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CHIEF OF THE DEFENCE FORCE**

**Statement to the
2012-13 Budget Estimates Hearing
28 May 2012**

Chair, Senators, I would like to begin this morning by addressing a number of serious allegations raised in News Limited papers today about the repatriation and handling of the remains of Australian Defence Force personnel from Afghanistan and the handling of Afghan remains.

I am deeply disappointed at this attempt to sensationalise what is a very sensitive issue for the families of our fallen and their comrades. In speaking to the families concerned over the past few days their reactions to the intention to publish this story have ranged from "un-Australian" to "incredibly insensitive" and words I will not repeat in this forum. All have expressed their disgust that a newspaper would seek to make a story of these issues. Publication today is particularly insensitive given two of the families are trying to deal with the first anniversary of their loved one's death.

The articles published this morning did not prompt a series of investigations as reports suggest. The issue of the orientation of caskets was raised in mid 2011 and is the subject of an Inspector General Australian Defence Force inquiry initiated in January 2012. However I felt so strongly about the allegations being made and the potential to cause undue distress to the soldiers' families and members of the ADF that I ensured that the Department's response to the journalist's questions last week were drawn from inquiry outcomes to date and that they were quite detailed. I spoke to the journalist at length on two occasions and I also spoke to the paper's editor yesterday in an effort to ensure the facts were accurately reflected in the story.

Defence photographic records show that on three occasions, once in 2008 and twice in 2011, that caskets were used incorrectly during the initial part of the return journey from Afghanistan. In two instances the orientation of the caskets was corrected when the remains were transferred to mortuary facilities in the Middle East and in the third case the error was reverently corrected before departing Al Minhad Air Base in the UAE. Let me make it very clear that all inquiries to date have shown that the bodies were treated with the utmost respect and dignity. Importantly, the evidence to date indicates that the bodies were correctly oriented in the caskets at all times. Statements from the Australian Defence Force personnel who escorted and cared for these men on their journey home support this.

Further, for continuity purposes, Defence authorities conduct a physical check of the human remains at each point of transfer during the repatriation. This involves

opening the casket to re-confirm identity. Let me make it very clear again that at no time during these procedures has a misalignment of the bodies been identified and at no time since 2008 has Defence received any advice from Australian Coronial authorities to indicate that the bodies of Australian Defence Force (ADF) members were transported incorrectly. This is supported by ADF medical officers who have attended the autopsies of all ADF members killed in Afghanistan since 2008. Medical experts have advised me that physical evidence would have been present if the bodies were not transported correctly.

The cause of the incorrect orientation of the caskets on these three occasions is subject to an inquiry by the Inspector General ADF which commenced in January 2012. As one family member put it, it was an honest mistake that was quickly corrected. Clear guidance on the correct use of caskets has been issued. I will keep you informed of this matter.

The news article today also refers to allegations that some ADF human remains were not repatriated in accordance with Defence policy. Defence was aware of these allegations in mid 2011 and they are the subject of an Inspector General ADF inquiry that was initiated in January 2012. Without pre-empting the outcome, the inquiry to date has shown that the remains were handled with the utmost respect and dignity.

The inquiry findings to date show that what appears to have occurred was a difference of professional opinion between medical staff and investigators about coronial requirements for handling medical devices in the human remains. Medical staff thought devices should remain in-situ. Investigators thought they should be removed. This difference of technical opinion has been resolved and addressed by the issue of an Australian Defence Force Investigative Service Technical Bulletin. This Technical Bulletin was issued shortly after the matter was first brought to attention.

I would also like to put on the public record that Defence's standard operating procedures in relation to the handling of human remains were reviewed and endorsed last August by the Australasian Coronial Society, whose membership consists of coroners from all Australian States and Territories and New Zealand

If I could turn now to the other allegations raised in media reports today, Defence inquiries into these matters were not initiated in response to these articles. Facts were provided to the journalist in a detailed response on the basis of inquiries conducted around the time of the incident.

As the Department stated, any reference to the death of an Afghan local national as "weekend at Bernie's" is derogatory, ill informed, and does not accurately reflect the facts.

We understand that this allegation may relate to an Afghan insurgent who was wounded in an engagement with Australian forces in October 2010. This insurgent was immediately treated by Australian forces, and transferred under custody to the ISAF Role 2 medical facility at Tarin Kot where he was treated but subsequently died.

Afghan staff at the Tarin Kot hospital, as the appropriate local authorities, arranged for local transportation to transfer the remains back to the insurgent's home. It is understood that the local community held a funeral service for the insurgent.

The vehicle used to transport the man's body may have also been used as a taxi and while the practicalities for handling local national human remains in Afghanistan may not accord with Australian norms, the handling of the remains in this instance was in accordance with the ISAF Role 2 practice at the time.

Defence subsequently reviewed this matter and identified that the local procedures in place for handling local national human remains were not clear or co-ordinated and has since developed more specific guidance to the ADF on its responsibilities in the management of local national human remains, including for detainees. At no time did I blame the Dutch or the International Security Assistance Forces for this incident.

Regarding allegations of the detention of the dead insurgent's son - contrary to claims by others. ADF personnel did not transfer the deceased man's son to US authorities.

The individual's son sought to enter the Tarin Kot base to find his father.

Upon arrival at the base, the son was screened by ISAF officials, as is standard practice for all local nationals seeking to gain access to the Multi-National Base in Tarin Kot. This is a force protection measure.

Following this screening process it was determined that the ADF should detain the son as a suspected insurgent, or associate of a suspected insurgent.

ADF personnel detained the individual and transferred him to the ADF Initial Screening Area. The individual, who was identified as 16 years old, was detained for a short time to determine his identity and was questioned briefly about his father. He was released from detention within two hours.

A routine inquiry known as a Quick Assessment reviewed the available material, including the Prisoner Under Custody report, and determined that while in ADF custody, the individual was treated in accordance with Australia's domestic and international legal obligations.

Contrary to the news article, the Quick Assessment does refer to the issue of Tactical Questioning. Further, there is no record to substantiate the claim that the son was transferred to US custody by the ADF. In fact the opposite occurred.

The Australian Defence Force is fighting a war in a complex operating environment. Australian forces are highly trained, and very professional. However, in the complexity of these operations, there may be instances where some conduct may be alleged to be unlawful, or inappropriate.

Any attempts to compare these claims to events at Abu Ghraib in 2006 are vexatious and a gross misrepresentation of the facts.

Our detainee management framework draws on applicable international standards and advice from international organisations, including the International Committee of the Red Cross (ICRC). In developing our detainee management framework, we have worked to ensure it is robust and reflects best international practice and governance arrangements and that it is consistent with the Laws of Armed Conflict and the relevant Geneva Conventions on international humanitarian law.

Our detainee management systems and facilities are subject to external audit and visits by the International Committee of the Red Cross (ICRC).

Defence takes such matters seriously. Administrative inquiries or disciplinary investigations may be conducted, to determine whether or not behaviour and procedures were proper and lawful, and whether lessons can be learnt from specific matters to improve our processes.

Lessons learnt are applied to our training, pre-deployment and during operations, to ensure that Australian soldiers maintain the highest standards of operational conduct. We also work closely with independent authorities, such as the various human rights organisations and we make every effort to be transparent in these matters. In keeping with this transparency I will release the full response to the journalist's questions on the Defence website today.

Chair, Senators, I conclude by again reflecting on the reactions of the families affected by these news articles. In the words of one family, the publication is "un-Australian".