

From: Comd Legal

6th March 2003

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To: GOC

PW's

1. The information received on Wednesday regarding the reduction in US MP Bn's from 7 to 1 now puts even greater pressure on the UK with regard to the issue of PW's particularly with regard to manning and resources.
2. The issue of PW's has been on the Divisional "at risk" register for some time and various requests for manning (minimum of two Bn's) have been made continually by this Division over the past seven weeks. If the news received on Wednesday is added to the failure to find the additional two Bn's then manning shortfall is potentially very serious and getting worse by the day.
3. I appreciate that the manning and resources estimate for PW's is difficult to evaluate but, as your legal adviser, I am professionally obliged to point out any legal risks that you or the Division may run in any area of military operations and, in my opinion, the failure to find additional manning and resources with regard to PW's now brings a real risk of potentially violating International Law
4. In the first instance, Articles 19 and 20 of the Third Geneva Convention 1949 require that PW's should be evacuated as soon as possible after capture to an area "far enough away from the combat zone for them to be out of danger". In addition the Detaining Power has a duty to "take all suitable precautions to ensure the safety of PW's during evacuation" and PW's shall not be "unnecessarily be exposed to danger while awaiting evacuation from a fighting zone".
5. The reduction in MP Brigades now puts a greatly increased burden on the UK with regard to evacuation of PW's and, given the limited resources available, it is highly unlikely that the UK [REDACTED] has taken "all suitable precautions" with regard to the safety of PW's during evacuation and may also "unnecessarily expose PW's to danger while awaiting evacuation". In the first Gulf War a Bn was assigned to corralling on the battlefield and another Bn dealt with the transport of the prisoners to the PW Camps. Given that the number of PW's estimated could be double the number taken by the UK in 1991 the manning for this task alone is likely to be in excess of 2 Bn's that this task required before.
6. Secondly, in addition to the evacuation from the battlefield there is also the passage of time spent by PW's in, so called, collection points and holding areas. The Third Geneva Convention anticipates the need for transit camps and requires that any stay in such a camp shall be "as brief as possible". I have no problem with the transit camps. However, although it is accepted that such transit facilities will be a temporary measure, there is still a requirement under the Third Geneva Convention for "proper rations, water and quartering with every guarantee of hygiene and healthfulness". The life support in the MEF holding area will be the responsibility of the US but reduced