HOUSE OF REPRESENTATIVES

MINISTERIAL STATEMENTS

Afghanistan

SPEECH

Thursday, 10 May 2012

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES
Mr STEPHEN SMITH (Perth—Minister for Defence and Deputy Leader of the House) (09:01): The government is committed to providing regular reports and updates on Afghanistan, including to the parliament.

I will update the parliament generally on Afghanistan following my attendance with the Prime Minister at the NATO/International Security Assistance Force, or ISAF, Leaders' Summit in Chicago at the end of this month. The summit follows on from the recent meeting in Brussels of NATO/ISAF foreign and defence ministers which I attended together with Foreign Minister Carr.

Today, I update the House on a range of issues relating to Australia's detainee management in Afghanistan, in keeping with my commitment to provide regular reports to the Australian people on detainee management and to be open and transparent on these matters.

In line with the commitment to transparency, since I announced Australia's detainee management framework in Afghanistan in December 2010, I have provided regular updates including three specific updates in February, October and November last year and six separate statements to parliament on Afghanistan in March, May, July, October and November of last year and February of this year, which included reference to detainee management.

This update also follows my announcement on 1 February this year and my subsequent statement to parliament on 9 February outlining that the Australian Defence Force had deployed a highly trained team of interrogators to Afghanistan, and that interrogation operations had commenced.

**Governance**

In developing our detainee management framework, we have worked to ensure it is robust and reflects best international practice and governance arrangements.

Australia's detainee management framework is underpinned by the deployment of professional ADF personnel trained in the laws of armed conflict and appropriate detainee handling, rigorous recording and reporting requirements, and the high priority Australia places on addressing all allegations of mistreatment reported to Australian officials, including ADF members.

After capture, detainees are held at a purpose-built screening facility—the Initial Screening Area, or the ISA as it is known—at the Multi-National Base Tarin Kowt in Oruzgan province.

I again visited the Initial Screening Area, the ISA, during my April visit to Oruzgan province. I was again briefed by staff from the Detainee Management Team and the interrogation unit. That brief, of course, for the first time. They are making an important contribution to our mission in Afghanistan.

Again the opportunity was given to show accompanying Australian media this facility, again reflecting our commitment to transparency in respect of these matters.

Detainee management is complex, and implementing a strong detainee management framework in Afghanistan requires constant attention.

I continue to receive ongoing and regular advice from the Department of Defence on the implementation of Australia's detainee management framework and any issues that may arise in the course of operations.

This includes being able to respond to changes to ISAF's detention policy, engaging with international and Afghan human rights organisations, learning from past lessons and experience, and working with our Afghan partners towards transition of security responsibility, including detainee management.
To ensure we meet our own Australian high standards and continue to improve our systems, the ADF's detainee management processes in Afghanistan are subject to regular audits.

Since the introduction of Australia's detainee management framework in Afghanistan on 1 August 2010 following the Dutch withdrawal from Oruzgan, two comprehensive audits have been undertaken, with two more audits planned for this year.

The first of the 2012 audits is currently underway.

With the recent introduction of an interrogation capability, future audits will include reviewing the interrogation capability and processes.

These audits are essential to verify that a strong governance framework remains in place and that we are able to address any issues that might arise.

The last detainee management audit undertaken late last year found that all detention activities conducted at the Australian Defence Force ISA facility in Tarin Kowt over the period of the audit were in compliance with Australian policy, and in compliance with Australia's international and domestic legal obligations and requirements of the International Security Assistance Force.

The outcomes of these audits have been and will continue to be shared with relevant Australian government agencies.

**Monitoring**

As part of our detainee management framework, we monitor all detainees transferred from ADF custody to Afghan or United States custody.

Australia's monitoring regime includes an Interagency Detainee Monitoring Team, the IDMT, which is led by the Department of Foreign Affairs and Trade.

The Interagency Detainee Monitoring Team visits each detainee shortly after transfer and approximately every four weeks after the initial visit. We continue to monitor detainees up until sentencing or release. This reflects the practice of our International Security Assistance Force partners.

Between 1 August 2010 and 7 May this year, the monitoring team has conducted 95 monitoring visits. This includes: 48 visits to the National Directorate of Security, or the NDS, facility in Tarin Kowt, the Afghan facility; 14 visits to the Tarin Kowt central prison; and 33 visits to the detention facility in Parwan, currently managed by the United States. These visits are very important: they are an essential mechanism to ensure detainees apprehended by Australian forces are being treated appropriately after they have been transferred into the custody of others. To date, our monitoring of ADF apprehended detainees in Oruzgan and Parwan has not identified serious issues of concern that would warrant consideration of the suspension in transfers.

**Number of detainees apprehended**

During the period 1 August 2010 to 7 May 2012, the ADF has detained 1,355 suspected insurgents. Of these, 106 detainees have been transferred to the Afghan authorities at the National Directorate of Security in Tarin Kowt and 70 detainees have been transferred to US authorities at the Detention Facility in Parwan.

Since the commencement of interrogation operations in February this year, approximately 20 per cent of detainees apprehended by the ADF have undergone interrogation. Of these, six detainees have subsequently been transferred to US custody in Parwan and three detainees have subsequently been transferred to Afghan custody in Oruzgan.

The size and composition of the interrogation capability is sufficient to support the requirement of our forces operating in Afghanistan.

**Allegations of mistreatment**
Australia takes all allegations of detainee mistreatment seriously. I have provided regular updates on complaints and allegations of mistreatment the ADF has received against it since August 2010.

During the period 1 August 2010 to 7 May this year, there have been 91 allegations of mistreatment against Australian forces. Of these, 83 related to treatment or an incident at the point of capture. To date, 79 of these allegations have been considered and have been assessed as unsubstantiated. Twelve allegations remain under investigation.

Once reported, allegations are promptly assessed or investigated. This process may include taking witness statements, examining any medical evidence, as well as reviewing records and closed circuit television (CCTV) footage.

Allegations and the outcomes of any assessments are reported to the International Security Assistance Force and key human rights organisations.

**CCTV**

Australia's Initial Screening Area (ISA) was designed to be closed circuit TV (CCTV) monitored 24 hours a day to ensure the humane treatment of detainees in our custody, and to protect the ADF personnel working within the ISA from erroneous allegations. I have previously reported to the House on the temporary loss of CCTV footage at the ISA.

CCTV footage can be reviewed as part of the ADF's process for assessing allegations. It is an integral part of Australia's governance measures for detention operations within the ISA.

**Juveniles and children**

Under Australia's detainee management policy, the ADF may apprehend juveniles suspected of insurgent activity who pose a threat to international security assistance forces and the security of the local population. Juveniles are categorised as people between the ages of 15 and 17.

All juveniles apprehended by the ADF while on operations in Afghanistan are treated humanely, with dignity and respect, and in accordance with all of Australia's obligations under domestic and international law.

There are some circumstances where children under the age of 15 may be detained by the ADF in Afghanistan. In all cases, children under the age of 15 are treated in accordance with the international Convention on the Rights of the Child.

**Detainee management issues**

On occasion some issues do arise with respect to the implementation of our detainee operations. In accordance with the government's commitment to transparency, I now update the House on these issues.

**Allegations of procedural misconduct**

In February 2011, I advised in a public update on detainee management that in late January 2011 the Australian Defence Force Investigative Service (ADFIS) had initiated an investigation into allegations made by a Defence member that previous members of the Detainee Management Team in Afghanistan, responsible for managing the ADF Initial Screening Area, the ISA, at Tarin Kowt, may not have complied with procedures relating to the management and administrative processing of detainees.

As I have advised the House on a number of occasions since, that matter remained under consideration throughout 2011. I committed to advising on the outcomes of that investigation in due course. I am now in a position to do so.

Following the ADFIS investigation and subsequent referral of a brief of evidence to the Director of Military Prosecutions, three members of the previous Detainee Management Team have been charged with disciplinary offences relating to falsification of service documents relating to detainees.

There is no allegation or evidence to suggest that the detainees were mistreated by the Detainee Management Team.
As this matter is now the subject to disciplinary proceedings, I am not proposing to comment further at this stage. Once these proceedings are complete, I will provide a further update to the House on this matter.

**Review of questioning techniques**

The ADF is conducting a review into aspects of the questioning techniques used during the initial screening of detainees in Afghanistan during 2010 and 2011.

During 2010 and 2011, the ADF was limited to conducting tactical questioning and debriefing of detainees apprehended in Afghanistan.

The Chief of the Defence Force, the CDF, has advised that a recent review of records from this period has identified the possible use of unauthorised questioning techniques when interviewing detainees in the ISA during this period.

The irregularities identified during the possible use of unauthorised questioning techniques are limited to inappropriate language and do not include—do not include—any alleged physical mistreatment of detainees in the ISA by ADF personnel.

Again, once this review is complete, I will provide a further update to the House.

**Detention facility in Parwan**

The final matter I wish to advise the House on relates to the United States run Detention Facility in Parwan.

Australia's detainee transfer arrangements include the ability for those insurgents assessed as posing a serious and continued threat to Australian or ISAF forces, and the Afghan people, to be transferred to the Detention Facility in Parwan.

The United States and Afghanistan signed an agreement on 9 March this year to commence the transfer of the Detention Facility in Parwan to Afghan control. It has always been Australia's understanding, and expectation, that the Detention Facility in Parwan would transition to Afghan control at an appropriate time.

This is a positive development for the Afghan government and the Afghan authorities and is a step towards the transition of security across Afghanistan.

There are currently 56 detainees apprehended by the ADF in the Detention Facility in Parwan who would be included in the memorandum signed by the United States and Afghan governments.

Australia has a detainee transfer arrangement with the Afghan government which includes assurances that detainees apprehended by the ADF and held in Afghan custody will be treated humanely. The arrangement also provides access for Australian officials to monitor the welfare of ADF transferred detainees.

These detainees have been regularly monitored by the Interagency Detainee Monitoring Team and, to date, no major concerns have been identified with their treatment.

I discussed the transition of the Detention Facility in Parwan with my Afghan counterpart, Minister Wardak, in Brussels recently, and with the Afghan Minister for Foreign Affairs, Minister Rassoul, in Kabul recently. I asked for, and was given, assurances that as the Detention Facility in Parwan transitions to Afghan control, Afghanistan would ensure continued access for Australian officials to monitor detainees transferred to the Detention Facility in Parwan by the ADF. **Summary**

I will continue to provide regular updates to Parliament and the Australian people on ADF detention operations in Afghanistan, as well as on the broader aspects of Australia's engagement in Afghanistan.

Madam Deputy Speaker, I table a paper, tabled in conjunction with my ministerial statement and I ask leave of the House to move a motion to enable the honourable member for Fadden to speak for 14 minutes.

Leave granted.
Mr STEPHEN SMITH: I move:

That so much of the standing and sessional orders be suspended as would prevent Mr Robert speaking for a period not exceeding 14 minutes.

Question agreed to.