Statement made to the House of Commons by Rt Hon John Hutton MO, UK Secretary of State for Defence

I wish to make a statement on the results of a recent MOD review of records of detention resulting from security operations carried out by UK Armed Forces in Iraq and Afghanistan. It is essential I believe that our Armed Forces are able to detain people who pose a real threat, either to our troops, those of our allies, or to the local population that we are seeking to protect. These operations are conducted by our forces with courage, integrity and professionalism and in undertaking these operations we take fully into account our obligations under international law.

In February last year, allegations were made that persons captured by UK forces in Iraq were transferred to US detention facilities were mistreated and removed unlawfully from Iraq.

My predecessor rightly launched a review into these matters. Much of the work was led personally by a very senior serving British Army General. My rt Hon Friend was right to satisfy himself that appropriate procedures were in place to ensure that persons captured by UK forces and who were transferred to US detention in Iraq were treated in accordance with UK policy and legal requirements. Separately, he also set in hand work to examine all available documentary material relating to detention operations in Iraq and Afghanistan, and to review the parliamentary record.

The Ministry of Defence has now completed a detailed review of records of detention in Iraq and Afghanistan since the start of each campaign and I am today, Madam Deputy Speaker, placing in the Library details of all detentions in southern Iraq in each year since 2003.

In Iraq, we have reviewed the record of detainee numbers listing all individuals held in UK detention facilities, first at the Shaibah logistics base and subsequently at the Contingency Operating Base at Basra. In December 2003, when the facility at Shaibah was first opened, records show that 105 internees captured by UK forces were transferred into it from US custody at Camp Bucca; a further 19 were released at this stage. After December 2003, an additional 546 individuals were interned in these facilities. The majority, 491, were released once it was judged that they no longer represented an imperative threat to security. 141 were transferred to the Iraqi authorities. A further 12 escaped, 6 were transferred to US detention facilities, and 1 as hon. Members will know, sadly died in custody.

In conducting this review, it became apparent that in three parliamentary answers since February 2007 ministers had overstated by approximately 1,000 the numbers of detainees held by UK forces in the period since January 2004 and nine further answers contained minor inaccuracies. I have written separately to Honourable Members setting the record straight and have placed copies also in the Library of the House and I want to apologise unreservedly for

these inaccuracies.

We have also reviewed our records of detentions in the period from March to December 2003 when large numbers of individuals were captured by UK forces during the initial high intensity combat phase of the operation. Many of them were held for very short periods of time or were transferred to the US facility at Umm Qasr and then also released. This facility was run by the UK from late March to mid April 2003 at which point it was then transferred to US control. Given the circumstances in which the database was compiled, we cannot be confident that the data we hold today is entirely complete. On a small number of occasions, answers or statements provided by my Department have included figures relating to the position in 2003, which indicated that we initially held up to 5000 Iraqi prisoners during this period of time. However, a significant number of these were held on behalf of other coalition forces. We now believe that UK forces transferred around 3000 individuals to the detention facility at Umm Qasr between March and December 2003. However, I would ask the House to treat this figure as a best estimate.

In areas outside Multi-national Division South East, UK forces have undertaken operations to capture individuals who were subsequently detained by the United States. These individuals do not feature in the data I set out above today.

I want, however, to reassure the House that the review has however concluded that UK forces have exercised appropriately their responsibilities towards all captured personnel handed to US custody whether in MND SE or elsewhere, and uncovered no evidence of mistreatment.

During the final stages of the review of records of detentions, we found information about one case relating to a security operation that was conducted in February 2004, a period which hon. Members, I am sure, will recall saw an increased level of insurgent activity as the transfer to Iraqi sovereignty drew closer. During this operation, two individuals were captured by UK forces in and around Baghdad. They were transferred to US detention, in accordance with normal practice, and then moved subsequently to a US detention facility in Afghanistan. This information was brought to my attention on 1 December 2008 and I instructed officials to investigate this case thoroughly and quickly so I could bring a full account to Parliament. Following consultations with US authorities, we confirmed that they transferred these two individuals from Iraq to Afghanistan in 2004 and they remain in custody there today.

I regret that it is now clear that inaccurate information on this particular issue has been given to the House by my Department. I want to stress, however, that this was based upon the information available to Ministers and those who were briefing them at the time. My predecessors as Secretaries of State for Defence have confirmed to me that they had no knowledge of these events. I have written to the Honourable Members concerned correcting the record, and am placing a copy of these letters in the Library of the House and, again, Madam Deputy Speaker I want to apologise to the House for these errors.

The individuals transferred to Afghanistan are members of Lashkar e Tayyiba, a proscribed organisation with links to al-Qaeda. The US Government has explained to us that they were moved to Afghanistan because of a lack of relevant linguists necessary to interrogate them

effectively in Iraq. The US has categorised them as unlawful enemy combatants, and continues to review their status on a regular basis. We have been assured that the detainees are held in a humane, safe and secure environment meeting international standards which are consistent with cultural and religious norms and the ICRC has had regular access to the detainees.

A due diligence search by US officials of the list of all those individuals captured by UK Forces and transferred to US detention facilities in Iraq has confirmed that this was the only case in which individuals were subsequently transferred outside of Iraq.

This review has established that officials were aware of this transfer in early 2004. It has also shown that brief references to this case were included in lengthy papers that went to the then Foreign Secretary and Home Secretary in April 2006. It is clear that the context provided did not highlight its significance at that point to my Rt Hon Friends.

In retrospect, it is clear to me that the transfer to Afghanistan of these two individuals should have been questioned at the time. We have discussed the issues surrounding this case with the US Government and they have reassured us about their treatment but confirmed that as they continue to represent significant security concerns, it is neither possible or desirable to transfer them to either their country of detention or country of origin. The UK, in particular, has no power to detain suspects any longer in Iraq, and only limited powers of detention in Afghanistan.

For Afghanistan, robust checks have confirmed that we have detailed and precise numbers of all those detained by UK forces since we deployed Task Force Helmand in July 2006. As of 31 December 2008, our database holds the capture details of 479 individuals, including 254 who were subsequently transferred to the authority of the Government of Afghanistan, 217 who were released and 8 who died as a result of injuries sustained on the battlefield.

We hold capture details relating to a total of 7 further individuals detained by UK forces between 2001 and April 2006 and I believe that this represents a complete record. I am also placing the complete details of the detainee numbers for Afghanistan in the Library of the House.

Our detention operations in Iraq and Afghanistan are underpinned by arrangements we have in place with our international partners. We also have a Memorandum Of Understanding in place with the Government of Afghanistan, signed on 23 April 2006, covering the treatment of individuals detained by UK forces and transferred to Afghan custody. We have an Memorandum Of Understanding with Iraq, agreed on 8 November 2004, on the treatment of detainees transferred to Iraqi custody. Iraqi Interior, Justice and Defence Ministers have confirmed to us that Iraqi detention procedures remain consistent with the principles set out in that Memorandum Of Understanding. For the initial stages of the campaign in Iraq, we also had in place a Memorandum Of Understanding with the US and Australian governments covering arrangements for the treatment and transfer of detainees. We worked on the mutual understanding that the key provisions of this Memorandum Of Understanding continued to apply until it was replaced last year by a further Memorandum Of Understanding with the US. We have also confirmed with the US that the provisions on arrangements for the treatment and transfer of captured prisoners remain under the new legal framework in Iraq, and that no person captured with assistance from UK Forces will be removed from the territory of Iraq without prior

consultation with the UK.

I would like, Madam Deputy Speaker, to finish with this final observation. We ask our armed forces to operate in highly dangerous environments, where there is often a limit to the capacity of local agencies to enforce security and the rule of law. In those circumstances, it is essential that we provide our forces with the authority and the capabilities to deal effectively with individuals who represent a serious threat to our troops or those that they are there to protect; these two detainees I referred to earlier fall into that category. We recognise the sensitivity of detention operations. We have put in place rigorous safeguards to ensure that detainees are treated properly. We will continue to carry out detention operations in accordance with our legal and policy obligations, in concert with the US and other Allies. This is, Madam Deputy Speaker, and will remain, absolutely central to the way our Armed Forces conduct these vitally necessary operations