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Case Ref No: 64695/03

MOD Form 266A/B
(Introduced 12/03)

**SERVICE POLICE
WITNESS STATEMENT**

(CJ Act 1967, S.9;MC Act 1980, SS.5A(3a) and 5B;MC Rules 1981, r70)

Statement of: ROBERT LOGAN SCOTT-BOWDEN	
Rank/Status: BRIGADIER	
Age if under 18: Over 18 (if over 18 insert "over 18")	Occupation: HM FORCES (Army)
This statement (consisting of pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.	
Signature: RL SCOTT-BOWDEN	Dated the 20 th day of June 2005.

1. I am Brigadier Robert Logan Scott-Bowden, currently appointed as the Director of Infantry (D Inf). I am responsible for the provision of direction, policy and advice on Infantry matters in order to ensure that the Infantry is manned, trained and equipped, structured and sustained to fulfil its role in accordance with doctrine in peace and war. I have held this appointment since Jan 05.

2. I joined the Army as an officer cadet at the Royal Military Academy Sandhurst in January 1974 and was commissioned as an Infantry officer in June 1974 into The Royal Scots (The Royal Regiment) (RS). I served with my regiment in various appointments and commanded 1 RS from 1994 to 1997. During my career I have successfully completed many training courses and the following are directly pertinent to my current appointment as D Inf:

- a. Platoon Commanders' Battle Course Platoon Commanders' Division - 1975
- b. Unit Surveillance (Commanders and Instructors) Course - 1980
- c. Junior Command and Staff Course - 1982
- d. Army Command and Staff Course - 1987
- e. Command Arms Tactics Course -1988
- f. Warrior Gunnery Course - 1989

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- g. Warrior Commanders Course - 1989
- h. Infantry Range Safety Officers' Course - 1989
- i. Commanding Officers' Designate Course - 1994
- j. Defence Strategic Leadership Programme 2003
- k. Crisis management - 2004.

3. In addition to serving at regimental duty with 1 RS, I have held the following staff appointments:

- a. SO2 (G3 OR) HQ Northern Ireland 1989 - 1991
- b. SO1 (Directing Staff) Army Staff College 1993 - 1994
- c. SO1 (J3 (LAND 2)) PJHQ 1997 - 1998
- d. Colonel (Weapons) Project Manager - Infantry Weapons Systems 1998 - 1999
- e. Colonel (Weapons) Integrated Project Team Leader - Dismounted Close Combat 1999 - 2001.

4. a. Dec 2001 – Apr 2002, I commanded 52 Lowland Brigade
- b. Apr 2002 - Dec 2004 I commanded 52 Infantry Brigade (which consisted of 4 Regular Infantry Battalions).

5. I have served as an Infantry officer in GB, Germany, the Falkland Islands and Northern Ireland. Whilst serving with 1 RS in Northern Ireland my unit was frequently involved in the arrest and detention of persons suspected of involvement in alleged terrorist and criminal activity. As unit commander, in Northern Ireland, I have been involved in the arrest and detention of suspects, I have commanded arrest operations and as a CO, have been ultimately responsible for the arrest operations undertaken by my soldiers.

6. I have not served in Iraq or on any other war-fighting operations. Although I have conducted two pastoral visits to my troops in Iraq, I have no first hand experience of operations in that theatre. I did not visit 1 QLR and was not in Iraq in Sep 03.

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7. As a unit commander, I have received and delivered training on a wide range of issues relating to infantry soldiering, including the arrest, treatment and detention of Prisoners of War (PW). Amongst my duties as D Inf, I am responsible for the development of training issues to Infantry commanders, but I do not personally deliver any training. I do however present an opening address to the Commanding Officers' Designate Course (CODC) which focuses on the role of my Headquarters and the current issues facing the Infantry.

8. In my current appointment and with the benefit of previous experience, I am fully conversant with the general principles of command. Command principles are detailed in Queen's Regulations for the Army 1975 and the Army Doctrine Publication Volume 2 (Command) and, in the context of PW and Detainees/internees, the Joint Warfare Publication. The following is a synopsis of the relevant elements of those publications:

a. The responsibilities of a CO of an infantry battalion on operations are the same as that which pertain to any commander in any location carrying out any activity. Command is the authority vested in an individual for the direction, co-ordination, and control of military forces. Command has a legal and constitutional status, codified in Queen's Regulations and encompasses the authority, responsibility and duty to act. Common to all levels of command, from independent sub-units upwards is the responsibility of the commander for the command, training and safety, security, discipline and education, welfare, morale and general efficiency of the troops under command and for the efficient administration of the unit.

b. Authority and responsibility underpin command. Authority involves the right and freedom to use the power of command, and ultimately to enforce obedience. A commander retains overall responsibility for his command and that responsibility can only reside and inhere in a single individual. A CO may share it with others, but the CO's portion is not diminished. A CO may delegate it, but responsibility remains with the CO. A CO may disclaim it, but he/she cannot divest him/herself of it. Frequently operations demand decentralised command and whilst delegation of responsibility characterises decentralised command, it does not necessarily imply any slackening in the requirement to control. Furthermore, commanders must possess sufficient judgement to know not only what to delegate but also to whom. Prior knowledge of a subordinate's strengths and weaknesses will often provide the basis for that judgement. In essence, a CO's authority and responsibilities as a commander are enshrined in both doctrine and military law.

9. I have been asked to comment on the procedures for the arrest, treatment and handling of PWs and detainees/internees:

a. Anyone detained during war fighting operations is to be treated as a PW until a board of inquiry establishes otherwise.

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b. During post conflict peace support operations, persons detained as a consequence of their suspected involvement in criminal activities are categorised as detainees and treated as such. Persons detained because they are perceived to pose a threat to security are termed Internees. In general terms, PW and detainees/internees are always to be treated humanely in accordance with the Geneva Convention. COs are to satisfy themselves that all personnel under their command are properly instructed in their duties and obligations to PW and detainees/internees. A CO has specific responsibility to ensure that:

- (1) Individual members of his unit comply with the provisions of the Geneva Convention and its additional protocols.
- (2) PW and detainees/internees are treated in accordance with the Law of Armed Conflict and any local orders that may be produced in theatre.
- (3) There is a sufficiently robust PW handling organisation within his formation and that it is equipped and organised to process the number of predicted PWs, detainees/internees.

c. A CO is usually very busy during operations and I would not expect him to be involved in the handling of PWs and detainees/internees, unless he has personally arrested such an individual. I would expect a CO to appoint an officer to command PW and detainee/internee operations. That person may in turn delegate certain responsibilities to others within the unit chain of command. PW handling is usually undertaken or supervised by the unit's Regimental Police (RP) staff.

d. It would, in my opinion, be reasonable for a CO to delegate the running of a Temporary Detention Facility (TDF) to a subordinate officer or SNCO and for the CO to expect that person to operate the facility within the doctrine, policy and orders provided. It would be reasonable to expect a CO to discuss generic procedures with the officer in charge of the TDF. I would not however expect a CO to immerse himself in the detail or to examine individual cases unless such cases were brought to his personal attention.

e. In addition to these responsibilities and obligations, COs are under remit to investigate any alleged breaches, to ensure that it is thoroughly investigated by a competent authority, usually the Royal Military Police and to report the matter to higher authority.

f. COs receive training on their generic responsibilities on the Battle Group Commanders Course and CODC, planned and conducted by the Land Warfare Centre at Warminster. In addition, prior to assuming command, a CO will have received training on the Army's doctrine on command at RMAS, during his staff training, especially on the Army Command and Staff Course, and during pre deployment training for operations.

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g. A CO must be aware of relevant doctrine, policy and orders and is responsible for ensuring that troops under his command comply with such orders etc. In addition to generic doctrine and policy, a CO is expected to comply with orders that he may from time to time receive from PJHQ, HQ LAND and theatre command. Prior to deployment, a CO may have access to Post Operation reports and 'Lessons Learnt' publications produced after earlier and similar operations and may consider it appropriate to disseminate within his unit the whole or extracts of those publications.

10. In summary a CO has a legal and doctrinal obligation to exercise command and control over the troops under his command in all circumstances, irrespective of the duties they are undertaking. He may delegate his responsibilities, including PW handling, but not divest himself of them. He must ensure that his subordinates comply with the law however dispersed his area of operations and that he has put in place an organisation that is adequately trained and sufficiently resourced to deal with those in his charge. Because of the moral imperative of command he cannot absolve or abrogate himself of these duties and obligations.

11. I have been asked to comment on arrest and detention operations undertaken in Iraq during peace support operations in Sep 03. As already mentioned I was not serving in Iraq at the material time. I am aware of the requirements of the Geneva Convention, the Law of Armed Conflict and generic doctrine. However I do not know what the local orders or SOPs were in Sep 03. I am aware that the policy evolved as the operation progressed. I therefore cannot offer an informed opinion about the probity of procedure in place at 1 QLR at the material time. I make the following comments:

a. All soldiers undergo training in the Law of Armed Conflict which includes the Geneva Convention for the treatment of PW and the Rules of Armed Conflict. Such training is included in the annual Individual Training Directive (Army) and during pre-deployment training from the Operational Training and Advisory Group (OPTAG).

b. OPTAG training is delivered in either one of two distinctly separate and differing packages – training for war fighting operations, that includes training for PW handling only, and training for peace support operations, that includes training for detainee/internee handling.

c. My understanding is that 1 QLR deployed on war fighting operations and undertook the war fighting OPTAG package that included training on the handling of PWs. They did not therefore receive pre-deployment training for peace support operations and would not have received training on the handling of detainees/internees.

d. Soldiers may receive additional training, specific to theatre, if considered appropriate and this may take place either prior to deployment or once in theatre. I would expect the RP staff, who have been trained in the handling of our own soldiers in detention, to manage the TDF and to always treat PW correctly.

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e. Generic doctrine and policy for the treatment of detainees accords with the Geneva Convention and the Law of Armed Conflict and is developed by MOD in consultation with the relevant departments. Force commanders may issue further directives/ orders to take account of local imperatives and priorities existing in any theatre.

f. The CO would want to ensure that arrest operations were conducted smoothly and I would expect that by the time a unit had been in theatre for a few weeks and had undertaken such operations, the unit would have well established and smooth operating procedures.

g. It would be usual for arrest operations to be in response to intelligence received about persons and their suspected involvement in an incident or offence. The level of planning and the engagement of individuals within a unit or formation would be dictated by a number of factors including the seriousness of the original incident or offence, the number and status of those to be arrested, the local security situation and an assessment of the perceived threat both against our forces and the individuals to be arrested. The geography and distances involved and the amount of concurrent activity involving his unit would also influence the engagement of the CO in such operations.

h. Depending upon the existence of factors described above, the CO may be personally involved, however, it would be normal for a CO to delegate responsibility for arrest operations to sub-unit commanders, who may, in turn delegate responsibility for conducting the arrest to platoon or section commanders. Depending on existing factors, the CO may not be personally aware of every arrest operation. I would expect the unit to have Standard Operating Procedures (SOPs) in place, but these may be generic to all arrest operations or, depending on existing factors, specific for a single arrest operation. I would expect the officer or NCO commanding an arrest operation to brief his team, normally during an Orders Group (O Gp).

i. I would not expect a CO to be present during arrest operations but to concentrate his main effort on the overall direction of operations to maintain sector security, in the belief that the processes for the treatment of prisoner's accords with established doctrine. I would expect a CO to confirm that the processes were in place and operating correctly, however, unless he has reason to doubt the probity of the processes or the actions of individuals, I would not expect this to be a high priority. In the case of a high profile arrest that has perhaps attracted media attention, I would expect a CO to concentrate on contingency planning to react to possible incidents occurring as a result of such arrests and on the security of his own forces. I would however expect a CO to confirm, by way of formal or informal reports, that correct procedures were being adhered to, particularly during the initial stages of the operation and then routinely, probably once every 24 hours.

j. I would not expect a CO to involve himself proactively in the questioning of detainees. It is reasonable to expect a CO to trust his subordinates and the subject matter experts, such as

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Tactical Questioners, that may be involved in questioning detainees and to expect that they apply the correct doctrine and policy to their activities.

k. I would expect the CO to satisfy himself that all was in order and then subsequently visit when he felt it was appropriate. I would not expect him to personally visit each detainee. If a CO became aware that detainees were being ill treated, or of activities that did not conform to established doctrine, I would expect him to take immediate action.

l. Routine arrest reports should be made to higher command, the Bde HQ, who may deploy Tactical Questioners to assist the arresting unit in the questioning of detainees. Again it is reasonable to expect a CO to believe that the subject matter experts are applying the correct doctrine and procedures and I would not expect a CO to check on such activities.

m. I would expect the unit to maintain regular contact with its higher formation and would expect that the issue of prisoners would be mentioned during back-briefings. During a high profile arrest I would expect the CO to personally brief the Bde Comd about the situation.

n. The CO of an Infantry unit that operates a TDF is responsible for ensuring that prisoners are held and treated in conditions that conform to the Geneva Convention. There is no set scaling or construction for a TDF and such a facility may be housed in any building (including a tent) or compound. Local conditions, including the perceived threat to individuals, dictate the environment in which detainees are held.

o. Tactical Questioners are an Intelligence Corps asset and as such come under the command of the CO/OC of the Intelligence Corps unit. Whilst the CO of a TDF may have Tactical Questioners deployed to his TDF, they remain under the command and control of the Int Corps unit. That does not however, negate the responsibility of a CO to take immediate action if he should become aware of wrong doing by Tactical Questioners.

p. I would expect a CO to receive an occasional, informal back-brief from the officer or SNCO in charge of the Tactical Questioners about the status of prisoners and, in general terms, the information gained during interviews. Additionally I would expect some form of record to be held for each prisoner and for such records to reflect the imperatives for the overall operation.

12. In summary, the battle rhythm of high intensity peace support operations is such that a CO has a host of responsibilities, conflicting priorities and demands upon his time. I am not able to comment on the context in which CO 1 QLR was operating, however I would expect, given the sequence of events, for him to be exceptionally busy. The CO must focus his main effort on tactical planning to meet his superior commander's intent. I would consider it entirely reasonable for the CO to assume that procedures are in place and functioning smoothly and to trust his subordinates, until such time as he is aware of breaches of procedures. I would expect the CO to discuss with his subordinate

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commanders high profile arrest operations and to have assurance through briefings that the manning and operation of a TDF was operating in accordance with our doctrine.

Signed: RL SCOTT-BOWDEN

Signed: DN ROWLEY
Lt Col
RMP

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