



## BRIEFING PAPER

Number 08993, 30 June 2020

# Service Police review

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### Summary

The Army, RAF and Royal Navy each have their own police services. They are collectively known as the Service Police.

The Ministry of Defence published a review of the Service Police and the Service Justice System in early 2020. The review will inform the next Armed Forces Bill, which must be passed by Parliament in 2021. The review supported retaining three separate Service Police organisations but recommended the creation of a tri-service defence serious crime unit. The review also recommended Service Police should no longer be responsible for investigating the most serious offences (murder, rape and manslaughter) in the UK.

This briefing paper explains who the Service Police are, what they do, and the outcome of the review. The Library will publish a paper on the Service Justice System Review at a later date.

## 1. The Service Police

The Service Justice System provides a legal framework that ensures Service personnel are subject to a single disciplinary code that applies wherever they are serving.

The disciplinary systems of the three services – the Army, the Royal Navy and the Royal Air Force (RAF) – were drawn together under a common system by the *Armed Forces Act 2006*. While the Service Justice System mirrors the criminal law in England and Wales as closely as possible it also provides an avenue to enforce standards that are distinctive to the Armed Forces.

Each of the three services has its own police force: The [Royal Military Police](#) (RMP) in the Army, the [Royal Air Force Police](#) (RAFP) and the [Royal Navy Police](#) (RNP). Collectively they are known as the Service Police. They are empowered by the *Armed Forces Act 2006* to investigate service offences.

## 2 Service Police review

Service offences include all criminal offences under the laws of England and Wales, as well as some additional disciplinary offences unique to the military, for example absence and misconduct.<sup>1</sup>

The three services share common characteristics with but are distinct from civilian, Home Office police forces.<sup>2</sup> The most obvious difference is that Service Police are deployable: the Royal Military Police states it exists “in order to deploy”. Royal Navy police officers may deploy onboard ships.<sup>3</sup> There is a joint policing presence at the three permanent joint operating bases in the Falklands, Cyprus and Gibraltar. On operations, one force may take the lead - the Royal Military Police led all investigations in Iraq and Afghanistan, for example.<sup>4</sup>

More broadly, Service Police (SP) are intended to support the delivery of military capability: they support the service justice system in maintaining discipline in the armed forces. This is also a function of Commanding Officers (CO), who are empowered by the *Armed Forces Act 2006* to investigate and administer justice for certain offences (listed in Schedule 1 of the Act) without the need for an SP investigation. CO’s must refer certain offences, listed in schedule 2 of the Act, to the SP for investigation. The investigatory powers of the Commanding Officer is not within the remit of the Service Justice System Policing Review.

There is a separate, national civilian [Ministry of Defence Police](#) (MDP) force, established by the *Ministry of Defence Police Act 1987*. Its primary function is to provide civil policing and armed security for the MOD’s nuclear sites and other key defence assets in the UK. The MOD Police largely falls outside of the remit of the service police review.<sup>5</sup>

### 1.1 The Service Police Review

In 2017 the Ministry of Defence commissioned a [review of the Service Justice System](#), led by His Honour Shaun Lyons, a retired senior Crown Court judge. The review was published in February 2020 in two parts. Part one reviewed the service justice system, with a separate report on Service Policing, followed a year later by part two, which contained recommendations for how the system can be improved. All three reports were published at the same time.

The [Service Policing: Service Justice review Policing review](#) was led by the former Chief Constable for Merseyside, Sir Jon Murphy<sup>6</sup>, who made 24 recommendations in total. The policing review also included an audit of the process of domestic abuse and serious sexual offences investigated by the Service Police. This was led by Mark Guinness, a retired Detective Superintendent, who made 13 recommendations. The MOD provided its initial response to some of these recommendations alongside publication of the reports.

This section focuses on the recommendations and conclusions of the policing review on: retaining the separate identities of the SP; creating a new tri-service defence serious crime

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<sup>1</sup> [Service Justice review Policing review, Appendix D](#)

<sup>2</sup> Library briefing paper [Policing in the UK](#) and [Police powers: and introduction](#) explain how police forces work and the powers they have.

<sup>3</sup> Embarked RNP are tasked with additional duties, for example as flight deck officer or assistant unit security officer.

<sup>4</sup> The [Service Justice review Policing review](#) provides a more detailed analysis of the different roles and functions of the Service Police.

<sup>5</sup> The Murphy review states the MDP are subject to the requirements of the criminal justice system rather than the service justice system, which is the subject of the Lyons review. As such, the SP review only considers the MDP in relation to the SJS rather than the CJS.

<sup>6</sup> Professor Sir Jon Murphy of Liverpool John Moores University (Liverpool Centre for Advanced Policing Studies)

unit; transfer responsibility for investigating the most serious crime to civilian police and investigations of domestic abuse. It does not detail every single recommendation.

### **Box 1: The Service Justice System Review (SJS)**

The review, led by HH Shaun Lyons, submitted three reports to the Ministry of Defence in 2018 and 2019. They were published on [Gov.uk](https://www.gov.uk) in February 2020.

Part one consists of two reports:

- Service Justice Review: which looks at the need for the SJS and provides an overview of the system
- Service Justice System Policing Review: which looks at the Service Police and was led by Professor Sir John Murphy. This contains a further report, by Mark Guinness, which is a process audit of domestic abuse and serious sexual offences investigated by the SP.

Part two consists of one report:

- Service Justice Review: which looks at how the system can be improved.

## 1.2 Retain three separate Service Police organisations

### **Box 2: Recommendation 1**

The three Service Police retain their individual identify and responsibility for General Policing Duties and their ancillary non-police functions in support of operational effectiveness.

The Murphy Review was not explicitly asked in its terms of reference to consider the merit of merging the three Service Police organisations. However, it noted that a drive within the Ministry of Defence to reduce the overall SP budget by 20 percent over the next ten years would inevitably raise the possibility of merging the three forces into a single Defence SP. The Review therefore considered the current structure of the SP and the merits of a merger, and recommended retaining the three separate Service Police forces.

## 1.3 Create a new Tri-Service Defence Serious Crime Unit

### **Box 3: Recommendation 2**

A Tri-Service Defence Serious Crime Unit (DSCU) is established following the Home Office police Regional Organised Crime Units model.

Each of the SP organisations has a Special Investigations Branch (SIB) responsible for investigating serious offences. The Review found that proportionally few investigations into serious offences (around 50 out of nearly 3,300 investigations in total in 2017) gave rise to gaps in experience and capability within the SIB to investigate these offences. This resulted in adverse judicial finding and meant victims of crime perpetrated by service personnel “have not been well-served”. Murphy concludes:

The simple truth is that the SP do not investigate enough serious crime to be considered proficient.<sup>7</sup>

<sup>7</sup> Ministry of Defence, “[Service Justice review Policing Review Part one](#)”, 27 February 2020, para 71

To rectify this, and inspired by the development of a network of Regional Organised Crime Units among Home Office police forces – which evolved out of a recognition that smaller forces were struggling to tackle increasingly sophisticated and international organised crime – Murphy suggests a similar reorganisation for the Service Police.

Murphy recommends bringing the three existing Special Investigation Branch (SIB) into a Tri-Service Defence Serious Crime Unit. Recommendations 2 to 7 concern this new unit. This would include all specialist investigative support (recommendation 3). Murphy explicitly recommended SP personnel should retain their individual SP identity and be seconded to the unit (recommendation 4).

### **Secondments to Home Office police forces for investigators**

Murphy recommends all Special Investigations Branch (SIB) investigators are immersed into Home Office police forces, ideally for a minimum of six months, to “gain immersion into day-to-day volume and serious crime investigation” (recommendation 11).

Murphy suggests existing measures, like short-term observational attachments to local police forces, are “wholly inadequate”, and do not provide investigators with the opportunity to put their skills into practice. A longer immersion, or secondment, would, he argues, help plug existing gaps in capability and experience “so that future investigations are more effective and victims’ needs are prioritised”.

Acknowledging the lack of a clear path to granting full civilian police powers to SIB staff, Murphy invites the Home Office to explore the most appropriate means to do (recommendation 22).

### **Government response**

The MOD said, upon publication of the review, that it has begun scoping work on a Defence Serious Crime Unit, led by a former Detective Superintendent. The MOD said this work will also look at the other policing recommendations, such as working more closely with the Home Office police and secondments.<sup>8</sup>

## **1.4 Transfer investigations of the most serious offences in the UK to civilian police**

### **Box 4: Recommendation 10**

In accordance with the recommendation of HH Lyons for the Court Martial jurisdiction to no longer include the most serious offences (murder, rape and manslaughter) when committed in the UK (except where the consent of the Attorney General is given), in future the SP should no longer investigate those offences in the UK. Such investigations should revert to the civilian police who should enter into a formal protocol to conduct joint civilian led/SP engaged investigations.

Notwithstanding the creation of the new serious crimes unit, Murphy recommends civilian police assume responsibility for investigating the most serious offences (murder, rape and manslaughter).

This recommendation is in alignment with the recommendation by HH Shaun Lyons, in his review of the Service Justice System, for the Crown Prosecution Service (CPS) to become

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<sup>8</sup> [Service Justice System Review](#), Ministry of Defence, 27 February 2020

responsible for the prosecution of the most serious crimes committed in the UK, rather than the Service Prosecuting Authority (SPA).

Murphy says Lyons' recommendation raises the question of whether the SP should retain jurisdiction for investigation in the UK. Murphy argues jurisdiction for investigation should revert to the civilian police, and recommends the SP and National Police Chiefs' Council enter into a protocol creating a requirement for civilian police-led joint investigations.

Upon publication of the review, the MOD said it rejected Lyons' recommendations to remove the ability of the SPA to prosecute the most serious offences.<sup>9</sup> The MOD did not directly comment on Murphy's recommendation regarding SP jurisdiction.

However, the MOD updated its response to the review on 24 June to say it is looking again at whether the SPA should prosecute these offences:

The Secretary of State for Defence has decided to give fresh consideration to the recommendation on legislative changes to the jurisdiction of the Court Martial for the offences of Murder, Manslaughter and Rape when committed in the UK. This review is underway and due to complete by Autumn 2020.<sup>10</sup>

The Guardian and the Telegraph had previously suggested Ben Wallace was minded to reconsider the MOD's initial opposition. In May 2020 the Guardian reported that three women serving in the armed forces have begun legal action aimed at preventing the military courts from trying UK rape cases, noting the conviction rate is five to six times lower than in civilian courts. The [Telegraph](#) and the [Guardian](#) then reported in early June that Wallace told the women's lawyer, at the [Centre for Military Justice](#), he is giving "fresh consideration to the matters that your clients seek to challenge". The Centre for Military Justice believes that the SP [should not investigate serious crimes](#), especially sexual offences, in the UK, and that much more can be done to improve the SP's independence and competence in relation to their work overseas.

## SP would retain investigatory powers for serious offences overseas

### Box 5: Recommendation 12

Consideration should be given to civilian police investigators deploying in support of the SP when investigating serious crime overseas.

The recommendation regarding murder, rape and manslaughter discussed above only applies to offences committed in the UK. Murphy says it would be an unrealistic step-change to expect Home Office police forces to train and resource their staff to deploy in hostile and challenging environments overseas (except in an advisory capacity). The MDP do not have extra-territorial jurisdiction.

Murphy therefore suggests consideration should be given to deploying civilian police investigators in support of the SP when investigating serious crimes abroad.

<sup>9</sup> [Service Justice System Review](#), section on jurisdiction of the SJS, Ministry of Defence, 27 February 2020 (accessed 22 June 2020)

<sup>10</sup> [Service Justice System Review](#), section on jurisdiction of the SJS, Ministry of Defence, updated 24 June 2020

## 1.5 Investigating domestic violence and sexual offences

### **Box 6: Recommendation 15**

The recommendations made in the independent audit of the Process Audit of Domestic Abuse and Serious Sexual Offences investigated by the Service Police at Appendix H should be implemented as soon as practical.

### **Recommendation 16**

All instances of Domestic Abuse should be subject to mandatory referral by the CO to the SP (who then refer on to the civil police).

A separate audit of the process by which domestic abuse and serious sexual offences are investigated by the Service Police was conducted by Mark Guinness. Murphy explains that during the course of the review he had some concern about the processes carried out by SP in their response to domestic abuse and also in the treatment of victims in offences of rape and other sexual assault. The report states this was not to suggest that these allegations were being investigated poorly. The Chief of Defence People authorised an audit of both disciplines. Murphy recommends the implementation of all 13 recommendations made by the audit.

One of the main recommendations is that all incidents of domestic abuse brought to the attention of the Chain of Command should be reported to the service police. He found current policy on domestic abuse and sexual violence (JSP 913) lacked clarity on this matter. He also suggested the policy be amended to clearly define primacy and ownership of rape and serious sexual offences.

Guinness identified a number of concerns about the collection and provision of accurate data and made specific recommendations regarding the incident management and crime recording systems.

Guinness also found a lack of qualified Forensic Medical Examiners among the Services medical units, and recommends consideration is given to training medics across the services to enable them to provide this service.

## 1.6 Oversight and governance

Oversight and governance are outside the terms of reference of the policing review. Nonetheless, Murphy recommends the SP and HM Inspectorate of Constabulary and Fire and Rescue Services cease their current “cosy” relationship, by which the SP negotiate with the Inspectorate what areas they consider should be investigated (recommendation 20).

In part 2 of the Service Justice Review, Lyons recommends creating a new independent body to deliver independent oversight of the SP. This should be led and funded by the MOD, but be at arms-length. All those subject to the Armed Forces Act should be able to make a complaint. Lyons says clear distinction should be drawn as to which complaints fall to the newly created independent body and which to the Service Complaints Ombudsman. This suggestion requires legislation (recommendation 44 of the Service Justice review: part 2).

## 1.7 Other issues

The Home Office and MOD should consider the granting of *Proceeds of Crime Act (2002)* powers to the SP (recommendation 24). Lyons says in the Service Justice review: part 2 that this recommendation is now with the Home Office and should be allowed to progress (recommendation 17).

The review recommended further work to determine the appetite and feasibility for SP to issue fixed penalty notices and cautions (recommendation 23). However, Lyons recommends that this should not be pursued (SJR: part 2 recommendation 18).

The Murphy review discussed data collection. The Service Justice review Part 2 recommended consistent and mandatory recording of crimes reported to Service Police (and Commanding Orders) through existing crime recording systems.

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