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NEW ZEALAND DEFENCE FORCE

COVER SHEET
To accompany documents to
Minister of Defence



Subject:	UPCOMING UNAMA REPORT ON DETAINEES IN AFGHANISTAN		
NZDF File No. 03350/US/1	NZDF Tracking #5/13 (For OCDF Use Only)	Minister's Tracking#: (For Minister's office)	
Priority:	ROUTINE / URGENT	Request Ministerial response by:	
Contacts:	1. BRIG Kevin Riordan 2. <small>PSR(IC)3</small>	Tel: PSR(IC) Tel: PSR(IC)	A/H: PSR(IC)3 A/H: PSR(IC)3

Sheet not to exceed one page. Please complete shaded areas.

Purpose:	This note is to advise you of an upcoming UNAMA report concerning detention in Afghanistan, and to provide information pertinent to NZDF detention operations in Afghanistan which may be relevant to anticipated media interest.
Recommendations:	It is recommended that you: a. note that UNAMA will presently release a report on detention in Afghanistan that highlights deficiencies in detainee facilities and treatment; b. note that no criticism has been raised by or in respect of detainees captured by the NZDF regarding mistreatment or housing, and that no such criticism is anticipated in the upcoming UNAMA report; c. note the draft media talking points attached for your consideration at Annex A (these will be updated once officials have had an opportunity to review the report upon its release); d. refer a copy of this submission the Minister of Foreign Affairs.
Minister's comments:	
Minister's Action:	Signed / Noted / Agreed / Approved / Declined / Discussion required Referred to:
Signature:	Date:

R.R. JONES
Lieutenant General
Chief of Defence Force

Copy to: SecDef

Date: 17 January 2013

PLEASE RETURN THIS COVER SHEET TO NZDF and/or MoD

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NZDF 3304/Afghanistan/Detainees

17 January 2013

Minister of Defence

UPCOMING UNAMA REPORT ON DETAINEES IN AFGHANISTAN

1. This note is to provide you with information regarding NZDF detainee operations in Afghanistan in anticipation of likely media attention generated by the upcoming release of the United Nations Assistance Mission Afghanistan (UNAMA) report on detainees.

Background

2. In October 2011, UNAMA released a report criticising the treatment and handling of detainees in Afghanistan, and identified a number of detention facilities where mistreatment occurred. Significant negative comment by national and international media ensued. The then Minister, the Hon Dr Wayne Mapp, responded by pointing out the important role played by members of the NZDF in mentoring a unit of Afghan National Police in the professional conduct of their duties, including respect for human rights. I also put in place a prohibition on transfers to any facility named in the UNAMA report, or where credible allegations of ill-treatment exist, in addition to the existing procedure by which my approval is required before any detainee transfer, irrespective of the authority to which the transfer is made.

Situation

3. UNAMA is reportedly planning to release an update to the 2011 report on or about 20 January 2013. Although we do not have an advance copy, briefing from NATO officials in Brussels indicate that it is likely to outline continued mistreatment of detainees across a range of Afghan detention facilities, up to and including torture. It is likely that the release of the UNAMA report will generate a degree of domestic media interest and possible criticism of New Zealand's continued presence in Afghanistan. In anticipation of this, draft media lines and talking points have been prepared (see Annex A), with further background information provided below.

4. New Zealand forces have detained two people in Afghanistan during the course of current operations, both of whom are held in the Detention Facility in Parwan (DFIP). The DFIP was not covered by the 2011 UNAMA report because at the time it was a US controlled facility. In March 2012 this facility was transferred to Afghan Ministry of Defence control, and is now run by the Afghan National Army (ANA), while the US continues to control a section of the facility independently.

5. One individual was detained by New Zealand forces prior to October 2011. He was initially placed in US custody at the DFIP, and was then transferred to the custody of the Afghan authorities when that section of the DFIP was transitioned into

their control as part of the continuing transition of responsibility to the Afghan Government.

6. One person has been detained by NZDF personnel subsequent to the October 2011 UNAMA report. The detainee was transferred to the DFIP and is currently held in the US controlled section of that facility.

7. No specific criticisms of New Zealand detention operations or detainee handling are anticipated in the upcoming UNAMA report.

8. New Zealand has arrangements by which detainees are managed in place with both the US and the Afghan Government. Both arrangements require the humane treatment of detainees, and provide for the routine monitoring of New Zealand's detainees by New Zealand representatives. Such monitoring continues to take place on a regular (usually monthly) basis whereby detainees are visited and interviewed. The most recent monitoring visit occurred on 12 January 2013, and confirmed that both detainees captured by New Zealand forces are held in clean, well run facilities, are being treated humanely, and are in good health. Neither detainee has complained of mistreatment during their detention.

9. In response to receiving a draft copy of the report in late 2012, ISAF is in the process of taking steps to mitigate the risks identified by UNAMA. Full details of the ISAF remedial steps will be advised as they become available.

Recommendations

10. It is recommended that you:
- a. **note that UNAMA will presently release a report on detention in Afghanistan that highlights deficiencies in detainee facilities and treatment;**
 - b. **note that no criticism has been raised by or in respect of detainees captured by the NZDF regarding mistreatment or housing, and that no such criticism is anticipated in the upcoming UNAMA report;**
 - c. **note the draft media talking points attached for your consideration at Annex A (these will be updated once officials have had an opportunity to review the report upon its release); and**
 - d. **refer a copy of this submission to the Minister of Foreign Affairs.**



R.R. JONES
Lieutenant General
Chief of Defence Force

DRAFT MEDIA LINES - UNAMA REPORT

- Following the 2011 UNAMA report we urged the Government of Afghanistan to address the issues identified. It is disappointing that not all of the recommendations contained in the original 2011 report have been implemented fully. We will, once again, take this matter up with the Afghan government.
- It is important that the international community continues to provide the training and assistance to Afghan forces and officials necessary to remedy the deficiencies highlighted by the UNAMA reports. This was part of the NZSAS training and mentoring programme during their deployment in Afghanistan alongside the Kabul-based counter terrorist Crisis Response Unit (This deployment concluded in April 2012).
- One person has been detained by the NZDF since the October 2011 UNAMA report. He is in US custody in the Detention Facility in Parwan, which is currently transitioning into the control of the Afghan Ministry of Defence. New Zealand's only other detainee has already transitioned into Afghan custody at the same facility.
- Both detainees are routinely visited and interviewed by New Zealand officials. Neither detainee has complained of mistreatment. The most recent visit occurred on 12 January 2013.
- [To be confirmed on release of the latest UNAMA report] The Detention Facility in Parwan has not been included as a detention facility of concern either previously or in the latest UNAMA report.
- The New Zealand government has, on various occasions, conveyed its expectations to the Government of Afghanistan that it will continue to honour its assurances and obligations on its treatment of detainees transferred from the NZDF.
- [If asked] New Zealand takes its obligations under the Law of Armed Conflict seriously. As the NZDF report released just after the October 2011 UNAMA report noted, NZDF personnel have at all times abided by their obligations under international law and New Zealand domestic law.