

SUMMARY OF PROCEEDINGS: MONDAY 22 MARCH 2010

Simon Wilson

- Mr Wilson joined the army in 1981 as a gunner with the Royal Artillery. He was commissioned in August 1984 to the Queen's Regiment and is currently commanding officer (with the rank of Lt Col) of the 5th battalion Royal Military Police (5 RMP).
- Between February 2003 and July 2003 he served in Op Telic 1, initially with the Divisional Support Group of 1 (UK) Armoured Division and from April 2003 with responsibility for organising the detention of prisoners.
- He was trained in prisoner handling in preparation for his transfer to RMP in 1991.
- From his basic training, he learned - through LOAC training - that prisoners should be treated humanely and with dignity. He also understood that the use of hooding with sandbags was permissible to maintain security and the shock of capture, though this doctrine was changed at some time during the Iraq tour.
- He was a contributor to the preparation of FRAGO 29 which changed the direction of prisoner handling in 2003.

George Waters

- Mr Waters joined the army in 1985 and is currently the SO1 officer (with the rank of Lt Col) operational welfare for the Deputy Chief of the Defence Staff (Personnel).
- From September 2001 to August 2003, he was the SO2 G2 (with the rank of major) for Headquarters 1 (UK) Armoured Division (HQ 1(UK) Armd Div). From early to mid April 2003, he was given a short period of leave to recover from a relentless pattern of 20 hour working days.
- He did not recall any training on the deprivation of sight during prisoner handling. Having served in Northern Ireland, he had a general awareness of the Heath ruling of 1972. He was unable to say from where his knowledge had come.
- He was aware that hooding was used in Iraq both for security purposes and for the maintenance of the shock of capture. The witness confirmed that the GOC gave a verbal order that hooding should cease. He was aware that there had been fatalities in custody but not that one had been hooded upon arrival.
- There had been a number of FRAGOs in which the length of time was reducing during which prisoners could be kept before transmission onwards. Although there was a clear order that detainees should not be interrogated, there was a need to undertake some questioning, for example to identify the detainee.
- The witness had authenticated FRAGO 29; he was responsible for the team who drafted it, although he could not recall who drafted it. There were

reasons for G2 to assume responsibility for detainees' questioning; these included pre-planned arrests did not conflict. The RMP were to have a much reduced involvement. More broadly it was to ensure that the proper distinctions were being drawn between the types of detainees and the RMP did not necessarily have the required experience. It was also considered that having one officer responsible for the oversight of internment would be beneficial. FRAGO 29 extended the time during which prisoners could be held and reversed earlier orders. This was because the shorter times were aspirational and in the majority of cases were not being adhered to. Basic questioning - essential details of identity and associates - were permitted. The BGIRO could receive information from a wide variety of sources and forms. Given the timing of the FRAGO, it would be for the OP Telic 2 battle groups to implement. The witness acknowledged that it was his responsibility for having checked the content with the legal branch.

- The witness was aware that Lt Col Mercer was concerned about prisoner handling.

Marc Bannister

- Mr Bannister joined the army in 1985 and in 1986 joined as a trooper the Royal Tank Regiment. He was commissioned in December 2008 and is currently 2nd in command of Egypt Squadron of the 2nd Royal Tank Regiment (2RTR) holding the rank of Captain.
- From June 2003 to November 2003, he was a sergeant major with 1 King's Regiment (1 Kings) during which time he was a tactical questioner (TQer) attached to 1 QLR.
- The witness confirmed that the techniques shown on the CAC course were those which might be used against UK troops by countries which were not GC compliant. They were used to maintain the shock of capture and to make prisoners more likely to answer questions. He attended a later course which was only a short briefing.
- As a Staff Sergeant and because he was likely to have early contact with prisoners, he also attended the Prisoner Handling Tactical Questioning course in January 2003. The PH part was very short and dealt with matters such as cells, rations etc. There were about 30 on the course, ranging from Captain to Sergeant. Prisoners should have their sight deprived when being moved from transported in secure areas. He would not expect the situation to last for hours. Control positions to handle difficult detainees were mentioned on the course but not stress positions. He had realised that any maintenance of a control position could become a stress position and have the secondary effect of making the prisoner more amenable. A physically and mentally tired person would be more likely to give information and this could be exploited. Deprivation of sight also had this effect. Prisoners' physical condition should be checked every 10 -15 minutes. Maintenance of uncertainty and shock of capture was taught through firm but fair handling. Once the TQ process was completed, the prisoners could be placed in the holding area. He was taught about the Geneva Conventions but he assumed that the techniques taught were compliant.
- From June 2003 onward his primary role was Squadron Sergeant Major. He was called to act as TQer as required for 1 Kings, once or twice for 1QLR after the death of Baha Mousa, for a company based in a former police station. He cannot recall with certainty seeing prisoners hooded; he provided goggles to the arresting troops. He cannot remember any ban on hooding. Prisoners could be placed in uncomfortable positions for 20 minutes as less as a conditioning technique prior to questioning.

- The witness provided some training for members of his own squadron. When sent to TQ in other situations he routinely briefed the guard that if prisoners were awkward or difficult they were to be held to place in a controlling position for 10 -15 mins, and how to transport them when their sight was deprived. He made it clear that food and water were to be provided and the provision recorded. He also made it clear that no prisoners were to be abused or beaten. He had seen one instance of rough handling but had satisfied himself the detainee was uninjured.
- Detainees were the witness's responsibility when being TQ'd. After that, when the paperwork was handed over, they became the responsibility of the relevant battle group. Either he or his 2i/c would visit the holding area and would know the conditions in which they were being held.
- The witness described the "harsh" technique. It was rarely used, in a controlled manner and involved shouting at a close range. He had used it once in about 60 TQs. "Roughing up" would be counter-productive. He was taught different techniques depending on different personality types. Conditioning is a process whereby the prisoner becomes more amenable to answer questions. This included being moved by two people where they understand that they are being controlled.

James Fulford-Talbot's statement was read.

Benedict Ryan's statement was read.

SUMMARY OF PROCEEDINGS: TUESDAY 23 MARCH 2010

S034

- S034 is a career civil servant who joined the Ministry of Defence in 1982.
- Between January and May 2003, S034 was the senior policy adviser to the National Contingent Commander, Air Marshal Burridge, on Operation TELIC 1.
- Before deployment to Iraq, S034 was aware that prisoners should be treated with respect but had no knowledge of the permissibility (or otherwise) of hooding or other techniques of prisoner handling.
- S034's role was to advise on relations with coalition partners' policy advisers, international organisations (such as the International Committee of the Red Cross - ICRC) and other states in the region.
- S034 was the principal point of contact for the ICRC. S034 received a complaint from ICRC about prisoner-handling at Um Qasr on 1 April 2003.
- S034 was tasked by Air Marshal Burridge to investigate the complaint with several military personnel. This included a personal visit to the JFIT.
- By the time of S034's next visit to JFIT on 6 April 2003, S034 was able to report a completely satisfactory situation at the Um Qasr facility.
- The final part of S034's evidence was heard in camera.

Justin Maciejewski

- Mr Maciejewski joined the army in 1985 and currently holds the rank of brigadier.
- Between December 2002 and July 2003, he was the staff officer (SO2) in General Staff Branch 3 responsible for the operations, organisation and deployment of the 1 (UK) Armoured Division and reporting to Col Marriott.
- One of his responsibilities was the promulgation of FRAGOs throughout the division. He would have seen each FRAGO before approving its distribution, except on occasions when he was away from HQ when approval would be made by a more junior officer (an SO3).
- The witness had no particular responsibility for prisoner handling.
- FRAGO 71, dated 31 March 2003, was authorised for release to the division by the witness. He thought it was the first FRAGO to deal with prisoner handling issues. It referred to cuffing but not hooding. The order had been put together by experts in their particular field so the witness would not have considered amending the order. At this time he was unaware of any complaints about hooding. He later became aware of the debate going on but he was concentrating on other issues.
- FRAGO 56, dated 24 March 2003, dealt with the issues arising once the division was acting as an occupying power. It was likely that Col Mercer would have had input into this FRAGO; he was very vexed about these issues.
- FRAGO 79, dated 3 April 2003, contained guidelines on the legal powers of the brigade when acting as the occupying power. It included references to the power temporarily to detain people.
- FRAGO 143 dealt with the treatment of detainees and the requirement to treat them in accordance with Article 4 of the Geneva Convention.
- FRAGO 152, dated 20 May 2003, contained more guidance on the detention of civilians. Prisoners should be handed over to the RMP as soon as possible, preferably within one hour but if the arresting force was far-flung then up to six hours would be acceptable. It underlined the need to treat prisoners humanely and with dignity: it also stated that “under no circumstances should prisoners’ faces be covered as this might impair breathing”. The witness understood this to encompass hooding and any other means of sight deprivation.
- FRAGO 163, dated 30 May, related to internment and detention procedures. The witness did not authorise this but he did recall its contents. The time limit for handing over detainees to the RMP was between 1-2 hours and any later delivery would only be in exceptional circumstances.
- The witness did not authorise FRAGO 29, dated 26 June, although he was familiar with its contents. The order brought about a number of changes to detention procedures, including the introduction of the BGIRO. This brought decision-making on detention issues within the battlegroup. The order moved the responsibility for detainees from the lawyers and the RMP to the battlegroups. To some extent the changes were resource-driven as the capacity of the RMP was much reduced.
- After 2003 it became best practice for the soldiers who guarded detainees to be soldiers who had not been involved in the arrest.
- The witness accepted responsibility for any lack of clarity in the FRAGOs that he had authorised. But given the circumstances that prevailed at the time (e.g. working 20 hour days) he slept easily at night. His main focus at that time was keeping the battle for Basra going; these issues (i.e. prisoners and detainees) were rather on the periphery.

- Oral orders were part of the culture of war. Such orders would be logged by people at each end of the telephone. If an oral order were to be given by a captain rather than a general, the witness agreed that those on the receiving end of the conference call might regard that particular order as being somewhat less important.

SUMMARY OF PROCEEDINGS: TUESDAY 24 MARCH 2010

Alan Kyle Sweeney

- Currently a Major in the army. Joined the army in 1998. In 2003 was regimental signals officer for QLR in Iraq. Played no part in Op Salerno and was not aware of any ill treatment to detainees.
- When in Cyprus became aware of 'trophy' photographs. At the end of the tour as media ops prepared a journal recording significant events. Aware of pictures published by Daily Mirror which subsequently proved to be false. Soldiers ordered to produce any photos that they had in their possession. Viewed all images that were produced i.e. photos but not the video produced.
- Did not see the 'Payne video' until it was shown on UK television. Disappointed by its contents. Referred to statement of Cpl Giblin but could only vaguely remember his account of events. He was aware of the handing in of a video but it was not handed to anyone other than to the Military Police.
- Confirmed that his evidence to the Court Martial about hooding, stress positions and other conditioning techniques was accurate in that he had seen these techniques employed on more than one occasion while on tour.

Neil Wilson

- Rank of Major until retirement in 2008. Officer Commanding Military Provost Staff in Iraq leading a team of some 12 soldiers.
- During career received LOAC training but no training in the use of hooding or conditioning techniques. In 2002 Exercise Viper was a training exercise not connected with Iraq where troops were told explicitly that hooding was prohibited. A ban on hooding was part of the briefing to the chain of command prior to Optelic 1.
- POW handling training given to UK troops in Kuwait made it clear that hooding was not permitted under any circumstances. Post Optelic 1 training notes are not as unequivocal.
- Mr Wilson's team gave basic prisoner handling training to troops in theatre. Prepared notes to support these lectures in the desert. Once in Iraq, based at Umqasar. Nature of role was essentially advisory. No involvement with the JFIT. After 13 May the unit was split and he divided his time between two locations.

- FRAGO 79 provided for the arrangements for prisoner handling but it was inspirational and issued at a time when to implement it would have been impractical.
- Draft post operational report in May 2003 suggested that by that time the prisoner handling policy was out of date. Concerns about the hooding of detainees were being expressed but not aware specifically of ill treatment anxieties raised by ICRC.

SUMMARY OF PROCEEDINGS: THURSDAY 25 MARCH 2010

Edward Forster-Knight

- Currently the Provost Marshal (Army) holding the rank of brigadier. He was commissioned into the RMP in 1984. In Iraq in 2003 he was a Lt Col, SO1 Divisional Support Group.
- The witness explained that Provo staff within a regiment would not have had specialist training in guarding prisoners.
- He had never received any training in relation to the hooding of prisoners or the use of blindfolds and goggles. Hooding would never be used in the context of policing. In 2003 his understanding was that hooding would not be acceptable practice under any circumstances. There would be occasions when the use of blindfolds or goggles would be appropriate, e.g. for security reasons. However, they should be removed as soon as they were no longer needed.
- He regarded the use of stress positions as unacceptable. The training he had received indicated that plasticuffs should be applied to the front of the body.
- From 1 May 2003 he (with others) became responsible for advising on custody and detention of prisoners. His main focus at that time was the restoration of police and judicial functions within Iraq; there had been a complete breakdown of law and order.
- The role of the RMP custody sergeants was to process the prisoners and provide an initial filter. The aim of the custody sergeants was to provide checks and balances in the system, thereby reducing risk. That could include risk of harm to the prisoners. With the draw-down of troops once the warfighting was over, resources became scarcer and this included RMP personnel. The witness expressed his concerns about the situation to senior officers.
- The witness was not aware of the details contained in FRAGO 29, dated 26 June 2003. However, he was concerned about the lack of involvement of the RMP and the fact that responsibility for holding detainees was being devolved to battlegroups. He realised that this would increase the risk to detainees. He understood that these changes were resource-driven. He did not think he should have been involved in the drafting of this FRAGO.

- He enjoyed an excellent working relationship with Col Mercer. He recalled having a conversation with him in the first half of April. Col Mercer told him he had seen prisoners awaiting interrogation at JFIT with hoods on and sitting on the ground. The witness told him that that was unacceptable; having spoken to Col Mercer, he was satisfied that appropriate action was being taken. He was unaware of any ICRC involvement in the issue of hooding. He had not personally seen prisoners hooded in Iraq.
- An SOP to the RMP dated 2000 stated that hooding or blindfolding would be appropriate for security reasons such as moving through critical areas. The witness had never seen this document before.
- The witness was not aware either of the Heath ruling banning the five techniques or the case of Ireland v. England.

Philip Baillie

- This witness joined the army in 1981. He subsequently had specialist RMP training and was formerly a colonel in the RMP. He retired from the army in 2008.
- The training he had received indicated that plasticuffs should be applied to the front of the body. To deprive a prisoner of sight, blacked-out goggles or blindfolds should be used. His understanding prior to deployment to Iraq was that hooding was not acceptable. However, in the context of war it may be that a hood was the only available method of sight deprivation. The use of a hood had to be justifiable, i.e. in extremis, for security reasons and for the minimum of time.
- He had learned during his RMP training that stress positions were not to be used. His understanding was that they were contrary to the Geneva Convention.
- In Op Telic 1 he was CO of 1RMP and the senior Staff Officer advising 1UK Armd Div. He reported directly to the DCOS and through him to the GOC. In his Provo role he had one staff officer reporting to him.
- The capturing unit would be responsible for transporting PWs to the TIF.
- Before the warfighting broke out, he attended meetings with Col Mercer who had concerns that there might be confusion about the status of PWs and detainees. He was also anxious to ensure that people were aware of the responsibilities that would follow once the coalition forces became an occupying power.
- After the fall of Basra, the main role of the RMP was to accompany the troops patrolling the streets. If the unit arrested someone, the RMP would make a record of the arrest and collect any relevant evidence. However, there were insufficient RMP personnel to go out with every patrol.
- FRAGO 79 (3 April 2003) contained advice on the legal powers available when enforcing law and order during the restoration of Basra. These included the power for units to stop, search and temporarily detain someone who was

a threat to security or who had committed a criminal offence. Detainees should be handed over to the RMP as soon as practicable and in any event within six hours. However, at this stage no RMP personnel were available in Basra.

- The witness had never heard of any concerns relating to the handling of prisoners at battle group level during Op TELIC 1. Nor was he aware that prisoners were being hooded, which would have been contrary to the Geneva Convention.

Andrew Dutton Mason

- The witness joined the army in 1976 and currently holds the rank of colonel. He runs the Army Recovery Capability Project. In Iraq in 2003, Land Adviser to the NCC.
- Training throughout army career emphasised the need to treat POWs and detainees should be treated humanely. Sight deprivation of prisoners was discussed with the witness. Hooding of prisoners could be a legitimate in appropriate circumstances. The overriding consideration must be one of security of friendly forces or the detainees themselves.
- Spoke with Col Vernon at the TIF. Remembered one of two visits when the issue of hooding was discussed. Gist of the conversation was that hooded prisoners could present a negative media image of the handling of prisoners from a British perspective. Raised the concern about these presentational issues up the chain of command.