

SPECIFIC LEGAL ASPECTS OF OP TELIC INTELLIGENCE

REFERENCES

EXECUTIVE SUMMARY

MOD F 102
BOOK 1
SERIAL 282

MOD FORM- 102
BOOK NO- ALOO1
SERIAL NO- ~~53~~ 53

Ser	Lesson	Action/ Recommendation
(a)	(b)	(c)
	The relationship between the intelligence organisations from coalition partners needs to be resolved at an early stage in order to avoid confusion regarding their roles and access to one another's detainees.	
	Potentially controversial aspects of detainee handling need to be resolved so that appropriate training can be conducted in preparation for operations	
	[REDACTED]	
	There should be a presumption that investigations into serious criminal offences will take priority in the absence of clear direction to the contrary from the Joint Force Commander level	

FACTUAL BACKGROUND

LEGAL ISSUES

INTELLIGENCE EXPLOITATION FORCE (IEF)

[REDACTED] It operated as an Iraq-wide organisation with the roles of searching for WMD and searching for and questioning suspected war criminals. The UK contributed, inter alia, personnel from DIS and the Joint NBC Regiment. Notwithstanding their involvement it was uncertain in what capacity they acting, ie whether as attached personnel, seconded or other status.

THEATRE INTERNMENT FACILITY (TIF)

The TIF was initially planned to be built by the US. However, as discussed in the Detention chapter, the UK camp (Camp Freddie) ended up taking the role of the TIF. Based within the TIF were intelligence operators who would question those detained. Although they were based at the TIF their relationship with it was uncertain. The LCC did not consider that they 'belonged' to them. Further intelligence personnel from the UK and US operated within the TIF and had access to each country's detained persons. The only requirement stipulated by the UK in this regard was that the US should have UK personnel present during any questioning.

[REDACTED]

[REDACTED] This matter was resolved with the conclusion of the MOU regarding PWs and Detainees. Without such clear understanding of the legal relationship of the US and UK persons there is a danger that

LESSON: The relationship between the intelligence organisations from coalition partners needs to be resolved at an early stage in order to avoid confusion regarding their roles and access to one another's detainees.

Within the TIF UK intelligence personnel were formed into a Joint Force Intelligence Team (JFIT) with the purpose of providing a filter process on an ad hoc basis for those detained persons in respect of which a doubt existed regarding their status and also a mechanism to exploit the HVDs. The JFIT was constrained in its operation by the makeshift nature of their facilities within the TIF. Their doctrine was predicated upon their having facilities which were capable of segregation from other persons not subject to questioning. The aims of such segregation were to provide security between detained persons, for those being questioned and for those conducting the questioning.

The manner in which the segregation was effected was by use of a hood placed over the head of the detainee. This procedure attracted mixed responses from both the ICRC and the military legal community. In essence the view of those in favour was that the use of hoods protected the person hooded as the person would not want to be seen to have co-operated with the coalition forces. Those against argued that it was inhumane and dangerous. The latter argument was borne out with the death of a person hooded whilst in UK 'custody'.

Even before the death of the detainee the practice was suspended although this prompted 15 of the 40 persons being questioned to request the reinstatement of the use of hoods. A proposal to adopt the use of goggles was not put into effect.

The confusion surrounding the use of hoods could have been eliminated by clear legal assessment of the techniques proposed for use prior to the conduct of the operation.

LESSON: Potentially controversial aspects of detainee handling need to be resolved so that appropriate training can be conducted in preparation for operations

[Questioning issues]

FIELD HUMAN INTELLIGENCE TEAMS (FHTs)

Outside of the TIF the intelligence gathering was effected by FHTs. Whilst the [REDACTED] did not apply as a matter of law during Op TELIC those legal advisers involved in advising the FHTs adopted it as a useful management tool. However, this approach caused some inconsistency as whilst Intelligence Corps personnel adopted this approach [REDACTED]

Such inconsistency has the potential to cause confusion and should be resolved at PJHQ level at the outset of an operation.