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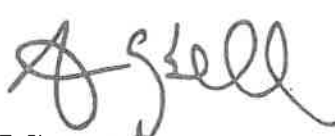

 ★★★★	NOTING BRIEF FOR CDF	
	IGADF SCOPING INQUIRY REFERRED BY CHIEF OF ARMY	
Group: Army		Reference: R25287621
For Information: Secretary, VCDF, HDL, IGADF		Due Date: ASAP

Purpose

1. The purpose of this brief is to inform you of serious concerns that SOCAUST has raised with me, which I have referred to IGADF for the conduct of a scoping inquiry.

Recommendations

2. It is recommended that you:
 - a. Note the serious concerns that SOCAUST has raised with me (enclosure 1), which I have referred to IGADF for the conduct of a scoping inquiry.
~~NOTED / PLEASE DISCUSS~~
 - b. Note the Ministerial Advice that I have submitted in relation to this matter (enclosure 2).
~~NOTED / PLEASE DISCUSS~~
 - c. Note that a few documents containing more specifically detailed stories will be provided to the IGADF but have not been included with this brief to maintain the integrity of the IGADF scoping inquiry.
~~NOTED / PLEASE DISCUSS~~
 - d. Note that I will ensure appropriate welfare arrangements are in place for Army personnel, as required, during the course of the IGADF scoping inquiry.
~~NOTED / PLEASE DISCUSS~~

 AJ Campbell LTGEN CA 30 Mar 16	Comments:  MD Binskin ACM CDF 31 Mar 16
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Contact Officer: COL AJ Hocking (DCOS AHQ)

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Key Points

3. 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). 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. The supporting documentation provided by SOCAUST (enclosures 1A – 1C) 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.

4. 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). One of the few individuals to-date named in more specifically detailed stories includes a recipient of a significant decoration. In the interests of supporting the integrity of an IGADF scoping inquiry, and so as not to prematurely impugn the character of the individuals named, I have not included in this brief the handful of more specific stories provided to me by SOCAUST. I will pass these separately to the IGADF.

5. 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. SOCAUST's exploration of the issues has, *"affirmed ... that some of these matters are widely known and circulated of (sic) within the Command"* (enclosure 1). 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.

6. 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.

7. These matters, if there were sufficient information to act upon, 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 at this stage, 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. Referral of these stories to IGADF will remove the matter from the Army chain of command and allow them to be inquired into by a statutorily independent organisation. 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 undertaken by Army.

8. IGADF has unique expertise in inquiring into difficult and complex 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 stories raised in an impartial and transparent manner. 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 further offers the view that 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.

9. Consistent with all inquiries conducted under the *Defence (Inquiry) Regulations 1985*, an IGADF scoping inquiry, in part or in whole, would normally be suspended in the event that evidence of a criminal or disciplinary offence is identified. Any such evidence would be provided to civilian police or ADFIS to allow investigation. I accept that the commencement of a scoping inquiry prior to an investigation may ultimately raise evidentiary issues identified in *Lee v The Queen* [2014] HCA 20.¹ 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.

10. Any 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.

11. 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 1D – 1H refer). 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.

¹ The underlying issue in that matter 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.

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12. I do not propose a pre-emptive public announcement of the scoping inquiry to ensure that witnesses are not affected by media reporting and to allow IGADF to undertake their scoping inquiry as effectively as practicable. A statement and talking points are being prepared to respond to possible media inquiries. A copy will be provided once finalised.

Conclusion

13. I take these stories regarding SOCOMD extremely seriously. I will keep you informed of the progress of the IGADF scoping inquiry and the management of strategic communications issues as they arise. A copy of the Ministerial Noting Brief regarding this matter is provided, for your information (enclosure 2).

Consultation

14. The following appointments were consulted in developing the course of action described in and initiated by 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.

15. 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 1I).

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

Prepared by: MAJ S Raymond (DCLO AHQ)

Cleared by: COL AJ Hocking (DCOS AHQ)

Enclosures:

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

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