
From: PSR(IC)3 (KBL)
Sent: Thursday, 20 October 2011 5:29 a.m.
To: PSR(IC)3 (ISED)
Cc: PSR(IC)3 (ISED)
Subject: RE: scan version of reports- combined.

PSR(IC)3

I've read through both reports. I think there would be no harm in releasing the documents. As you say, I think they serve to clarify the situation. I'm not sure how these will be received by colleagues. I'm inclined to think OK. PSR(R)1

From the Kabul perspective, I think there would be value in 1) highlighting that UNAMA endorsed greater engagement and co-operation with Afghan authorities on detainee issues and 2) noting that Afghan authorities, and particularly the NDS, have acknowledged the findings and have either acted on them or are in the process of doing so. The Mol response and subsequent reaction has been somewhat inconsistent, so would be inclined to refer to Afghan authorities and to make general statements.

As I hint at in the FM I sent down, COMISAF is certainly attuned to the importance of getting this issue right, and is very much taking a proactive approach. A general comment about ISAF being proactive might also be helpful. I assume Minister will put these out under the cover of another press release? If so, would certainly be inclined to stress the UN angle and draw on UNAMA press release.

OUT OF SCOPE

Cheers

KBL

From: PSR(IC)3 (ISED)
Sent: Wednesday, 19 October 2011 5:53 a.m.
To: PSR(IC)3 (KBL)
Cc: PSR(IC)3 (ISED)
Subject: FW: scan version of reports- combined.

KBL NZDF reports attached. We'll task you separately to give PSR(R)1 a heads up on their release but overnight we'd appreciate your own thoughts on their content and how they might be received in Kabul.

Thanks

ISED

From: PSR(IC)3 (ISED)
Sent: Wednesday, 19 October 2011 9:46 a.m.
To: ...MFA P/S (Inet)
Cc: PSR(IC)3 (ISED); PSR(IC)3 (ISED); PSR(IC)3(LGL); PSR(IC)3 (DS MLG)
Subject: RE: scan version of reports- combined.

20/10/2011

Hi MFA P/S

Thanks for these. Overall, we don't see any major issues over the release of the reports. In fact, they generally provide a helpful clarification of our position. There are a few points to note:

31 August Report

The first report is dated 31 August. Dr Mapp told Parliament in May that he would be releasing "the report" in the near future. The 31 August date may raise the question of whether this is the same report as the one he's been promising to release since May.

para 1: mentions "reports from... the SAS... legal advice and... reports of [Dr Mapp's] meetings... with ministers of other nations...". Once this report is made public, Defence should expect further requests for this information.

para 15ff: The fact that the UK has a moratorium on transfers to the NDS facility in Kabul, even though ISAF regards it as the facility of choice and other ISAF forces are still using it, (even though this is correct) is likely to cause some comment.

18 October Report

para 5: comments that "to the best of our knowledge no one arrested during CRU operations since the completion of the UNAMA Report has been taken to any of the prohibited facilities". This raises the question about NZ knowledge prior to the completion of the UNAMA Report. We (MFAT) are not aware that any arrested people have ever been transferred to prohibited facilities. If NZDF does know, it might have been easier to say so up front.

Recommendations: These continue to start from the basis that the SAS has only detained one person, who says he is being well treated. Dr Mapp's recent public comments could have been taken to give some equivalence to SAS detainees (whom we have obligations for) and people arrested by the CRU (whom we don't) and therefore imply that we have some obligation for Afghans arrested by the CRU during partnered operations. While the NZDF advice seems correct to us, any implied obligation for CRU detainees does leave open the question of what we should be doing in respect of those people, particularly when (as noted earlier in the report) we have no rights in respect of their treatment. Therefore the question could be asked: why would CDF be prepared to condone the transfer of CRU prisoners to NDS, when he states in the report he would not allow NZDF prisoners to be transferred to the NDS while credible evidence of mistreatment in NDS exists? Dr Mapp will need to be ready to deal with this.

There is no mention in the report of the constructive response from the Afghan government. NDS provided responses to ten specific concerns raised in the report and adopted a relatively proactive response by outlining what measures it had taken or would be taking in response to the allegations - it noted, for instance, that some staff has been dismissed at certain institutions and that a work plan had been prepared and was already being implemented to address the issues identified in the report. In any further public comment on the report it might be worth noting Afghanistan's positive response.

Reactions from ISAF partners

PSR(R)1

ISED

From: ...MFA P/S (Inet)
Sent: Tuesday, 18 October 2011 6:06 p.m.
To: PSR(IC)3 (ISED); PSR(IC)3 (ISED); PSR(IC)3 (ISED)
Subject: scan version of reports- combined.

20/10/2011