



MINISTRY OF DEFENCE

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Michael Lewis
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Our reference: 25-04-2005-094904-004

Dear Mr Lewis,

Request for Information - Notification of Excess Costs

Your correspondence dated 24 April 2005 has been considered to be a request for information in accordance with the Freedom of Information Act 2000. I apologise for the protracted delay in responding to you. You will no doubt have seen that the Ministry of Defence (MOD) has had some correspondence with the House of Commons on this issue which has been reported on in the media very recently. I am responding on behalf of the information holders.

Until the beginning of this year the MOD had been told by United States (US) officials, although not in writing that the US had not used Mark 77 firebombs in Iraq at any time, and this was the basis of our advice to Ministers and their response to Parliament at the end of 2004 and the beginning of 2005. We then, regrettably, later discovered that this was not the case and have corrected the position.

According to the reports for 1 Marine Expeditionary Force (1 MEF), serving in Iraq in 2003, the US used a total of 30 MK 77 weapons in Iraq in between 31 March and 2 April 2003, during the combat phase of Operation Iraqi Freedom, against military targets away from civilian areas. The US has also confirmed that these weapons have not been used in Iraq since April 2003.

The MK 77 firebomb does not have the same composition as napalm, although it has similar destructive characteristics. The Pentagon has also told us that owing to the limited accuracy of the MK 77, it is not generally used in urban terrain or in areas where civilians are congregated.

The information above was provided to us in writing by the US on 10 May 2005. The above is a summary of the key points of that communication. We have received no further communications from the US on this issue since then.

Your request was couched in broad terms and it has been assessed that the costs for which we are permitted to charge in searching for the information you have asked for will exceed the £600 limit. Under the terms of Section 12 of the FOI Act, this means that we are not obliged to comply with your request. Naturally, if you would like to reduce or refine your request to bring the cost of compliance under the limit, then we can look at this again. I would, however, point out that it is very unlikely that we would actually come across anything that had been sent to the MOD from the Departments of the United States Government or the United States Military over the use of MK 77 bombs by US armed forces in Iraq or the use of any other incendiary bombs or firebombs including 'napalm' by Coalition forces in Iraq between March 2003 and 9 May 2005 which is when we received your request.

I hope the information above is helpful, if you are dissatisfied with this decision or wish to complain about any aspect of the handling of this request, then you should contact the undersigned in the first instance. Should you remain dissatisfied, then you may apply for an internal review by contacting the Director of Information Exploitation, 6th Floor, MOD Main Building, Whitehall, SW1A 2HB.

If you are still unhappy following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.informationcommissioner.gov.uk>

Yours sincerely

Susie Myatt