

Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

SUMMARY OF PROCEEDINGS: MONDAY 17 MAY 2010

Charles Garraway

- Mr Garraway was called to the Bar in 1972 and commissioned into the Army Legal Services (ALS) in 1974. He retired from the army in September 2003, since when he has lectured in military and international law at several universities and academic institutes.
- Immediately before and during Op Telic 1 and 2, he was a colonel in ALS 2 providing advice, as an acknowledged expert on the law of armed conflict (LOAC), on request.
- A manual of guidance, for which the witness was the principal editor, was published in 2004 but a draft manual was provided for Telic in 2003.
- Concerns about the treatment of prisoners in the JFIT (during Op Telic 1 and 2) were not brought to his attention, although the applicability of the European Convention on Human Rights was discussed with Col Mercer. Col Garraway was (and is) firmly of the view that the LOAC requirements exceeded those of the ECHR in any case.

Neil Brown

- Mr Brown is recalled as a witness, having previously given evidence on 29 March 2010.
- From October 2002 to December 2003, he was posted to the Joint Force Headquarters (JFHQ) as a legal adviser with the rank of Commander.
- In 2003, he advised that hooding was permissible only in very limited circumstances (including the absence of other means of sight deprivation) and only for a period of time that was absolutely necessary.

Sir John Reith

- Sir John joined the army in 1967 and was appointed Chief of Joint Operations (CJO) in August 2001. He retired in March 2008 with the rank of full General.
- During Op Telic 1 and 2 (to July 2004), he was CJO and Joint Commander of UK Forces, responsible for planning and advising the Chiefs of Staff and Ministers on the conduct of military operations in Iraq.
- In 2003, he believed that hooding was acceptable for security reasons only. By 2004, instructions to stop using hoods and to revise the training regime had been issued by Sir John in response to the emotive and adverse publicity that had been attracted, especially since the death of Baha Mousa.

Neil Mackinnon

- Mr Mackinnon joined the army Intelligence Corps in 1987 and, after training, held the rank of lance corporal. He left the army in 1993 but retired as a reservist in January 2001.
- He was deployed to Iraq on Op Telic 1 in 2003, serving as a reserve sergeant with F Branch of the Joint Services Intelligence Organisation (JSIO). He returned to the JSIO base at Chicksands in May 2003 and completed his reserve military service in June 2004.
- He was able to explain the courses that he taught on tactical questioning and interrogation.

SUMMARY OF PROCEEDINGS: TUESDAY 18 MAY 2010

Rhett Corcoran

- Mr Corcoran joined the army as a 15 year-old boy soldier in 1972 . He was part of the 3rd battalion of the Royal Anglian Regiment (3 R Anglian). He was transferred to the Military Provost Staff (MPS) at the Military Corrective Training Centre (MCTC) at Colchester in 1990. He was commissioned as a captain in 1997.
- Between February 2003 and the middle of 2004, he was the Staff Officer Custody with the rank of major. He is currently Deputy Commandant of the MCTC.
- He had responsibility for all military guardroom policy and practice world-wide, incl. training of regimental police (provost staff) but not for temporary detention facilities on operations.
- The intention and expectation during Op Telic was that prisoners would be held at a unit detention facility for "20 mins. or 1 hour" (not 14 hours) before being passed to, say, a battle group facility.

Stephen Graley

- Mr Graley joined the army in 1975 as a private in the Intelligence Corps. He was commissioned in 1996 and retired from the army in 2005.
- Between 1999 and 2001, he was the officer commanding (with the rank of captain) of F Branch of the Joint Services Intelligence Organisation (JSIO) at Chicksands. He was 2nd in command of JSIO for just over a year from early 2002.
- He attended a prisoner-handling and tactical questioning course in 1980. He recalls that, in 1980, sight deprivation, stress positions and white-noise were taught as legitimate aids to interrogation. However, he acknowledged that it might be possible that these conditioning techniques might have been part of the conduct-after-capture module of his 1980 course; i.e. they were being demonstrated as techniques that might be used by hostile forces, NOT as techniques that could be used by British forces.
- He recalls that prisoners should get 8 hours sleep during a 24 hour period, of which 4 should be uninterrupted.

Louis Lillywhite

- Dr Lillywhite is a registered medical practitioner and an accredited consultant in occupational medicine. Until his retirement in May 2010, he was the Surgeon General with the rank of Lieutenant-General.
- From July 2001 to June 2003, he was Director of the British Forces Health Service. From June 2003 to July 2005, he was Director General, Army Medical Services (with the rank of Major-General).
- The proper position for a medical practitioner in relation to detainees is to advise on the treatment, if any, needed to improve the health of the detainee. It is not to certify (or otherwise) the fitness of a detainee for, e.g, interrogation.
- Gen Lillywhite visited Iraq in December 2004 because of his concerns about the medical treatment of detainees. There were some defects in the system of treatment, incl. prompt examination of a detainee on entry to, and discharge from, custody.

Graham Binns

- Mr Binns was commissioned into the Prince of Wales's Own Regiment of Yorkshire in 1977.
- During Op Telic, he commanded 7 Armoured Brigade (7 Arm Bde) – which he had commanded since 2001 – until handing over command to Brigadier Bradshaw in May 2003.
- He had prepared his brigade for a large scale tank battle - trained on the prairies of Canada and the plains of Northern Germany. He was not prepared for a war in the community and, amongst other things, had not prepared for taking large numbers of civilian prisoners.
- He does not recall receiving an order from General Brims to cease hooding immediately.

SUMMARY OF PROCEEDINGS: THURSDAY 20 MAY 2010

Adrian Bradshaw

- Major General Bradshaw joined the army in 1979. In 2003 he deployed to Iraq with the rank of Brigadier. He was Brigade Commander of 7th Armoured Brigade until he left Iraq in June 2003. During his time in Basra the war fighting was over but civilians were being detained.
- At the time his understanding was that sight deprivation was a valid technique for security purposes only and was achieved by the use of a blindfold. He did not recall ever seeing hooding being employed, either in training or operationally. When he took over in Basra the issue of hooding was never raised. His view then was that the use of hoods was inhumane because of the risk of suffocation. Similarly stress positions should not be used.
- During conduct after capture training he experienced techniques that were contrary to the Geneva Convention. It was made absolutely clear that such techniques were not to be used by British soldiers.

- On deployment to Iraq he understood that the brigade had undergone full pre-deployment training under their previous commander. In addition every unit had received additional LOAC training by members of the Army Legal Service. He took over from Brigadier Binns, who expressed some concerns about the coalition's detention policy. The witness was anxious to ensure that people did not use their initiative in relation to prisoner handling; it was important that there should be no deviation from the rules in this area. He issued FRAGO 63 to clarify the position in relation to the detention of civilians and to remind all units of the requirement to treat detainees with humanity and dignity. It also said that under no circumstances should detainees' faces be covered; it was clearly designed to prevent hooding but the witness did not know why the direction did not specifically say that hooding was banned.
- At the time of issuing the FRAGO the witness was not aware of the Heath ruling.
- FRAGO 152 came from Division and was cascaded down to the battle groups by FRAGO 63. It prohibited the use of hooding or covering the faces of prisoners. It also dealt with time limits in relation to detainees. All detainees were to be handed over to the RMP within two hours and soon as possible in any event. Thereafter they were to be delivered to the TIF within one or two hours if possible but in any event within not more than six hours. It made reference to the deaths of people in custody. One reason the FRAGO was issued was to reduce the risk of front line troops abusing prisoners. This was soon after the incident known as the 'breadbasket', where there had been allegations of abuse; the incident came to their notice at the end of May.
- The witness would most probably have seen prisoners being detained during his visits to the battle groups.
- General Bradshaw was not aware of the order from Brigadier Brims banning the use of hooding. It was a verbal order and had not been confirmed in writing.
- At the end of his tour in Iraq the witness handed over to Brigadier Moore. It was highly likely that the handover would have included issues of prisoner handling but there was no tangible evidence of this.

Christopher Parker

- Mr Parker joined the army in 1989 and left in 2007 with the rank of lieutenant colonel. During his career he had taught the LOAC. In March 2003 he deployed to Iraq as Chief of Staff for 7th Armoured Brigade with the rank of major. He left Iraq in July. The brigade commander, Brigadier Brims, was directly above him in Basra.
- In 2003 the witness's understanding was that deprivation of sight was permitted for operational security reasons. This was based on his experience during previous operations. He was never told that sandbags should not be used; indeed he had seen them used during training. He never saw hoods being used in Iraq. Had he seen them, he would have queried their use. He was not aware that hooding at the point of capture was an SOP.

- The witness had never received any practical training in depriving prisoners of their sight. Nor could he recall ever giving any advice or guidance on this issue. He accepted that, in the light of what had happened, they should have spent more time on this and other prisoner handling issues. The training had concentrated on high-density war fighting.
- The use of stress positions was outlawed. The witness was not aware of the Heath ruling.
- He never saw any prisoners hooded in Iraq. The use of hoods to deprive sight for operational security reasons would depend on an individual's judgement of the circumstances, e.g. the heat. The witness accepted that, with hindsight, it would have been less ambiguous to ban hooding completely. He was never aware of the order banning hooding issued by Brigadier Brims.
- Brigadier Bradshaw was particularly strong about the need for discipline and the proper handling of prisoners, as was Brigadier Binns.
- The witness was not aware of any deaths in custody in his area that were not due to natural causes.
- The witness made regular trips to the battle groups and may have seen some detainees outside the TIF. The aim was to move prisoners on to the RMP within an hour.
- He recalled his staff commenting on the practical difficulties created by FRAGO 152. It amounted to a ban on the use of sandbags for the deprivation of sight but the witness accepted that it could have been clearer.
- He recalled FRAGO 29, which introduced the BGIRO. It came in his last days in Iraq when he was exceptionally tired. He was not aware of any discussions about a change of policy.
- When the witness handed over to Maj Eaton, all the FRAGOs would have been handed over.
- He had frequently commented on the lack of resources during the Iraq tour. By May-June the temperature in Iraq at midday would be between 35 and 45 degrees.

Christopher Munns

- Mr Munns joined the Royal Navy in 1971 and retired in 2005. In April 2002 he took up the appointment of Assistant Chief of Staff J2 at PJHQ with the rank of Commodore (brigadier equivalent). He held this post until 2005.
- Interrogation briefly addressed on short exercises. Joint service training possibly referred to LOAC. No training in conduct after capture, tactical questioning, or prisoner handling at all.
- Generalist background when appointed to PJHQ. Asked for training prior to taking up appointment but not given any specialist training. Responsibility for managing Humint, supporting intelligence staff of deployed commanders and

planning support. Links with CDI but J3 was responsible for directing and issuing instructions for tactical questioning.

- Numbers of trained TQers were less than required. Addressed this problem by means of a policy group paper. No MOD endorsement of interrogation doctrine. There was outstanding work still to be done on TQing. Most people focussed on getting a sufficient capability. The fact that there was a lack of capability in this area was a risk to the mission in terms of the intelligence flow.
- Routinely attended daily briefings during Op Telic. Not aware of reports about concerns regarding hooding. A number of scenarios were discussed with the witness and he explained what would be the usual procedure to deal with concerns expressed by the ICRC about conduct in theatre.