



Australian Government  
Department of Defence

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**MINISTERIAL ADVICE**

Payne: MA16-000791  
Ref: AHQ/OUT/2016/643

**Minister for Defence – For noting**

Copies: Secretary, CDF, HDL, VCDF, IGADF

**INSPECTOR GENERAL AUSTRALIAN DEFENCE FORCE (IGADF) SCOPING  
INQUIRY REFERRED BY CHIEF OF ARMY**

**Critical Date:**            **Reason:** Routine

**Recommendations:**

1. That you note I have referred concerns raised with me by the Special Operations Commander – Australia (SOCAUST) to IGADF for a scoping inquiry. These concerns stem from stories related by members and ex-members of Special Operations Command (SOCOMD), media contacts, and narratives identified during sociological research into SOCOMD. (Noted) Please discuss
2. That you note IGADF has agreed to conduct a scoping inquiry into these matters. IGADF is statutorily independent and the scoping inquiry will be independent of the Army chain of command. (Noted) Please discuss
3. That you note the scoping inquiry will identify the nature of these stories, the implications, and advise on the appropriate method of addressing any identified issues. (Noted) Please discuss
4. That you note a strategic communications plan will be developed in consultation with your communications staff. (Noted) Please discuss
5. That you note you will be informed of the progress of the scoping inquiry and consulted before any subsequent action is taken. (Noted) Please discuss

Minister for Defence..... *Manni Payne*..... Date 14/04/2016

**Key Points:**

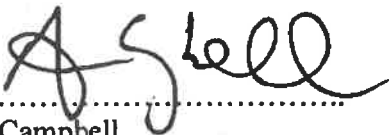
1. SOCAUST wrote to me on 9 Mar 16, regarding stories concerning the culture and behaviour of SOCOMD, including hearsay stories relating to Special Operations Task Group (SOTG) deployments in Afghanistan (enclosure 1).
2. Having regard to the lack of detail in these stories, the time period over which the stories relate and the seriousness of the stories if found to be true, I have referred the matter to IGADF for an independent scoping inquiry.
3. Once the scoping inquiry is complete, the matter will be referred back to me for a decision on any subsequent action.

Para 10 of Background: When will this be provided?  
(Strategic communication pack)

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4. I take these stories regarding SOCOMD extremely seriously. I will keep you informed of the progress and outcomes of the IGADF scoping inquiry, the management of strategic communications issues and I will consult with you and the CDF before any follow on action is taken.

  
.....  
AJ Campbell  
LTGEN  
CA

Telephone:   
30 March 2016

Contact officer: COL AJ Hocking  
Deputy Chief of Staff Army Headquarters  
Contact officer phone: 

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**Sensitivity:**

Yes. There may be media interest in the referral to IGADF. To ensure that potential witnesses are not affected by media reporting, a pre-emptive public announcement of the scoping inquiry is unlikely to be recommended. Should some of the stories prove to be true, there are serious reputational concerns for Defence.

**Financial Impacts:**

There are no financial impacts.

**Background:**

1. On 9 March 2016, SOCAUST wrote to me regarding stories concerning the culture and behaviour of SOCOMD, including hearsay stories relating to Special Operations Task Group (SOTG) deployments in Afghanistan. These came to the attention of SOCAUST from a variety of sources, including stories from members and ex-members of SOCOMD, media contacts, and Army contracted sociological research into SOCOMD culture (enclosures 2 - 4). The supporting documentation provided by SOCAUST refer, in part, to unsubstantiated stories concerning:

- a. possible crimes (illegal killings and inhumane and unlawful treatment of detainees) over a lengthy period of time in the course of SOTG deployments in Afghanistan
- b. the cultural normalisation of deviance from professional standards within SOCOMD, including intentional inaccuracy in operational reporting related to possible crimes
- c. a culture of silence within SOCOMD
- d. the deliberate undermining, isolation and removal from SOCOMD units of some individuals who tried to address this rumoured conduct and culture and
- e. a systemic failure, including by commanders and legal officers at multiple levels within SOCOMD, to report or investigate the stories as required by Defence policies.

2. These stories, which are essentially drawn from widespread rumour at present, lack sufficient detail upon which Army could take administrative or disciplinary action (or refer them to the civilian police). If proven, these would have serious and far reaching implications for Army, the ADF and national interests. One of the few individuals to-date named in the more specifically detailed stories includes a recipient of a significant decoration.

3. Since SOCAUST and I first became aware in late December 2015 of stories of serious concern circulating within and beyond SOCOMD, I have sought verification from him of the themes, breadth and seriousness of the issues. We have sought to understand to what degree such stories might reflect bravado and exaggeration or serious failures of conduct and command. I have also been mindful of whether these stories might speak to the often fine line in battle between illegality and lawful tactical necessity. Having engaged with allied special operations commands within the Five Eyes community on their experiences, he has also advised me that they are dealing with similar, very serious challenges.

4. Acknowledging the last decade of extraordinary service and sacrifice to our nation by the soldiers of SOCOMD, it is now my professional judgement that there are many concerning stories, which are widely known, and believed to be essentially true by those who tell them. Without proof, this judgement necessarily errs on the side of caution. However, if affirmed through a scoping inquiry, it will

have profoundly serious implications for national reputation, the maintenance of special operations capability, institutional credibility and renewal, and personal wellbeing and accountability. Each of these factors will need to be addressed to reach resolution. In allied forces this has, and continues to be, an effort measured in the order of years and potentially a decade.

5. These matters, if there were sufficient information to act on them, would normally be expected to be addressed by way of a criminal or disciplinary investigation. Due to the lack of sufficient information to underpin such an investigation and the inherent difficulty in investigating personnel in SOCOMD (having regard to the perceived culture of silence), I have referred the matter to IGADF for a scoping inquiry. I have offered my view to the IGADF that appointing an eminent person to conduct the scoping inquiry might help encourage, as much as compel, openness where a culture of silence has prevailed. My referral suggests the scoping inquiry might focus on identifying the depth and breadth of these matters and options to deal with them, in light of capability, institutional and accountability considerations.

6. Referral of the stories to IGADF will allow the matter to be inquired into by a statutorily independent body, outside the Army chain of command. IGADF was established to provide a means for auditing and reviewing the military justice system independent of the chain of command and to provide an avenue by which alleged failures of the system may be examined and brought to the attention of command as necessary. IGADF has unique expertise in inquiring into difficult and complex Defence military justice matters, including matters involving SOCOMD. Given the stories raise concerns about systemic issues with reporting and complicity, this independence and expertise is considered vital in scoping and assessing the matters raised in an impartial and transparent manner. I am also alert to the fact that a number of key senior leaders within Army, including myself, are special forces qualified. Real or perceived bias and claims of self-interested influence would discredit any action or process initiated within Army.

7. IGADF inquiries are conducted under the *Defence (Inquiry) Regulations 1985* (the Regulations). Consistent with all inquiries conducted under the Regulations, the scoping inquiry would be suspended (in whole or part) should evidence of criminal or disciplinary conduct be identified. Any such evidence would be provided to civilian police or ADFIS, as appropriate, to allow investigation. It is noted that the commencement of a scoping inquiry prior to a criminal or disciplinary investigation may ultimately raise evidentiary issues as identified in *Lee v The Queen* [2014] HCA 20. The underlying issue in that case was the use of material obtained during a compulsory examination, in an administrative setting, to the disadvantage of an individual in a subsequent disciplinary or criminal setting. It is my impression the IGADF is, however, alive to such concerns, balanced with considerations for breaking down the culture of silence which might be expected to assert itself if normal investigative referrals were followed at this stage.

8. Any scoping inquiry into this matter will inevitably cause stress to some individuals within SOCOMD and potentially the broader Army and ADF. Army will ensure additional welfare resources are provided to support members during this scoping inquiry process and any subsequent action.

9. The IGADF scoping inquiry will occur in parallel to the very significant modernisation, governance, ethics and cultural reform agenda SOCAUST has been driving across SOCOMD since January 2015 (enclosures 5 – 9). Indeed, I believe it is very likely that the widespread telling of these stories and the personal and institutional moral injury they present, are a reflection of the success to-date of his agenda. I am absolutely confident of his commitment to support any requirement of the IGADF.

10. A strategic communication pack is being developed and will be provided separately. I do not propose a pre-emptive public announcement of the scoping inquiry.

When will this  
be provided?

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**Consultation:**

11. The following appointments were consulted in developing the course of action described in this brief: MAJGEN J Sengelman, SOCAUST; Mr M Cunliffe, HDL; BRIG J Gaynor, A/IGADF; BRIG J Woodward, DMP; BRIG G Whelan, DGSSIM and GPCAPT A Roberts, PM-ADF.

12. I have further sought the independent views of Mr Robert Cornall, currently the Head of the Defence Abuse Response Taskforce. A copy of this is enclosed (enclosure 10).

13. I have in recent days given a verbal overview of the contents of this brief to SEC DEF and SEC PM&C.

**Enclosures:**

1. Minute SOCOMD/CA of 9 Mar 16
2. Crompvoets, S, Special Operations Command (SOCOMD) Culture and Interactions: Insights and reflection, Jan 16
3. Email Crompvoets/Campbell and Sengelman, 'follow up note', 22 Feb 16 at 0853
4. Crompvoets, S, Special Operations Command (SOCOMD) Culture and Interactions: perceptions, reputation and risk, Feb 16
5. Email Morrison/Sengelman, 'RE: SOCOMD ISSUES BRIEF', 11 May 15 at 1557
6. Noetic Post-activity Report, Special Operations Futures Summit, 28 – 30 Apr 15
7. Sengelman, Commanding in Adversity: Modernising Special Operations Command, undated
8. Chief of Army's Senior Advisory Committee, SOCOMD Command review and Restructure, submission 05/15 (SOHQ / R23755273)
9. Sengelman, SOCOMD Governance Remediation – 2015, Oct 15 (AM2324225)
10. Cornall, R, Notes for meeting with Lieutenant General Campbell and Major General Sengelman, 8 Mar 16 at 1700

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