

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

SUMMARY OF PROCEEDINGS: MONDAY 7 DECEMBER 2009

Michael Peebles

- Had received some general training on prisoner handling. Understood that conditioning techniques were lawful. In Iraq, they were the norm.
- Major Royce told him on handover that the Provost Staff looked after detainees. CO had overall responsibility for detainees. Actual handling of detainees down to Provost staff and guards. Witness has 'oversight' responsibility and would have acted had he thought detainees were not being properly looked after or being ill-treated.
- Major Royce told the witness that detainees should be seen by MO and certified fit to be questioned. Enforcement of conditioning techniques could 'go over the top'.
- Visited TDF Sunday and Monday a number of times, never aware of smell; nothing abnormal. Wasn't aware of detainees injured, was aware that detainees were being conditioned. Instructed guard to start conditioning at 16.30. Fallon and Crowcroft were guarding. Assumed they knew what conditioning meant.
- Detainees were hooded from outset, they were believed to be a threat. Never saw any soldier punch or kick a detainee.
- Passed on to guards fact that detainees may have been involved in deaths of the RMPs – they had a right to know. Also let Col Mendonca know, probably Sunday evening.
- No detainees were hit during TQ sessions, never heard of the 'choir' until court martial.
- Was made aware of collapse and subsequent death of Baha Mousa. Attended TDF after collapse, dark and confusing – soldiers present explained incident, but witness unable to identify these soldiers.
- Did not hear of any other assaults, but aware that 2 others had attended the medical facility. Believed all detainees being examined medically. Received information later from TIF that other detainees were injured.
- A report was produced following the incident which contained recommendations on prisoner handling. Wanted to bring clarity to chain of command. In one paper, witness said that there should be no conditioning, of his own volition.
- No recollection that Lt Ingram reported a prisoner being hit. No recollection that Cpl Payne voiced concerns about continuing conditioning. Unlikely to have taken place as conditioning finished.
- Post the incident, felt that RSM should take share of blame.
- Report – chronology does not mention stress position, conditioning or additional 2 detainees complaining of injuries. Only covers food, water and hooding because that was what was asked for.
- Responsible for information going to TIF. No documents mentioned medical conditions because had not been told of any. Detainees fit for detention.
- Detainees kept for extended period because of delay getting to BG Main and TQers being unavailable. Op Centurion took a lot of resources – whole process much slower due to numbers.

- Surprising that beating(s) not brought to attention, never gave any message that prisoners could be 'roughed up'.
- Never saw any conditioning in Northern Ireland, nor received any training on how long stress positions should be maintained.
- TQ would ask questions about detainee, if no response, questioning would be more aggressive – questioning techniques were appropriate.
- Certification of fitness for detention also covered fitness for questioning. This included conditioning.
- Weapons found were sophisticated and well maintained. More than was permitted for defence of work establishment.
- Assume Cpl Payne took it upon himself to continue conditioning post TQ'ing.
- Sgt Smith had responsibility personally to escort prisoners to TIF, and in his spare time ran the Criminal Intelligence desk. Had no concerns that Sgt Smith was overloaded.
- No recollection of the conversation with JFIT on 14 Sept. Subsequent telephone conversations about procedures to be put in place following the review.
- Cpl Payne video – harsh. Unaware detainees being put into 'ski' position: surprised because they would become fatigued quickly. Shouting was normal. Nothing in video suggested assault, but close to line.
- Responsible for collecting paperwork on detainees before they were moved to TIF. Doesn't recollect asking for medical paperwork.

Ray Smulski

- In 2003, reached rank of Sgt in TA, was compulsorily mobilised. Trained in TQ in 1999. No other experience or training before using it in Iraq in 2003. No general training in prisoner handling. Handout when mobilised, nothing specific throughout army career, except for general annual lesson.
- The course in 1999 said that stress positions were counter productive and not to be used. Hooding justified when transporting prisoners in Iraq, also justified when in unsuitable place for questioning.
- Observed TQ once after arrival in Iraq in July of 2 detainees. Might have seen three detainees hooded, but no others. Blindfolded for TQ sessions.
- Assumed holding unit had responsibility for detainees welfare.
- Ordered to go to BG Main to TQ with no prior notice. Within capabilities as lead TQ, obtain personal details and verification of information. Briefed by Major Peebles and Sgt Davies on arrival. No mention of how detainees being kept. Prime focus of the TQ to be whereabouts of person who ran from hotel. Sgt Davies was immediate chain of command and Major Peebles was his.
- Observed 2 TQ sessions during early hours of Monday morning by Sgt Davies. Present in BG Main for 20 hours, made 3 or 4 visits to TDF. Saw detainees hooded but not in stress positions. Had some responsibility for detainees but parameters unclear. Corrected some matters regarding movement of detainees from TDF. Decided to instruct guards on how to physically handle detainees so not to endanger. Instructed guard to turn detainees to face wall when in TDF and to exercise them in rotation. Forced exercise if necessary.

SUMMARY OF PROCEEDINGS: TUESDAY 8 DECEMBER 2009

Ray Smulski continued.

- Visited TDF, saw detainees all hooded; witness instructed hoods to be removed. Instruction subsequently countermanded by someone. Detainees were sweaty and agitated.
- Noticed one of detainees had bruising on his abdomen. Guards said he had been seen by a medic. Not sure who it was. Wondered how he got bruises but did not speculate. Did not ask the guards. Never saw a medic at TDF.
- During TQ, saw one man with a slight cut/graze on his nose.
- Believe he questioned young male. TQ sessions would last 30-40 mins. Thought young male was 'about to break', holding back information.
- Cpl Payne told him one of detainees had pushed a guard against a wall. Saw this detainee take his plasticuff off, but not hood. Witness instructed that he should be moved into middle room; he was a threat to everyone's safety. (As stated in 2003) detainee was put face down on ground.
- Never saw Cpl Payne hitting detainees or performing the choir.
- Witness instructed guards to use iron bar to strike walls and floor, to make noise. Spare of the moment decision – could have been early Monday morning.
- Agree that detainees were severely beaten but had not suspicion that was going on.
- BG Main not equipped for handling prisoners. TDF had no doors, layout not ideal, TQ room isolated from TDF.

Peter Bentham

- Was a member of Lt Rogers multiple. Prior to going to Iraq, was given a detailed briefing on prisoner handling: firm but fair. No training on use of stress positions or hooding.
- Had seen detainees hooded prior to Op Salerno, twice in Basra Palace. Was guarding them; instructed to keep them hooded. Also once in BG Main, in TDF. More than five detainees. First time, questioned seniors – 'is this part of process' – 'yes, SOP'. Senior rank not part of QLR.
- Op Salerno – were briefed, either Lt Rogers or OC. Went to hotel, took detainees back to BG Main, where they were taken over by different multiple.
- Did not go to TDF on Sunday evening. Monday, went to guard with Aspinall or Graham.
- Might have heard rumour linking detainees with deaths of Cpt Jones/RMP.
- Not aware of QLR soldiers assaulting detainees. Heard talk about it from other multiples, can't recall names. Told detainees had been hit with fists and kicked.
- Took over guard duty from other half of the multiple – no proper handover.
- In TDF saw detainees in three rooms. Older man and younger man not hooded in left hand room. Middle room, one sitting against wall, hooded. Told that this detainee had tried to escape and had had a go at one of the guards, hence move to middle room. Right hand room, other detainees sitting on floor and hooded.
- While guarding, after an hour or so made detainees relax and lean against wall. Senior NCO countermanded that later. On different occasions 3 senior NCOs came in and reinforced need to keep detainees in stress positions.
- Cpl Payne came to TDF, took some detainees for TQ. Kept using pressure on detainees, shouting and shaking them. Also kicked them a few times, on

soles of feet. Payne punched them, to body, particularly side of body. Also kicked them in kidney area.

- Saw part of the choir being performed. Payne would either punch or kick detainees to produce different sounds. Saw it once. Not funny but not horrific. Think there was another soldier present, possibly colour sergeant. Some found it funny. Did not hit detainees; maybe one of the senior NCOs' was quite forceful.
- Detainees seemed very tired. A few injuries – one had hernia, another something wrong with neck was told by outgoing guard. Both in right hand room. Was told they had been seen by medic. Saw no other injuries.
- TDF hot, sweaty. No smell of urine/faeces. Witness would tap detainees feet and push them up into an upright position. Did not slap them. Did not see others slap them. Kept detainees awake by shouting.
- Guarding Baha Mousa at time of death. It was dark and torches had to be used. Baha Mousa appeared in the corridor. Witness pushed him back and put him back in middle room. He had removed plasticuffs and hood. Tried to put plasticuff on behind, with Cpl Payne, but unable to. Private Cooper took over, felt tired from long duty and heat.
- Payne, Cooper and some others in doorway. No blow, punch or kick from Cpl Payne when trying to put plasticuff on. Did not see Baha Mousa strike head.
- Asked what had happened after learnt of Baha Mousa's death, but can't remember who. Understood they had tried to re-plasticuff but had been unable to do so. Witness was told Cpl Payne had been more forceful. Did not speak to Payne after that.
- No instruction from Lt Rogers, he might have informed about death and possible cause of death. No agreement to cover up or place blame on Payne.
- Mackenzie's diary was read, but did not swim sewer to catch thief. Not called 'Benny'. No casual violence, but there might be more force if people resisted arrest.
- Did not play any part in interview with the Mirror Newspaper articles. Was not soldier B. Did not see detainees hooded and held down as shown in photos. Did not witness anyone being beaten, urinated on or being forced to drink urine. Did not witness anyone being so badly beaten that they could not be returned to custody. Did not hear of anyone breaking wrist or hand beating detainee. Heard that unlawful assaults of detainees happened from people in Camp Stephen.

Jeffery Lamb

- Not there for full tour – joined halfway through.
- Saw detainee next to generator. Unsure of exact date, but in September. During 14-16 Sept, and can be sure because of death of Baha Mousa. Cannot pinpoint and incident could have been as early as 12 September. Happened somewhere between 9-12.30. In company of Sgt Potter.
- Walked from B Coy compound to cookhouse, past generator. Male sitting or kneeling by generator – kneeling, plasticuffed, blindfolded (could see his face). Arms down at front. He was 3 or 4 inches from generator. He appeared to be 25-35, not younger. Slight build, but difficult to distinguish because of position. Exhausted, disorientated, de-hydrated – slumped forward, face pale, dark rings beneath eyes. It was hot, generator was running so would have been hot and he was next to the hot air ventilator. Generator was noisy. No guard near, but Cpl Payne near back door to TDF. Witness was shocked by

- what he had seen and challenged Cpl Payne. To which he replied that he (Cpl Payne) was doing what he'd been told to do by CO and TQer.
- Found Sgt Smith in cookhouse immediately after. Again asked what was going on.
 - In conversation, found out he'd returned detainee from generator and taken back to TDF and given him water. He'd been reprimanded by CO and therefore did not challenge the situation again. Conversation did not cover hooding, stress positions or holding time. Reported to company command group on return.
 - Major Lighter would take it to next O Group meeting, but not clear when that would be. Could have been that afternoon or next day. Major Lighter informed witness that he had passed comments on and CO said he would deal with it. Can't be specific about timing.
 - Spoke to Sgt Smith after Baha Mousa's death – he was distraught and angry with internal investigation. He felt he was being made a scapegoat. Can't be specific when this conversation took place.
 - Recall shooting of Iraqi man who shot at British soldiers. Found wounded man in hospital and he was with other men who had attended with him. They were witnesses – took them to Camp Stephen. Can now identify as Anzio Coy. The witnesses went voluntarily and took them to Sgt. Major Parry and interpreter. Briefed Parry and then went to report in Coy Ops room.
 - On exit, found them in group with other Iraqi males, surrounded by personnel from C Coy. Being made to constantly change position and move around. Being man-handled and some hooded. Unsure whether plasticcuffed. Some were being questioned calmly by CSM and interpreter. Presumed treated in this way because of shooting.
 - Reported to CSM, unhappy and removed 7 males from his custody. When got back, mentioned to Major Lighter, but can't remember his reaction.
 - SOP (seemed) confused – each call sign interpreting it in own way. Standards were variable.

SUMMARY OF PROCEEDINGS: WEDNESDAY 9 DECEMBER 2009

Mark Davies

- Joined army in 1985. Was 34/35 years old in 2003. One of his roles during this time was as a tactical questioner. He is currently a warrant officer.
- Maintenance of the shock of capture simply means that a prisoner is held without the normal comforts of life (such as a duvet or television). Deprivation of food ,sleep etc are not ,however, acceptable questioning.
- Maj Peebles was present at most, possibly all, of the interrogation sessions.
- He visited ,with Maj Peebles, the TDF at 9pm on 14 September prior to the start of interrogation the next day. The rooms were in darkness.
- During interview, none of the detainees complained of ill-treatment.
- He sent D005 to stand next to the generator on 2 separate occasions during the interviews, so that he (D005) could think further about his evidence in isolation.
- With the benefit of hindsight, the prisoner handling and tactical questioning were not knitted together sufficiently well ,and this was a contributing factor to the death of Baha Mousa.

Rev. Peter Madden

- Roman Catholic Priest attached to BG Main. Visited TDF only occasionally. Welfare role for detainees. Heard shouting sometimes, usually interpreters but guards on one occasion tell the prisoners to stand apart. Only saw detainees hooded on a couple of occasions. Aware of stress positions of different types. He was pressed on the detail of one occasion when he had seen detainees forced to maintain stress positions.
- Witness explained his presence around the camp whilst waiting for transport and having casual impromptu conversations but could not now recall any of the specific examples put to him.
- Father Madden was hesitant in his responses about specific confidences and said that he had a duty of confidentiality to members of his Regiment. He felt that duty was preventing him from being fully open about matters he had heard about following the death of Baha Mousa.
- He expressed his horror and sadness about the fatality which was the most terrible incident during a very difficult tour of duty.

SUMMARY OF PROCEEDINGS: THURSDAY 10 DECEMBER 2009

Capt George Briscoe

- Called as a witness to give evidence primarily about the chain of command whilst in Iraq. Half-day training in prisoner handling prior to tour. Expected to carry out usual RSM role on tour. Cpl Payne reported through Sgt Smith to him for the first week
- The main change in chain of command was that Payne and Smith were then attached to the intelligence cell. Capt Briscoe was taken out of the chain but Payne and Smith could still refer to him on any matter or for advice.
- On the appointment of Major Royce as BGIRO, he was responsible for all matters to do with detainees but as RSM, Capt Briscoe maintained an interest in all Regimental matters. Not aware of written order but informed by Major Royce.
- The witness made visits to the TDF but never saw stress positions or inappropriate behaviour. He did from time to time see detainees hooded but sometimes without hoods.
- TDF was only building available for holding detainees and therefore used on a 'needs must' basis. Not ideal but suitable for short stays.
- Aware of changes after the death of Baha Mousa details of which conveyed to witness by Major Peebles. CO put RSM back into the chain of command. With hindsight, the decision to introduce a BGIRO was not a success but that may have been because of the personalities involved.

Terrence Stokes

- Witnessed a detainee being kicked in the face by a guard whilst he (the detainee) was sitting crossed-legged outside the TDF.
- A few weeks later, the witness saw another detainee, arrested for suspected theft, being assaulted at Basra dock.

Peter Quegan

- Major with the Intelligence Cell whilst in Iraq. Training in LAC that prisoners were to be treated humanely. Saw detainees hooded on two occasions during Op Salerno. Aware that detainees were being held in the TDF.
- Questioned about entries made in contemporaneous diary; Observed a figure standing by the generator; heard screaming in the night; approached to help to move someone in the TDF.
- At the time, not aware of the death of Baha Mousa until later.