

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

SUMMARY OF PROCEEDINGS: WEDNESDAY 2 JUNE 2010

Adam Ingram

- The Right Honourable Adam Ingram has been a Member of Parliament (MP) since 1987 and was minister of state for the armed forces at the Ministry of Defence (MoD) from 12 June 2001 to 29 June 2007.
- He had no knowledge of the “Heath ruling” of 1972.
- Based on the information given to him by his civilian and military advisers, he did not at any stage during Op Telic regard it as necessary to prepare and publish a definitive statement on hooding.

Peter Wall

- Sir Peter Wall joined the army in 1974. Since July 2009, he has been Commander-in-Chief , Land Forces with the rank of general
- In the run-up to Op Telic 1 he was a brigadier in the role of Chief of Joint Force Operations at PJHQ. From January 2003, he was Chief of Staff to Air Marshal Burridge, the National Contingent Commander. From mid-May 2003 to mid- July 2003, he commanded the 1 (UK) Armoured Division, taking over from General Brim.
- He was not aware , during Op Telic 1 or 2, of the “Heath ruling” of 1972.
- The reduction in RMP forces – from a regiment to a company – at the time of the change from 1 Div to 3 Div was regrettable because of the need to create a new Iraqi police force. At the time of the handover, prisoner-handling was not an issue, because no problems had been raised with Sir Peter.
- The resources available for the peace-keeping phase turned out to be the bare necessity.
- Prisoner-handling was low in the list of priorities in a context in which the (small) army had to tackle a full-scale war that might have included chemical warfare and then to handle a complete breakdown of civil authority in Iraq.

Robert Kett

- Mr Kett served in the Intelligence Corps as a lance corporal from 1971 to 1974. He was commissioned into the Royal Artillery in 1975. He retired from the army in 2008 with the rank of colonel.
- From November 2000 to April 2004, he was Asst Director, Intelligence at the MoD (ADI – HUMINT).
- Between April 2004 and his retirement, he held, amongst other posts, the post of Commander of the UK Military Intelligence Brigade for almost 3 years. During this time he spent 6 months as Deputy Director Intelligence Operations in HQ MNF-I in Baghdad.

- Although concerns were being raised by the specialists in JSIO (Joint Services Intelligence Organisation) about the lack of doctrine and guidance on tactical questioning and interrogation, these were of low priority to the Directorate Intelligence HUMINT because there was no concern from operational commanders. The focus of the directorate's efforts was the development of capability.

SUMMARY OF PROCEEDINGS: THURSDAY 3 JUNE 2010

Brian Burridge

- Sir Brian Burridge joined the Royal Air Force (RAF) in 1967 and left the RAF as Air Chief Marshal in 2006.
- During Op Telic 1, he was the National Contingent Commander (with the rank of Air Marshal) and had responsibility for the operational control of the UK Joint Force in Iraq. He returned to the UK on 9 May 2003 to become Commander-in-Chief, Strike Command.
- He did not know that prisoners were being hooded until he received the complaints from the ICRC (Red Cross). He could not then, and does not now, find a good reason for the use of hoods at any time during this conflict, whether or not the use of hoods for security purposes was legally permissible.
- It was important to understand that the strategic intent of the operation – to win the support of the Iraqi population – could not be met if hoods were used. Consequently, in April 2003, Sir Brian ordered that hooding should stop completely.

Hugh Eaton

- Mr Eaton joined the army in 1986 and was commissioned to the Queen's Own Highlanders. He retired from the army, as Lt. Col., in July 2004.
- From July 2001 to August 2003, he was the Chief of Staff to the 19th Mechanised Brigade (19 Mech Bde). He was deployed to Iraq in June 2003 and returned to the UK in August 2003 to take up a post at the MoD, after handing over to Maj. Fenton.
- During the handover from Maj. Parker – his predecessor as chief of staff – prisoner – handling was not a matter with sufficient priority to warrant a specific mention.
- Similarly, prisoner-handling was not mentioned during the handover from Maj. Eaton to Maj. Fenton.

Travis Vincent

- Mr Vincent joined the Australian regular army in January 2002. He left in January 2002 and joined the British army in February 2002, when he was commissioned to the Black Watch. He left the army in March 2007.
- He was posted to Iraq in February 2003 as a watchkeeper at Battle Group headquarters, with the rank of captain. He later became company commander of HQ company. He returned to the UK in June 2003.
- He denies having a conversation with Major Royce about prisoner-handling. Major Royce has claimed in his evidence that he had a conversation with a "young

Australian captain” who explained that hooding and cuffing prisoners was standard procedure.

Patrick Marriott

- Mr Marriott joined the army in 1976 and is currently commandant of the Royal Military Academy, Sandhurst, with the rank of Major-General.
- In 2003 and during Op Telic 1, he was Chief of Staff, with the rank of Colonel, of the 1st (UK) Armoured Division. He was again deployed to Iraq during 2005/6 on Op Telic 7 as brigade commander of 7th Armoured Brigade.
- During March 2003 – immediately before the army’s entry to Basra – the pace of change was so great and the number of orders issued so great that oral delivery was the principal means of delivering orders.
- During the (several weeks) debate about the legitimacy of hooding, Mr Marriott agreed with the views of Gen. Brims and Col. Mercer (the legal adviser) that hooding could not be lawful. This was overturned by the NCC legal adviser, after advice was sought by soldier S002.
- The decision to extend the battle group detention period to 14 hours was a pragmatic decision taken after reinforcements were sent to the north of the area, the effect of this being to make it impossible to find a guard or a vehicle to effect the transfer of prisoners within the previous time limit of 6 hours.

SUMMARY OF PROCEEDINGS: FRIDAY 4 JUNE 2010

William Hewitt Moore

- Major General Moore was deployed in Iraq from 28 June - 6 November 2003 commanding 19 Mech Brigade in South East Iraq. He is currently serving in the Army.
- He had never received any training in tactical questioning, or how it should be conducted. He had been trained in conduct after capture, but the shock of capture training was directed at avoidance. He had never heard of the term ‘conditioning’ before 2005 and did not understand what it meant. He was unaware of the Heath Ruling of 1972. He deduced that hooding was only allowed for security purposes, and as a last resort, but he had never received any formal guidance.
- His role in Iraq was wide-ranging. The rule of law did not exist when he arrived and he faced problems regarding infrastructure which had been outside his original remit. He decided to deploy 1 QLR to Basra. He considered Colonel Mendonca to be a strong leader and a good CO and capable of handling a challenging job. He sent to Maj Gen Lamb, then GOC, an assessment of the worsening security situation and the need for direct assistance, including resources, to supplement the efforts of 19 Mech Brigade.
- He was unaware that the lack of resources had any impact on prisoner handling and no problems or issues were raised with him. There was no mention of any prisoner handling issues during his handover in June. He was unaware of hooding of prisoners by British troops or that hooding had been banned. He would not have seen FRAGOs as a matter of course. The witness was unaware that stress positions

were being used. There was a system failure that led to his lack of knowledge of such issues, including conditioning.

- The witness knew of the lack of TQers. Colonel Mendonca was responsible for control of troops in his barracks, including TQers, and for the prisoners in his care, but would not be aware of the detail of questioning. That was something for the BGIRO, who should also be aware of all prisoner handling issues. He had raised two issues of unacceptable behaviour towards Iraqi civilians with Col. Mendonca. He was unaware of any breaches of the 14 hour deadline, or that FRAGO 29 had changed the system for prisoner handling.
- The witness went out on Op Salerno, but did not see any of the detainees at any time, although he was aware of their arrest. It was believed at the time that the detainees were part of a terrorist cell.

Richard Barrons

- Major General Barrons joined the army in 1977. He was Chief of Staff 3rd UK Div including in the Division's tour for Op Telic 2 in late 2002. He was appointed Chief of Staff of the Allied Rapid Reaction Corps in April 2009.
- There was a typo in his statement, which should read "I was *not* aware of FRAGO 152".
- Training for deployment was rushed and reduced to less than optimum levels. His was an oversight role. OPTAG training assumed normal annual LOAC training had been undertaken. The witness's own training at any time in his career did not include sight deprivation, nor had he seen any on exercises. He had not received any specific training on stress positions from OPTAG he had gathered that they were unlawful. He had been unaware of the Heath Directive.
- The witness confirmed his understanding of the chain of command and responsibilities for prisoner handling. At the time of handover, there was added complication that the operation was multi-national. He had the role of co-ordinating the multi-national Division and its place in the US-led force. There was very little physical documentation. He discussed prisoner handling generally with Col Marriott. FRAGO 152 should have been handed over horizontally. It would not have been re-issued unless there was any doubt. He had been unaware of the use of hoods prior to Baha Mousa's death.
- The Division issued a Concept Operations Order. J2 led on prisoners being of value, not handling. FRAGO 005 issued in 3 September 2003 dealt with key responsibilities and the lead reverted to J3. A Coalition Order conflicted with what 'participating nations' were willing to do, that is, hooding and shackling. The witness knew that hooding was banned but there could be an operational security reason for it.
- In theatre Divisional HQ was responsible for issuing any guidance about tactical questioning.
- The witness had not heard any rumours about heavy-handedness in relation to operations conducted by 1QLR. He was surprised to learn that some of the other senior officers in Basra at that time were unaware of the prohibition on hooding.
- FRAGO 54 (issued 1 October 2003) reinforced the guidance on prisoner handling that had been issued in early September. The witness accepted that, with the benefit of hindsight, such detailed guidance should have been issued earlier.

Sir Joseph French

- Sir Joseph French joined the RAF in 1967 and retired in 2007. He was Chief of Defence Intelligence (CDI) from November 2000 to mid-April 2003 when he took up appointment as Commander-in-Chief Personnel and Training Command.

- The witness had a general knowledge of the 1972 Heath ruling as a result of his service as a helicopter pilot in Northern Ireland. He had not received any training in prisoner handling or conduct after capture.
- He had not been aware of a paucity of doctrinal guidance on tactical questioning and interrogation. The publication JWP 1-10 contained high-level guidance (e.g. on the need for compliance with the Geneva Convention) that would have been cascaded down to personnel in an appropriate form. He accepted that there was nothing in black and white to say that hooding was not allowed but nor was the practice of hooding taught on the training courses. Given the wide spectrum of issues he had to cover during his time as CDI and DGIC, he had to rely on delegation and people bringing any concerns to his attention. No one had brought this paucity of guidance to his attention, if indeed there were a paucity. Nor did anyone bring to his attention a 'capability gap' in relation to the numbers of trained TQers available.

Sean Edward Martin

- Mr Martin qualified as a solicitor in 1990 and joined the Government Legal Service in June 1993. He transferred to the MOD Legal Advisers (MODLA) in October 2001 and left in March 2004. He now works for the Financial Services Authority.
- His work with MODLA did not generally relate to operational law matters. However, when Op Telic 2 was imminent he did additional LOAC training and familiarised himself with PJHQ. At the time the witness dealt with PoW matters including the transfer of prisoners and the ECHR. His understanding was that the ECHR did apply to prisoners held by British forces in Iraq. He had no recollection of advising on the issue of hooding, although he may have heard conversations on the subject.
- He had direct contact with a British Red Cross lawyer on several issues. He did not recall having access to the ICRC. He was not aware of the ICRC's concerns that were raised in theatre in March/April 2003.
- In April 2003 he received an email attaching a draft text for Ministerial Correspondence. He made certain changes to the text, e.g. changing 'disorientate' to 'control' in the description of the purpose for which hoods were used. This showed that he had been aware that hoods had been used for security purposes. He was not aware that there had been a debate between ALS lawyers about the legality of hooding.
- Amnesty International sent him a report that raised four cases of prisoners having been hooded by British soldiers. He passed it to his colleague who was dealing with war crimes issues. At the time he did not appreciate that hooding was a serious (and widespread) issue.