

Witness Name: Sir Robert Fry

Statement No.: 1

Exhibits: None

Dated: 13 October 2009

THE BAHA MOUSA PUBLIC INQUIRY

Witness Statement of SIR ROBERT FRY

I, Sir Robert Fry, will say as follows: -

1. I make this statement in response to the Inquiry's Rule 9 Request dated 8 April 2009. I have read this Request, and I seek here to cover everything that it raises to the best of my ability and recollection. I have also been shown and read copies of the following documents:
 - a. Letter dated 22.01.03 [MOD011371]
 - b. Memo dated 09.05.03 [MOD031247 - MOD031248]
 - c. July 2003 email chain [MOD031249 - MOD031252]
 - d. Middle East Operations Team Downrep, 24.06.03 [MOD031254 - MOD031255]
 - e. June 2003 email chain [MOD031256 - MOD031261]
 - f. Letter dated 23.10.03 [MOD019648]
 - g. Diagrams of MOD Chain of Command [MOD044526 - MOD044527]
 - h. Diagram of OP TELIC 1 command structure [MOD030335]
 - i. Diagram of OP TELIC 2 command structure [MOD030336].

2. My current occupation is Vice President of a computer corporation and I have been in that role for the past 2.5 years.

Chief of staff/ Deputy Chief of joint operations

3. I became Chief of Staff (COS), later known as Deputy Chief of Joint Operations (DCJO(Ops)) in May 2002. My rank was Major General and I was based at the Permanent Joint Head Quarters (PJHQ) at Northwood.
4. In July 2003 I left my post at PJHQ to become Director of Operations at the Ministry of Defence (MOD) and at the same time I was promoted to Lieutenant General.
5. PJHQ is responsible for providing the operational level direction for all overseas operations carried out by the British Army. It is divided into different branches, each with their own areas of responsibility and headed by a Deputy Chief of Staff. The branches are as follows:
 - J1 - Personnel
 - J2 - Operational Intelligence
 - J3 - Current Operations
 - J4 - Logistics/Medical
 - J5 - Crisis and deliberate planning
 - J6 - Communication and Information Systems
 - J7 - Joint Training
 - J8 - Finance and Human Resources
 - J9 - Policy, Legal, Presentation
6. As DCJO(Ops), I was responsible for directing the work of the J branches, marshalling their resources in order to create the best and most effective support for deployments abroad.
7. The distinction between my role and that of a Commander was that whereas the Commander exercises executive authority and full operational and tactical command of troops deployed abroad, my

function was to facilitate that process. In effect, the DCJO(Ops) is there to assist and advise the Commander in the exercise of command.

The chain of command

8. In setting out the general structure of the Chain of Command in the higher formations involved in Iraq during OP TELIC 1, I have been assisted by MOD030335, a flow chart of the command structure for OP TELIC 1 and MOD030336, a flow chart of the command structure for OP TELIC 2.
9. The Chief of Joint Operations (CJO), Lieutenant General (Lt Gen) John Reith, exercised command of almost all British forces deployed on operations across the world.
10. The CJO is supported by the Front Line Commands (FLCs), respectively Land, Air and Fleet, who are responsible for providing force elements at a requisite level of readiness (defined by levels of training, manning and equipment) to deploy under the CJO's command into operational theatres. It is not the responsibility of the CJO to train or prepare soldiers for operations.
11. Also feeding into the PJHQ Chain of Command are Whitehall and the Chief of Defence Staff (CDS). The Chief of Defence Staff personifies national command and exercises this both individually and through the Chiefs of Staff Committee. It is the CDS who sets the strategic context within which the CJO exercises operational command but, typically, having issued an operational directive, the CDS will give the CJO as much freedom as possible to execute his instructions. During OP TELIC 1, the Chief of Defence Staff was Admiral Sir Michael Boyce, later replaced by General Sir Michael Walker.

12. The role of DCJO(Ops) does not appear on diagram MOD030335, but falls below the CJO Lt Gen Reith.
13. Diagram MOD030335 suggests that during OP TELIC 1 the Component Commanders reported to the National Contingent Command (NCC) (Air Marshall Burridge also had the title of Joint Force Commander in accordance with UK Joint Doctrine) whereas diagram MOD030336 indicates that during OP TELIC 2 the Divisional Commander reported directly to the CJO. I am asked to explain the change whereby the NCC was withdrawn and the Divisional Commanders reverted to reporting directly to the CJO.
14. It is my understanding that the National Contingent Commander (NCC) lapsed after Telic 1. This is because by that stage there was a static operational environment, which led to changes to the command structure.
15. OP TELIC 1 was the invasion of Iraq and this was coordinated by the CJO, Lt Gen Reith, the NCC, Air Marshal Brian Burridge and the General Officer Commanding (GOC) of 1 (UK) Armoured Division (1 (UK) Armd Div) (Major General Robin Brims).
16. The transition from OP TELIC 1 to OP TELIC 2 was marked by the end of conventional hostilities and the move towards post conflict operations. It was during this stage that the NCC was disestablished as a part of formalising of the command structure. The same approach has been adopted in numerous other theatres, such as Afghanistan, the Balkans and the Garrisons (e.g. Cyprus, Gibraltar and the Falklands).
17. During OP TELIC 1, PJHQ maintained contact with UK elements through video conferences between Northwood and deployed forces in Qatar and Kuwait. There was also personal contact, in that I myself had visited

Qatar and Kuwait before the invasion and I know that Lt Gen Reith visited more frequently during OP TELIC 1.

18. These visits and conferences continued during OP TELIC 2, but they were less frequent and the overall support regime was less intensive.

TRAINING ON PRISONER HANDLING

19. I have been asked to comment on my own experience and involvement in training, guidance, orders or instructions for the detention and treatment of prisoners of any category, as well as my experience of the practices actually adopted.
20. In terms of training and guidance, as previously mentioned, the entire training regime for troops deployed on operations is the responsibility of the FLCs. PJHQ does not have a role in setting out the detail of the training provided, but provides a broad overview of the levels of capability which force elements must attain.
21. The process for giving the overview of the training requirements is as follows: The CDS writes a Directive for the CJO which sets out the objectives of the operation, from which specific training requirements can be derived ('the CDS Directive'). The CDS Directive does not give any specifics about the mechanisms by which the training is to be delivered. It is then for the FLCs to provide more prescriptive guidance, which might, for example, include details on the approach to prisoner handling.
22. I have been provided with the CDS Directive for OP TELIC 1. I note that with regard to prisoner handling, no detailed guidance is given within the directive itself. This is because there is already a standing instruction on that issue in the form of the MOD publication JWP 1-10: Prisoners of War Handling. This is referred to within the Directive at page 10, sub-

paragraph 4, and in respect to interrogation specifically at Annex C page 8, paragraph 18.b. Because there is a standing instruction on the subject, I would not expect additional detailed guidance on prisoner handling within the CDS Directive.

23. With regard to my own personal experience of training on prisoner handling, this has mainly been in the form of training on the Law of Armed Conflict and the Geneva Convention prior to deployment for operations abroad. I do not remember ever using sandbags as hoods or being placed into stress positions as part of such training.
24. So far as I can remember, I have not received any training on subjecting prisoners to noise or deprivation of sleep. As I recall, the provision of food and water to prisoners was mentioned during my pre-deployment training on the Law of Armed Conflict and the Geneva Convention.
25. Apart from the CDS Directive referred to at paragraph 22, the only order or instruction that I recall being involved which is likely to have touched upon the detention and treatment of prisoners of any category was the Directive from the CJO which framed the detail of the operation for OP TELIC 1 ('the CJO Directive'). The CJO Directive had many annexes and was prepared in advance of the invasion. I have not been shown this CJO Directive for the purposes of making this statement.
26. Although it was a personal Directive from Lt Gen Reith to Air Marshall Burridge, a number of PJHQ staff would have been involved in its production, including myself. I cannot now recall the detail of the CJO Directive but it will have followed a standard format. I expect that in respect of prisoner handling issues, it simply deferred to JWP 1-10 as the standing instruction, in the same manner as the CDS Directive referred to at paragraph 22.

Prisoner handling during OP TELIC

Responsibility for prisoner handling issues

27. It would have been my responsibility as DCJO (Ops) at PJHQ to ensure that adequate orders, guidance or instructions in relation to the physical aspects of handling prisoners were provided to soldiers and officers. However, I do not remember any specific involvement in such matters. The details would have been dealt with by the Deputy Chief of Staff of the J1/4, J2, J3 and J7 branches.
28. The J1/4 branch was headed by Brigadier Max Kerley. I think that he was the Deputy Chief of Staff of J1/4 for both OP TELIC 1 and OP TELIC 2. However, I am aware that at some point, he was succeeded by Brigadier Seamus Kerr. The J1/4 role was a combined personnel and logistic function, with day to day responsibility for supervision of the policy in respect of prisoner handling; the execution of that policy was the responsibility of J3. Operational Orders would normally have a J1 annex dealing with the details.
29. The J2 function was in relation to intelligence. However, J2 might touch on prisoner handling insofar as it related to interrogation. I note that the CDS Directive at page 8 of Annex C states that all interrogation is to be conducted in accordance with JWP 1-10: prisoner of war handling and the Geneva Convention.
30. The J3 function was in relation to overseeing the day to day conduct of current operations. The Deputy Chief Commander of J3 in the run up to OP TELIC 1 was Air Commodore Clive Loader. His successor was Air Commodore David Walker.
31. The J7 branch set out the training requirements for the FLCs, which they could then use in providing training packages for their troops. I cannot

remember now who the Deputy Chief Commander for J7 was during OP TELICs 1 or 2.

32. These training requirements would have been derived from the CJO Directive referred to in at paragraphs 25 and 26 above. As stated above, I would have seen and been involved in the production of the CJO Directive. However, I would not have seen subsequent Fragmentary Orders, unless they were of more than routine significance.
33. As the superior commander responsible for the J functions, at no stage did I have cause for concern about their performance.
34. No one at PJHQ had direct responsibility for handling prisoners of war or prisoners of other categories.

Emails and documents regarding prisoner handling

35. I have been referred to a series of emails and correspondence in relation to prisoner processing issues [MOD031247 - MOD031248; MOD031249 - MOD031252; MOD031254 - MOD031255; MOD031256 - MOD031261]. My input into these exchanges can be summarised as follows:
36. MOD031247 - MOD031248: This memo is dated 9 May 2003 and is to the GOC of 1 (UK) Armd Div. From the OP TELIC 1 command structure chart (MOD030335) it seems that at the relevant time Major General Robin Brims was the GOC. I cannot now remember the context within which this memo was sent, but I am habitually concerned to obtain a legal perspective on any issues of doubt or ambiguity. The memo relates to the processes for dealing with detainees as opposed to their physical handling. I did not write the note attached to the memo, but it went out under my signature, so I would have been satisfied with its contents. The note was probably drafted by Rachel Quick, a lawyer in

the J9 branch, although I do not specifically remember that being the case.

37. MOD031249 - MOD031252: I was not copied in on these emails and do not recall ever having seen them before. Indeed, I would not expect to have been copied in on general discussion at this level, as I was more involved in providing a operational level overview of the issues involved.
38. MOD031254 - MOD031255: I do not recall ever having seen this document before or having had any input into its content.
39. MOD031256 - MOD031261: My comments at paragraph 37 above also apply in respect of this document.
40. During OP TELIC 1 and OP TELIC 2 I was not involved in or aware of any concerns about the physical aspects of handling of detainees or prisoners of any category, and more particularly in relation to the use of hooding, stress positions, sleep deprivation, exposure to discomforting levels or noise and/or restriction of food/water.
41. I had no involvement in the formulation or changes to policy or guidance relating to enemy prisoners of war, detainees and/or internees over the course of OP TELICs 1 and 2. There would have been policy and guidance on this subject, although I cannot remember any details now. If I required detail about the relevant policies, I would have approached the head of J1/4 branch, Brigadier Kerley in the first instance. However, I never had cause to do so.
42. The only order that I recall being involved in, which is likely to have addressed the physical aspects of handling of detainees was the CJO Directive, referred to at paragraphs 25 and 26 above.

43. In general terms, legal advice was frequently sought during the course of PJHQ's work, but I cannot now remember any specific advice sought or given on prisoner handling issues. Similarly, I am confident that there would have been discussion with the legal team about Lt Gen Reith's Directive, but I do not specifically recall this. Martin Hemming was the head of the J9 (legal) branch around the time of OP TELICs 1 and 2.
44. I have been asked whether I was aware of any concerns raised by any Officers from PJHQ, NCC, MND (SE), 1 (UK) Armd Div, 3 (UK) Div, 7 Armd Bde or 19 Mech Bde in relation to prisoner handling issues. I was not aware of any concerns having been raised by any of the above.
45. I have a vague memory of a visit to PJHQ by the International Committee of the Red Cross (ICRC), but I am not sure when this took place or whether there was any record made of the visit. From my limited recollection, the visit was not to raise concerns about detainee or prisoner handling matters but just to make sure that we understood our responsibilities under international law.
46. I have been referred to MOD019648, which is a letter from Lt Gen Reith to the Chief of Defence Intelligence, Lieutenant General Ridgway. The letter is dated 24 October 2003, by which time I was no longer DCJO (Ops) but Director of Operations at the MOD.
47. Lieutenant General Ridgway is essentially the J2 at a national level. I do not know what the reference to "recent events and apparent re-emergence in the use of hooding" refers to.

The Heath ruling

48. I have been aware of the Heath ruling since the 1970s. As I understand it, the ruling given by the Prime Minister meant that hooding, stress

positions, and any other sensory deprivation of prisoners would be prohibited.

49. Although I was aware of the ruling whilst I was DCJO(Ops), I did not have cause to discuss it with others at PJHQ. It was only while I was at the MOD and the debate about hooding, use of goggles and stress positions came to the fore that there was some discussion about it. However, I cannot now remember the detail or context of such conversations.

DIRECTIVE GOVERNING PROCEDURES TO BE USED BY UK INTERROGATORS IN IRAQ

50. As stated above, Annex C of the CDS Directive, page 8, provided that all interrogation is to be conducted in accordance with JWP 1-10: prisoner of war handling and the Geneva Convention. I expect that the CJO Directive would have contained a provision along similar lines. Apart from those directives, I am not aware of any other directive issued by the UK Joint Command setting out the procedures to be used by UK interrogators in Iraq.

THE CESSATION OF HOODING IN 2003

51. I do not recall having any involvement in the orders requiring the cessation of hooding in October 2003. However, I am sure that I would have been aware of the relevant issues at the time.
52. I am asked what if anything I was told (and by whom) about the cessation of hooding following attention from the international media and the ICRC during OP TELIC 1 and the apparent re-emergence of hooding during OP TELIC 2. From memory, the media and ICRC interest occurred during OP TELIC 2, not OP TELIC 1.

53. I became aware of hooding as an issue for concern only after Baha Mousa's death. I cannot recall any specific conversations now, but I was made aware of the issue (as Director of Operations at MOD) by the Director General Operations and Policy (DGOPPOL), which was either Martin Howard or his predecessor Ian Lee.
54. My understanding (no doubt formed from conversations with DGOPPOL although I can no longer recall) was that the purpose of hooding during OP TELICs 1 and 2 was not to disorientate the prisoner but rather to maintain the security of locations by ensuring they prisoners could not see where they were being taken.
55. I do not remember any discussions or communications that I may have had with the political chain of command in relation to hooding at or around this time. However, I am sure that I would have spoken to Geoff Hoon as the Secretary of State for Defence about these issues.
56. I would also have been part of any collective discussion regarding these matters at the Chiefs of Staff Committee, during which ministers would have had the opportunity to ask questions. Once again, I cannot now specifically recall any details about this.

Subsequent experience

57. I was not involved in any further training, operations or exercises subsequent to OP TELIC 2 that involved prisoner handling.

Media accounts


58. I have not given an account of matters relevant to the Inquiry's terms of reference to the press / media.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed _____

Dated _____


15 October 2009