

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

SUMMARY OF PROCEEDINGS: MONDAY 15 FEBRUARY 2010

JORGE EMMANUEL MENDONCA

- Col. Mendonca joined the Army as an officer cadet in 1981 and was commissioned into the QLR in 1982. He had held various high level posts during his career. He was acquitted at the court martial following a submission of no case to answer. He left the Army of his own volition in 2007.
- He described the conditions in Basra and the pressures on 1QLR. The situation was complex and dangerous. There was a growing insurgency and breakdown of law and order and lack of utilities. The heat was a real and consistent problem.
- The doctrine of mission command, which provided for delegation, was confirmed. He viewed his responsibility to ensure the delegation was clear was the same whether he knew the officer well or not, but would have greater supervision of an officer whom he knew less well. He confirmed the responsibilities of the CO with regard to the detention of prisoners. He would not become involved in the routine running of the TDF unless he became aware of any mistreatment.
- He confirmed the preparations he undertook prior to deployment. Not enough training was given on prisoner handling. There was no prior expectation that civilians would be detained. Training was postponed since they were fire fighting in Liverpool. War fighting training was undertaken in 2002 but was not pre-deployment training. It contained some general prisoner handling training but related to the movement of prisoners. The principles remained the same. There had been no formal warning for deployment, which would have given them priority for resources and training places. He had expected Major Lighten to devise a training plan on the subjects he had specified. This included house clearance. At the time of the training he did not consider that hooding was inhumane.
- Evidence of various incidents of violence and allegations of violence was considered. Col Mendonca accepted that he was responsible for discipline and adherence to the Geneva Convention. He had not heard of casual violence which appeared to become the entrenched culture. He would not have expected the violence to have occurred and if it did, he would have expected to learn about it. He had never seen any unjustified acts of violence such as those described.
- The first time that he had been told that the Op Salerno detainees had been assaulted was a few days after Baha Mousa's death. These matters had never been brought to his attention, either officially or unofficially. If there had been widespread systemic violence, he would have come across it during his rounds. The picture of a culture of violence did not take into account the number of perfectly good and proper patrols that had been carried out.

- Col Mendonca was asked about incidents that had allegedly been reported to him and described the actions he took after each. He did not tell anyone that that the Garamche tribe should be dealt with harshly, nor that detainees should be handled roughly or robustly. He had said that a robust posture should be adopted by 1QLR. He had given no instructions as to how the detainees from OP Salerno were to be removed from the hotel. The approach to civilians was discussed at O Group meetings and would have included robust handling of public disorder situations.
- Col Mendonca did not recall learning about the 1972 Heath ruling on the five conditioning techniques, although he was aware that it was included in the syllabus of a course on counter-insurgency that he had attended.
- He did not consider hooding to be inhumane. He had not focused on stress positions, but those he had seen in the video used on the detainees were inhumane. He was aware that conditioning techniques were being used but until Mr Mousa's death he was not aware that they were anything but humane.
- The introduction of the BGIRO role ensured that prisoner handling was the responsibility of an officer. It was a departure from the normal chain of command, in that it took the RSM 'out of the loop'.
- Having been shown the Payne video, the witness said he had not been aware of that sort of thing going on in the TDF. It did not amount to conditioning. He knew that, prior to TQing, detainees were not being allowed to relax or go to sleep; this was to maintain the shock of capture. He would condone hooding if it was necessary, e.g. for security reasons if detainees were being moved around, to stop them communicating with each other and to protect the interpreters. It was a short term solution. At one of the O Group meetings Maj Royce said he had checked with Brigade legal and hooding had been sanctioned. He understood from Maj Royce that conditioning consisted of the prevention of relaxation. He was not aware that detainees were kept hooded in the TDF for hours on end. He did not ask anyone about what actually happened to prisoners in the TDF prior to TQing.
- He never saw detainees in stress positions, either inside or outside the TDF. If he had, he would have stopped it as it would have been inhumane. He understood that all detainees had a medical check upon arrival. He knew that there was no log book kept in the TDF prior to the death of Baha Mousa, nor was there any record of visitors. After the death several improvements relating to prisoner handling were introduced. These included the reinstatement of the RSM in the chain of command.
- This witness took part in Op Salerno but did not recall seeing the detainees in question. Later on he visited the TDF; one visit was later the Sunday night and the second time was after Baha Mousa died. When he heard of the death, he was devastated. He was also very angry; he realised that the QLR would only be remembered for the death and not for all the good work that they had done in Iraq.
- Col Mendonca considered that it had been very unwise of Maj Peebles to broadcast a suggestion that the detainees might have a connection with the deaths of Capt Jones and members of the RMP; he knew nothing of it at the

- He did not recall visiting the TDF during the day on the Monday. He was told of Baha Mousa's death whilst he was out on patrol later on Monday. He told the adjutant to inform SIB so that they may begin their enquiry into the death. The adjutant briefed him about the circumstances surrounding the death; he was told that Baha Mousa had been struggling all day and whilst being restrained by two soldiers he had hit his head against a wall and subsequently died.
- He visited the TDF that night but did not go in; on reflection maybe he should have done. He was not aware that other detainees had suffered injuries.
- He had no idea that the level of ill discipline in QRL was as high as later became evident. If he had, he would have taken positive steps to stop it, e.g. speaking to his OCs. As CO of that unit, he accepted responsibility for the death of Baha Mousa. He did not think he could have worked harder during that tour. He concentrated on making Basra better for the people of Basra and keeping his soldiers alive.

SUMMARY OF PROCEEDINGS: TUESDAY, 16 FEBRUARY 2010

Thomas (Tam) Henderson

- Mr Henderson joined the Army in 1983 and left in 2007. Between March and June 2003, he was a WO1 and deployed to Iraq as CSM of C Company in 1 BW.
- He wrote a book called Warrior – he was co-author but it was Henderson himself who provided all the information for the book. He confirmed that the book was true and that it was not embellished for publication. He was questioned about a number of assertions in the book.
- He received mandatory training on the LOAC annually. The message was that people should be treated fairly with proper consideration. Prisoners were to be treated humanely with respect. Taught about hooding and that its purpose was to control prisoners for safety purposes. Never received training in stress positions. He understood the term conditioning and described it as 'bagging and tagging'. No training in the shock of capture.
- Pre-deployment training for Iraq included lectures in stress positions and conditioning. Use of hoods for security and stress positions for the control and conditioning were approved practices.
- In Iraq, Mr Henderson delivered the Company Commander to O Group meetings. Transported prisoners to Camp S but never saw the use of stress positions. He never saw any examples of ill-treatment in camp. He intervened to stop an instance of rough treatment during a riot situation. He also recalled an occasion when there had been a death in custody.

- Several fragmentary orders were shown to Mr Henderson about the arrest, handling and movement of prisoners in Iraq. He could not remember having received these orders in theatre or their detail. He confirmed that he had concerns about many of the detention practices and in particular hooding in the extreme heat of Iraq.
- Mr Henderson was asked about a chain gun incident for which he was summarily disciplined by his CO whose punishment was subsequently overturned by JAG. Mr Henderson assured the Chairman that he bears no grudge against the Army or the MOD as a result of their treatment of him while he was a serving soldier.

Mark Kenyon

- Lt Col Kenyon was commissioned in 1988. In 2003 was OC, C Company with the rank of Major.
- Experience of hooding whilst on training but no training on the use of hooding, stress positions or conditioning prior to Iraq. On arrival, witnessed hooding at the time of handover but no experience of stress positions or conditioning. Received annual refresher training in the LOAC. Did not question use of hooding during arrest and transportation of prisoners for security reasons. Never aware of the use of conditioning techniques whilst in Iraq. Could not recall discussions about these techniques at O Group meetings.
- Prisoners were not left hooded whilst being processed. There were occasions when soldiers had to be reminded to remove hoods and the removal was delayed for some few minutes.
- Members of C Company were required to guard detainees in the TDF and it was a routine guard duty. There was no need for Lt Col Kenyon to check since his men came under the command of the BGIRO when on guard duty.
- Robust handling and restraint techniques were employed when detainees were being arrested. He had not seen black masking tape used to restrict sight in the past.
- The Garamche tribe were a threat to the civilians and soldiers. There was no intention to treat them any differently from the rest of the civilian population but it was expected that a degree of force would be required. He arrived back to base an hour after the end of the incident and saw the Garamche detainees. Some were hooded; Lt Col Kenyon did not see any with black masking tape over their eyes. He directed that they should be placed into the shaded area of the camp. He did not see any injury, nor any assault on any of the detainees at that time.
- He had been concerned that there should be no inappropriate behaviour given the events of the previous three days. The detainees were placed in an area open to view; a medic was in attendance and he and the Coy SM checked from time to time to check that instructions were being carried out. Any assaults which might have taken place would have happened in the hour prior to his arrival in camp following the arrest.

- Concerns about possible assaults or injuries to the detainees were brought to his attention. There was a suggestion that once the detainees had been brought back to camp these assaults could continue. The information was unsubstantiated. He addressed the assembled men to tell them that any such behaviour would not be condoned.

Statements were read from

Captain Brian Aitken. (CHECK REGIMENT)

Received basic training 1979, taught to hood prisoners. Stress positions and shock of capture on British POWs were taught later. He outlined the procedures for handling prisoners.

Maj George Wilson (CHECK REGIMENT)

Describes stress position to control detainees. RSM was responsible for welfare of detainees. He described procedures for prisoner handling.

Major Christopher Coleman (CHECK REGIMENT)

BGIRO. Aware shock of capture but did not take steps to maintain it. Detainees sometimes by members of intelligence not trained as Tcs. Most internees were not sent to TIF within 14 hours.

SUMMARY OF PROCEEDINGS: WEDNESDAY 17 FEBRUARY 2010

John Gallacher

- Mr Gallacher joined the army in 1985 and left in 2007, at which point he was a sergeant.
- In 2003, he was a provost sergeant with 1st battalion Black Watch and a trained tactical questioner (TQer). His battalion left Basra in June 2003.
- Use of stress positions was considered legitimate for HVTs – high value targets – to give them a sense of fear (a phrase which possibly came from his own interpretation not from the training).
- He was required at times to “prepare” HVTs for questioning. This included putting the detainee into stress positions for 20 or 30 minutes. He did not actually do any tactical questioning.

Mark Percy

- Mr Percy joined the army in 1996 and served in the Black Watch. In 2002, he was the operations officer and then a company commander with the rank of captain during Op Telic 1. He left the army in 2006 with the rank of major.
- He received no training and had no involvement in hooding or conditioning of prisoners. He was able to recall the order that changed the practice on prisoner handling in May 2003.
- During the handover to 1QLR, he did not mention that hooding was banned, because this was a brigade policy and a company commander should not be trying to interpret brigade policy; this should have been covered by the brigade handover.

Joshua King

- Mr King joined the army in 2000. Deployed to Iraq on Op TELIC 1. Redeployed as a Lieutenant on Op TELIC 2. Deployed as an armoured platoon leader. Also, qualified as a tactical questioner.
- Training included the Geneva Convention and LOAC. Also, attended an exercise simulating conduct after capture to experience what might face the troops if captured on tour.
- Also, trained in TQ and PH. Deemed best practice that questioners should brief prisoner handlers how detainees were to be prepared. Explained that no violence or threat of violence was to be used. Taught that prisoners should be deprived of sight at the point of capture and while being transported from place to place. At other times, blindfolds would be removed. Purpose of blindfolding was security and to maintain the shock of capture. Expressly told that stress positions should not be used.
- During Op TELIC 2, Mr King acted as a questioner with others on several operations. Briefed the guarding soldiers in the deprivation of sight as appropriate. Hoods used during the tour at the point of capture and thereafter used blindfolds or goggles. Later on in the tour instructions were received that hoods should no longer be used. Later still instructed that detainees were not to be deprived of sight at all. Use of blindfolds to preserve the shock of capture only appropriate in the war fighting phase of the operation.
- Never saw any use of stress positions and was not aware of stress positions being used. Aware of the expression High Value Targets but had no dealings with them and agree that they would not be treated differently from other detainees.

SUMMARY OF PROCEEDINGS: 18 FEBRUARY 2010

David Bruce

- Mr. Bruce joined the army in 1978 and served with 1 Black Watch from 1979. He has been promoted through the ranks from private to his current rank of major.
- From March 2003 to June 2003, he was the regimental sergeant major in Iraq during Op Telic 1. Reporting directly to the CO, he was, amongst other duties, responsible for the provost staff in the regiment.
- By the time of his deployment to Iraq, he had received no training or instruction to distinguish between the treatment of prisoners-of-war (combatants) and that of civilian detainees.
- However, there was a change of treatment as the operation moved from the war-fighting stage to the peace-support stage: civilian detainees were, unlike prisoners-of-war, not routinely "bagged and tagged" on capture.
- He recalled receiving an instruction to stop hooding prisoners but not receiving a written order to that effect. He did not see any detainees either hooded or in stress positions after the war-fighting stage.

Michael Williamson

- Mr Williamson joined the army in 1998 and was commissioned to the Black Watch, where he currently serves with the rank of major.
- He served in Iraq during Op Telic 1 as the Intelligence Officer and Training Officer for 1 Black Watch. Throughout his tour of Iraq he was a captain.
- He can recall no training in the use of hoods or in conditioning techniques, but he came to regard the use of hoods for security purposes as legitimate.
- An order was issued (by way of a FRAGO) in April or May 2003 prohibiting the use of hoods or anything that covered the face in any circumstances when handling prisoners.