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Federal police blame ‘oversight’ for delay in Australian review of Sri Lankan war crime allegations

AFP not aware of ‘administrative oversight’ until letter from justice groups seeking update on 2019 complaint about Jagath Jayasuriya

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Thu 31 Mar 2022 03.30 AEDT

Federal police blamed an “administrative oversight” for huge delays in reviewing war crime allegations against a Sri Lankan man as he travelled to and from Australia, documents show.

In 2019, human rights groups wrote to the [Australian federal police](#) warning that Jagath Jayasuriya, a retired Sri Lankan general, “has entered Australia and may still be in the jurisdiction”.

Jayasuriya is [accused in multiple lawsuits](#) of overseeing war crimes against separatist Tamils in the last stages of the country’s bloody civil war in 2009 - allegations which the Sri Lankan military rejects.

The war crimes lawsuits, based on evidence gathered by the International Truth and Justice Project (ITJP), said he was in charge of troops in Sri Lanka's north-east who allegedly abducted, tortured and killed civilians, attacked hospitals and committed acts of sexual violence.

The AFP received detailed evidence from the Australian Centre for International Justice (ACIJ) in 2019 and told the group it took "such matters seriously" but would require the consent of then attorney general Christian Porter to investigate. Porter's office later told the ACIJ it was not appropriate for the attorney general to get involved in a decision on whether a prosecution should take place.

In August last year, the two human rights groups wrote to the AFP, seeking an update and pointing to a recent UN report which [found Sri Lanka](#) was allowing impunity for those suspected of atrocities in the civil war.

In reply, the AFP said there had been an "administrative oversight" that meant the matter was "not allocated to an investigations team for review".

The AFP said it had not been aware of the oversight "until receipt of your recent letter". "I can advise, however, that ... your original report has been assigned for review by the special investigations team, counter-terrorism and special investigations command," the AFP said.

Last month, the AFP wrote to the two human rights groups to tell them it had decided not to commence an investigation, partly because "general Jagath Jayasuriya is not in Australia".

The AFP said the Sri Lankan government had set up internal investigations into the war crimes allegations and that the Australian government had previously endorsed that process.

The human rights groups, along with the Tamil Refugee Council, are calling for an inquiry into the AFP's handling of the complaint.

"The AFP must answer for their abject failure in the handling of a serious criminal referral and our warning that an accused war criminal was roaming freely in Australia," the ACIJ executive director, Rawan Arraf, said.

The groups have also called for Australia to use the new [Magnitsky-style sanctions](#) against Jayasuriya.

The ITJP executive director, Yasmin Sooka, said Australia must not allow itself to become a "haven for alleged war criminals from Sri Lanka" given its large Tamil

community.

“Magnitsky sanctions are an important tool for the international community to assert the truth for victims in situations when the country itself is unwilling to act,” Sooka said.

The Guardian sought a response from Jayasuriya, via the Sri Lankan government through the country’s boxing selection committee - which he has served on - and via his Facebook page.

No response was received. But both the Sri Lankan military and former Sri Lankan president Maithripala Sirisena have strongly denied the allegations.

After the lawsuits in South America, Sirisena **told a convention of his Sri Lanka Freedom party** that he would protect Jayasuriya.

“I state very clearly that I will not allow anyone in the world to touch Jagath Jayasuriya or any other military chief or any war hero in this country,” he said.

Also speaking **after the lawsuits**, brigadier Roshan Seneviratne, a military spokesperson, said the accusations against Jayasuriya were false.

“We maintain that these allegations are false,” Seneviratne said. “Although the LTTE [Liberation Tigers of Tamil Eelam] was defeated by the military, their ideology is still alive and that is what we see in these allegations.”

The UN estimates up to 70,000 people died in the final phase of the 30-year civil war, when the LTTE were defeated.

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Last year, the **UN Human Rights Council agreed** to set up a team of investigators to collect evidence of atrocities and abuses. That followed a **report from the UN office of the high commissioner for human rights**, which found impunity for perpetrators of human rights violations was “more entrenched than ever”, more than a decade after the civil war ended.

“While the criminal justice system in Sri Lanka has long been the subject of interference, the current government has proactively obstructed or sought to stop

ongoing investigations and criminal trials to prevent accountability for past crimes,” the UN report said.

An AFP spokesperson said it “conducted a comprehensive assessment of the report from the ACIJ”.

“AFP inquiries determined there were more appropriate investigative mechanisms than the Australian judicial system to address the allegations in this particular matter,” the spokesperson said.

“These include Sri Lanka’s current domestic commission of inquiry into war crimes allegations that was announced in January 2021 and legal action filed by a non-government organisation with the international criminal court.”

The Australian foreign minister, Marise Payne, was approached for comment.

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