

Witness Name: MAJOR MICHAEL

JONATHAN ELLIOTT

Statement No.: One

Exhibits: NIL

Dated:

THE BAHAMOUS PUBLIC INQUIRY

Witness Statement of Major Michael Jonathan ELLIOTT

I, MAJOR MICHAEL JONATHAN ELLIOTT will say as follows: -

- 1 I make this statement in response to the Inquiry's Rule 9 Request dated 28 September 2009. I have read this Request, and I seek here to cover everything it raises to the best of my ability and recollection. I wish to make the inquiry aware that I prepare this statement from a Forward Operating Base in Afghanistan and as such do not have full access to all of the supporting documents available to the inquiry, or my own notes from that time.

Training

- 2 I have been asked about the training I received. We had generic annual training on the law of armed conflict, including a video and discussions in syndicate groups about what we had seen. The video covered the Geneva Convention. It was clear that prisoners of war should be treated humanely and with dignity.

- 3 I do not recall that I had any specific training or guidance on the procedures for the detention and treatment of prisoners of any category other than prisoners of war.
- 4 I do not recall having had any training or guidance relating to hooding, blindfolding or the use of blacked-out goggles, prohibition on covering the face, white noise or sleep deprivation.
- 5 I was aware that the law of armed conflict provides that prisoners are not to be mistreated and I assumed from that that stress positions cannot be used. However I recall once (long before I went to Iraq) talking to a colleague in a coffee room or perhaps a bar who was a Tactical Questioner who had been teaching on the Resistance to Interrogation course. I gained the impression from that conversation that TQers could use certain techniques which may have included stress positions but this required special training and must be used in a very controlled environment. He did not expressly say that techniques referred to in the Resistance to Interrogation courses could be used by UK Forces but if asked at the time I would probably have said, as a result of that conversation, that it was appropriate for specially trained persons such as Tactical Questioners to use stress positions in a controlled environment.
- 6 I understood that food and water and medical treatment must be provided to the detainees, which is part of the Geneva Convention. Minimal and proportionate force must be used. Plasti-cuffs should be applied to the front if possible.
- 7 I have never received any training on the shock of capture or conditioning. The only time that I heard these terms was during the early part of my tour when I was working as the Ops Officer in 1QLR (i.e. between May and August 2003). I remember that I received an oral request over the telephone from Captain Charlie Burbridge, the

SO3 G3 Ops in HQ 19 Bde. He had received a request to task a Battle Group and had contacted me. I would estimate this was in June or July. He asked me to provide soldiers to go to Bde HQ at the Palace to assist intelligence personnel with conditioning. I particularly remember this because I asked what was involved so that I could task troops more clearly, and he said it involved maintaining the shock of capture, by moving prisoners from A to B and creating the impression that they were still in a military camp. There was no mention of any techniques other than these. I did not think that it was anything inappropriate since Intelligence Staff were involved, it was at the Bde HQ and was clearly happening with Bde authority. I am unable to remember any further detail about this request from Capt Burbridge. In particular, the Inquiry asks whether the prisoners concerned were blindfolded or hooded. In response I can only say that I do not know. I was not present for this task or even able to categorically confirm that it took place. This is because I cannot be certain that 1QLR eventually provided soldiers for this task. I would have looked to see whether I had any soldiers spare and or if I had to take them from an existing task. If other tasks would be delayed or cancelled I would have consulted the 2ic (Maj Steve Bostock) or the CO (Lt Col Mendonca) before agreeing.

Rank and Day to Day Role on Op Telic 2

- 8 I deployed to Iraq in about May 2003 on Op Telic 2 and returned to the UK in November 2003. Until August 2003 I was the Ops Officer in 1QLR, holding the rank of Captain. My role was to run the current battle from the Ops Room in support of the Commanding Officer (Lt Col Mendonca). This involved coordinating the management of the battle space and maintaining and disseminating situational awareness.
- 9 As part of the normal career change of posts, I moved in August 2003 to 3 (UK) Div, where I became SO3 J3 Ops B, which is a battle

captain's job on the current ops desk. I was basically a watchkeeper, noting communications from all the battlegroups in the Division. When I was doing this job I no longer had any role within 1QLR and I moved from BG Main to the Airport where Div was based. In fact, I had so little contact with 1QLR at that point that I only heard about Baha Mousa's death after I had returned to the UK after my tour.

- 10 It is correct that I handed over my job as Ops Officer in 1QLR to Gareth Seeds in August 2003.

Prisoner Handling

- 11 I did not have any responsibility for or direct involvement in prisoner handling in either of my posts. I do not recall having any training or guidance regarding the detention and treatment of prisoners of any category. We had specific annual training on the Law of Armed Conflict including prisoner of war handling, which I refer to at paragraph 2 but as far as I remember, there was no specific training tailored for Op Telic 2 in our pre-deployment. I recall reading some guidance on the difference between detainees and internees which I was made aware of on the 1 QLR recce. I was briefed and shown the extant direction on distinguishing detainee from internee and what to do with them. Later during my full handover with 1 BW I recall noticing that the same direction was still extant. I believe that the detail of this was included in the 1 QLR OpO prior to deployment and recall that the CO (Lt Col Mendonca) directed that it be carried by all JNCO commanders.

Pre-deployment Training

- 12 I have been asked about who had the responsibility for pre-deployment training of 1QLR. The main person who has responsibility for this was Major Steve Bostock, the Battalion 2ic. He facilitated the delivery of training and liaised between 1QLR and OPTAG (operational training

and advisory group). I helped him by coordinating the delivery, for example I would book the training facilities. I do not recall if there was a training officer or a training warrant officer in post at the time.

13 I have been shown a memo about the "TQPH Cadre" (MOD035479_R) which has my signature. I do not remember anything about that specific cadre but it is perfectly plausible that I organised the delivery of this training. I do not recall why I was asked to organise this but it would probably have been from Major Bostock or the Brigade. I am not able to say whether this course went ahead, who instructed on the course, what was taught on the course or whether any records of the instructions given on the course were kept.

14 I do recall however that we had a small time window for us to train before we deployed to Iraq. I think that it was specified in 'mounting instructions' that we needed to have TQ trained personnel in each of the Companies. I have been shown "Operation Telic 2 – WNG O 01/03" (MOD022132_R) and this accords with my recollection. I remember that it was difficult for us to achieve all of the mandated training and we needed to sweep up the rest of the training in theatre. This time compression was caused by our [1 QLR] involvement in Op FRESCO(Z) (fire fighters' strike), and late formal notification of our deployment to TELIC. I am sure that we were dependant on external Tactical Questioners for the entire period of my tour to Iraq because we did not have any in-house qualified persons.

15 I have been asked to give an account of my involvement in the 1QLR BG recce party on 10 May 2003 and I have been shown a copy of the "Recce Report" (MOD011102). I recall this recce. As the only Staff Officer I was asked to organise it. I was essentially a secretary to the recce group, which was composed of the CO, Rifle Company Officers Commanding, the Quartermaster, the Quartermaster (Technical) and myself. Prior to the recce, I collected together a host of questions that

we required answers for, and then formed the basis of the plan of what to see. Whilst we were there, I recorded the answers to our questions and I recall that it was completed during our return journey and disseminated immediately on our return.

- 16 We spent some time with 1 Black Watch battlegroup and I remember seeing detainees being hooded. I was briefed on the difference between detainees and internees and the stringent timelines which were in force to transfer them to the TIF. If my memory serves me correctly they had to be transferred within 24 hours and this time frame was challenging. Prior to our deployment I recall that the CO directed that all the junior commanders be notified of the way in which prisoners were categorised (i.e. detainees or internees) and that they must keep that information with them at all times for reference. I do not recall any emphasis being placed on the fact that 1BW was hooding but I most certainly understood it to be current practice as I had seen it on the recce when we had visited one of the Company locations. During this recce I do not remember any discussion about stress positions, conditioning, shock of capture or TQing. It was my understanding that external to the camp the purpose of hooding was to protect the identity of the detainees and that internally within the camp the purpose was to protect the security of the camp.

Chain of Command regarding proper treatment of detainees

- 17 I have been asked by the Inquiry who within the Chain of Command had responsibilities for ensuring the proper treatment of those detained by the battlegroup. The responsibility for the oversight of prisoner handling was the BG Internment Review Officer, who was Major Tony Royce (later replaced by Major Mike Peebles). I worked closely with Tony Royce but my function was coordinating the soldiers to do the

tasks that Major Royce needed, for example, I would task soldiers to bring a detainee down for TQing. Tony Royce determined policy, which was implemented by Sgt Smith, the Regimental Provost Sergeant, and Corporal Payne, who was the Regimental Provost Corporal. There was also some involvement by the Intelligence Cell, for example, they would help determine whether a prisoner was a detainee or an internee, and liaise with the TQers. The Inquiry asks what is the basis of my understanding of the chain of command set out above. In response, the Chain of Command in respect of detainees following the appointment of Maj Royce as BGIRO was well known to me because Maj Royce had produced a policy document outlining his responsibilities which I recognise as MOD016356.

- 18 I have also been asked about the following people's role in prisoner handling –
- i) CO – Lt Col Mendonca was the commander of the battlegroup. He devolved responsibility for prisoner handling to Maj Royce, who oversaw the process. The CO would not routinely be involved with the day to day process of prisoner handling.
 - ii) 2ic – Maj Steve Bostock, then Maj Suss-Francksen. They were not involved in the detention process or the day to day running of it.
 - iii) TQers – As far as I am aware, we did not have TQers within the battlegroup. I think initially most of our prisoners were TQed at the theatre internment facility (“TIF”) or at Brigade HQ.
 - iv) Adjutant – Maj Mark Moutarde in the UK would have had a very direct role in the detention of soldiers, as the Adjutant is a type of personnel/human resources post. However on operations, the Adjutant had no direct involvement in the detention process. His role in the CO's Tac Group would not have allowed for direct supervision of prisoners.
 - v) RSM – WO2 George Briscoe in the UK would also have supervised detention but on operations I do not believe that he was explicitly in

the chain of command. His role in the CO's Tac Group would not have allowed for direct supervision of prisoners.

- vi) CSMs – They had responsibility for detainees whilst they were present in their Coy locations. The CSM would be aware when that was happening but would not likely be present at all times.
- vii) BGIRO – Maj Royce also had this role and I have explained in paragraph 17 what his role was in terms of prisoner handling.
- viii) Provost Sergeant – This was Sgt Smith, whose role I explain in paragraph 17. However if the RP staff needed more soldiers to guard prisoners, a section of soldiers would be tasked to come and work at the detention facility.
- ix) Provost Corporal – This was Corporal Payne, whose role I explain in paragraph 17. However if the RP staff needed more soldiers to guard prisoners, a section of soldiers would be tasked to come and work at the detention facility.

19 I had very little involvement regarding detainees, and no direct involvement whatsoever. I occasionally tasked companies to provide manpower to assist the Regimental Provost staff. This was part of my operations job, i.e. to organise where soldiers would be tasked. I also occasionally visited the detainees out of interest. We shared lavatory facilities with them; the portaloo that I used was outside the detention centre. I remember occasionally looking into the detention centre. The detainees were not hooded and not in stress positions. My impression was that they were well looked after. I also remember thinking that the detainees had very good facilities because I remember seeing that the detainees had campcots (camping beds) in the detention facility and that in contrast, some of our men were sleeping on the floor.

20 I enjoyed a good working relationship with Maj Royce. He issued very clear instructions about the way the detainees were to be treated and he was extremely robust in the implementation of this. I know that there were timelines which had to be followed and sometimes the

Theatre Internment Facility ("TIF") was shut. Maj Royce used to get frustrated because when the TIF was shut it directly conflicted with our obligation not to hold prisoners beyond a certain length of time (which had been specified in a Bde or Div Frago). I know this was a source of frustration to Maj Royce because we used to sometimes chat over a cup of coffee and I remember he used to comment on the difficulties of the TIF being closed. On at least one occasion he threatened to release the detainees unless the TIF was opened. He took his responsibility extremely seriously and took nothing for granted.

- 21 I do not recall any interaction with SSgt Davies, CSgt Livesey, Sgt Smith and Cpl Payne beyond just normal chat.

- 22 I recall seeing detainees hooded on their arrival at our Camp. I remember once helping detainees down from a truck. They were hooded. As far as I was concerned, hooding was for two reasons, to protect our own security (for example the Camp layout), and to protect the identity of the person who had been arrested. This was because an arrest by us may imply an association with the insurgency, when this was often not in fact the case. I do not recall how I had formed the impression that we were obliged to protect the identities of detainees but it seemed to be a perfectly reasonable, temporary action to take in these circumstances. The detainees would be unhooded once they arrived at our detention centre.

- 23 I never once witnessed any stress positions or bad behaviour towards the detainees and I was absolutely shocked when I found out that someone had died in custody. I am sure that during my time at 1QLR prisoners were not being ill treated as I used to use the same toilets as them, I would occasionally pop my head around the door of the detention centre, and I slept on a balcony not very far away from it.

FRAGO Op Quebec

- 24 I have been asked about FRAGO Op Quebec dated 13 August 2003 (MOD030899). I do not recall this FRAGO specifically but it is entirely possible that I helped to draft it. I would often draft routine operations in conjunction with Major Royce and the CO. I would estimate that I drafted FRAGOs almost daily. If there was a targeting process involved then the lead would usually be Major Royce who took separate direction from the CO. It is possible that the phrase which the Inquiry refers to, i.e. "Prisoners should arrive for TQ bagged and tagged unless over 45 years of age", would have been detailed in a direction that Maj Royce received from Bde or Div, which he would then have asked me to put into the relevant 1QLR FRAGO. In response to the Inquiry's question on the point, it is simply my assumption that this phrase may have been detailed in direction from Bde or Div. I do not remember this happening, nor am I aware of any other examples where matters of this nature were so directed. The term 'bagged and tagged' to my mind means that the prisoners should be hooded and plasticcuffed'. The 19 MB G3 Ops who appears on the distribution list at 14, was Captain Charlie Burbridge. He was the Operations Officer at Bde HQ.

Sandbags

- 25 The battlegroup was issued with sandbags. These are oblong hessian sacks. They can be filled with sand or soil and are used for fortifications or general use. They are carried by soldiers on their webbing so as to be at hand.

Chain of Command within 3 Div

- 26 I have been asked about the Chain of Command when I worked in 3 Div. I reported to SO2 J3 Ops O&D (organisation and deployment),

Chief of Staff who was Colonel Richard Barrons, who was succeeded by Colonel Tim Evans. The Chief of Staff reported to the Divisional Commander, Major General Graham Lamb.

- 27 No one reported to me. I was a junior post in Div and had no knowledge whatsoever of anything to do with prisoner handling, tactical questioning or issues relating to the standards for the treatment of prisoners of any category within Div. I was aware of the branch functions within the HQ and so I know that the legal issues would be dealt with by the legal advisor within Div, who was Col Charlie Barnett, and intelligence would be dealt with by J2 (intelligence) but I know nothing further about this.

Media

- 28 I have never given an account of matters relevant to the Inquiry's terms of reference to the press or media.

Statement of Truth

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

Signed _____

A black rectangular redaction box covering the signature of the witness.

MAJOR MICHAEL JONATHAN ELLIOTT

Dated 16 DEC 09 _____