

Witness Name: Edward Anthony Fenton

Statement No.: 2

Exhibits: None

Dated: 30 March 2010

THE BAHA MOUSA PUBLIC INQUIRY

**Witness Statement of Lieutenant Colonel
Edward Anthony Fenton**

I, **Lieutenant Colonel Edward Anthony Fenton**, will say as follows: —

1. I make this statement in response to the Inquiry's Rule 9 Request, dated 4 February 2010. I have read this Request, and I seek here to cover everything that it raises to the best of my ability and recollection.

Email correspondence following the death of Baha Mousa

2. In my first witness statement to this inquiry I referred to the search for the 'bible' that set out the standard operating procedures for the handling of detainees (paragraph 96, BMI05691).
3. The Inquiry has subsequently referred me to an email from Lt Col Barnett on 17 September 2003 (MOD051578), and asks whether the documents attached to that email constituted that 'bible'.
4. In response, they did not. Although these documents did set out aspects of policy on apprehending, handling and processing of internees and detainees in some

detail, they did not articulate the standard operating procedures and instructions that related to prisoner handling and tactical questioning in any detail.

5. The 'bible' that Maj Landon was looking for was one that set out how detainees were to be handled and treated over the course of their detention and tactical questioning, and that detailed which individual(s) were responsible for their welfare at each stage of their detention. As I noted at paragraph 96 of my first statement, I do not think that such a document was ever found.

Emails dated 17 September 2003 (MOD049438 and MOD049714)

6. The Inquiry has asked whether there was any aspect of the advice received from Lt Col Barnett on 17 September 2003 that differed from what I understood to be the standard operating procedures in place prior to Baha Mousa's death. That advice was that:

- a) *goggles could be used for security reasons when absolutely necessary.*
This aspect of his advice was consistent with my understanding of what was allowed prior to Baha Mousa's death, see paragraph 10 of my first statement.
- b) his understanding was that the use of hoods '*was stopped under 1 Div at the TIF and I had understood that this was Div wide and so that it was not occurring anywhere within the MND(SE) AO*'. In relation to this aspect of his advice, it was consistent with what I had understood to be the position before Baha Mousa's death insofar as I had not been aware of the hooding of detainees taking place on Op TELIC 2 (as I state in my first statement at paragraph 95). However, I do not remember having been aware of any ban on hooding by 1 Div (see paragraph 25 of my original statement).

Email dated 18 September 2003 (MOD049725)

7. The Inquiry has similarly asked me whether any aspect of Lt Col Le Fevre's interim guidance, contained in his email dated 18 September 2003, differed from the standard operating procedures in place prior to Baha Mousa's death, as I understood them.

8. This guidance was issued in anticipation of a comprehensive Divisional SOI. It confirmed that tactical questioning of arrested detainees following a planned or reactive operation should take place as soon as possible and in a controlled environment and only after an individual has been medically examined. Tactical questioning was only to be conducted by personnel who had passed a Prisoner Handling and Tactical Questioning Course run by the Joint Services Intelligence Organisation. If after an initial tactical questioning session the questioner concluded that the individual is likely to have more useful information, then he would be sent to the TIF, although where the detainee was suspected to have some time critical force protection information, further tactical questioning may be undertaken.

9. Lt Col Le Fevre also confirmed that G3 at Battlegroup, Brigade and Division level held responsibility for the welfare of detainees and for controlling the prisoner handling and tactical questioning of each detainee, up until they were delivered to the TIF.

10. In response to the Inquiry's question, while none of this advice surprised me, the very reason that I was seeking guidance was that I was not specially trained in prisoner handling or tactical questioning myself and I was not personally familiar with what the standard operating procedures in theatre were at the time.

Statement of Truth

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

Signed _____

Lieutenant Colonel Edward Anthony Fenton

Dated: 30th March 2010