDANCE FOR COMPLETION OF CO'S SHOOTING INCIDENT REVIEW AND  
PROPOSAL TO DELAY OR NOT TO INITIATE A SERVICE POLICE INVESTIGATION**

1. The following template should be used as a guide for the conduct of a unit Shooting Incident Review (SIR). The officer conducting the review and CO must seek legal and, if appropriate, Provost advice prior to the initiation of the SIR, and may do so at any time thereafter. Where Legal and Provost staff are not available the SIR should not be delayed and advice must be sought at the earliest opportunity thereafter. Higher Authorities will on every occasion seek legal advice when considering any proposals for delaying or not initiating Service Police investigations. The completed SIR is to be passed to the Higher Authority within 48 hours of the incident in question or as soon as practicable thereafter.
2. The officer conducting the review is to be of the rank of Captain (OF2) or above. Ideally the officer conducting the review should not have played a direct part in the incident although this may not always be possible due to the size and/or disposition of the unit involved, its geographical location and the need to conduct the SIR as quickly as possible.
3. The SIR should be in writing using the headings below. The SIR should rely upon standard patrol reports but service personnel involved may be consulted to clarify ambiguities.
4. Headings to be included:

**Officer Conducting the Review**

- *Full Service Details*
- *Position held in unit*
- *Whether directly involved in the incident and in what capacity*

**Times and Locations of Incidents**

- *DTGs and locations (inc Grid References)*
- *Ref No(s) of relevant SINCREP(S)*

**Unit Details**

- *Name of Unit(s)/Sub Unit(s) involved*

**UK Service Personnel Involved**

- *Full Service details*

**RESTRICTED – INVESTIGATIONS**  
(When Completed)

**Other personnel Involved (including civilians)**

- *MNF or ISF(inc IPS) personnel (Full details required for the record where available including unit/company and contact details where known)*
- *UK civilians, civilians attached to MNF, NGOs or IOs (to include as much detail as is available including addresses where known)- or any other persons present*
- *Description of hostile elements (including identity of group if known)*

**Background**

- *Operational Situation*
- *Threat assessment*
- *Other relevant intelligence background behind operation or patrol*
- *Recent Incident levels*
- *ROE or other guidance on the use of force in place*

**Circumstances of Incident**

- *Nature of specific operation or patrol*
- *Detail of time of day/night and weather conditions*
- *Description of incident (derived from patrol reports, op log etc) including duration and any complicating factors*
- *Identity or description of UK personnel believed to have opened fire*
- *Nature of injuries, both to service personnel and others*
- *IPS/Service Police involvement*
- *Post-incident procedures followed – eg medical assistance provided*

**Other Relevant Factors**

- *Consideration of patrol reports/other available information*
- 

**Advice Sought by the Officer Conducting the Review**

- *From whom advice sought (eg Service Police, Legal, Chain of Command)*
- *What advice received*
- *When advice received*

**Matter referred to the Service Police for Investigation Prior to Completion of SIR**

- *DTG of referral*

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(When Completed)**

**Proposed Course of action**

- **Immediate Service Police Investigation**

or

- **Proposal to Delay Service Police Investigation**

- Detail the exceptional operational circumstances that led CO to the conclusion that this is an appropriate course of action (See Annex A Paras 9 to 12)

or

**Proposal Not to Initiate Service Police Investigation**

- Detail the circumstances that led CO to the conclusion that this is the appropriate course of action (See Annex A Paras 13 to 15)

- Detail the justification including confirmation that there are no grounds to suspect that any criminal offence has or might have been committed by Service personnel and /or that ROE have been breached

**Supporting Documentation**

- Details of any supporting documentation provided (including imagery).

*Signed*

*Name*

*Commanding Officer*

*Unit*

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**RESTRICTED – INVESTIGATIONS  
(When Completed)**

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**RESTRICTED – INVESTIGATIONS  
(When Completed)**

**LEGAD ADVICE TO HIGHER AUTHORITY**

Proposal not to initiate / to delay a Service Police investigation – **Supported/ Not Supported.**

Reasons -

**SERVICE POLICE ADVICE TO HIGHER AUTHORITY**

Proposal not to initiate / to delay a Service Police investigation – **Supported / Not Supported.**

Reasons -

**DECISION OF HIGHER AUTHORITY** (Delete as appropriate)

Proposal not to initiate / to delay a Service Police investigation – **Authorised / Not Authorised.**

**HIGHER AUTHORITY'S REASONING**

*Free text*

*Signed*

HA's Signature Block

Distribution:

Action:

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**RESTRICTED – INVESTIGATIONS  
(When Completed)**

**RESTRICTED - INVESTIGATIONS**  
**(When Completed)**

Commanding Officer of unit involved  
Service Police HQ

Info:

Recording HQ  
Provost Staff  
Legal Advisor

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**RESTRICTED - INVESTIGATIONS**  
**(When Completed)**

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