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Thursday, 22 April 2010

(10.00 am)

THE CHAIRMAN: Good morning, ladies and gentlemen.

Yes, Mr Moss.

Opening remarks

MR MOSS: Sir, our first witness this morning is known to the Inquiry as "S002". May I give the customary warning that S002 is a witness in respect of whom you have made a restriction order, which includes the fact that he should be screened from all but the core participants and their legal advisers today when he gives his evidence.

THE CHAIRMAN: Yes.

MR MOSS: Full details of the restriction order are available on the website, but only media who are in attendance outside of this room, but following the audio link, should please be aware of the terms of the restriction order. So I call S002, please.

THE CHAIRMAN: Very well. If I may address you as "S002", would you be kind enough to stand up, please, and I ask that you take the oath.

S002 (sworn)

THE CHAIRMAN: Thank you. Please sit down.

I would be very grateful if you would get as close as you can to the microphone. It is not, I think,

1 a very comfortable position, but if you could speak into  
2 the microphone, then we will all be able to hear you.

3 A. Okay.

4 THE CHAIRMAN: Yes, that is fine. Thank you.

5 Yes.

6 Questions by MR MOSS

7 MR MOSS: Thank you, Sir. Colonel, your name is known to  
8 the Inquiry, but you are known to us as "S002" for  
9 today's proceedings, as I am sure you understand. If  
10 you would look, please, on the desk in front of you,  
11 I hope you will find copies, in hard copy, of your two  
12 statements to this Inquiry. Would you look at the first  
13 of those, please, and may we have on our screen the  
14 final page, BMI05847?

15 A. Yes, I see those.

16 Q. Do we see that that is a statement that you provided to  
17 this Inquiry on 6 November of last year?

18 A. Yes, I did.

19 Q. When you provided that statement to the Inquiry, were  
20 you telling the Inquiry that the contents of the  
21 statement were true to the best of your knowledge and  
22 belief?

23 A. Yes I did.

24 Q. You helpfully provided us, at our request -- for which  
25 thank you -- with a supplementary statement. You should

1           have a copy, I think, immediately behind the first one.  
2           If we look, please, at BMI07381, is that a copy of  
3           a more recent statement which you provided on 8 March of  
4           this year?

5   A.   That is correct.

6   Q.   Again, were the contents of that statement true to the  
7           best of your knowledge and belief?

8   A.   Yes, they were.

9   Q.   We know, S002, that you provided a statement to the SIB  
10          on 4 July 2006.  Could we just look at it initially,  
11          please, at MOD000897?  You were then called to give  
12          evidence to the court martial on, I think,  
13          13 December 2006.

14                 Dealing with that straightaway, when you gave that  
15          statement and when you gave evidence to the court  
16          martial, were you endeavouring to tell the truth and the  
17          whole truth when you gave that evidence as well?

18   A.   Yes, I was.

19   Q.   Now everybody, Colonel, has had an opportunity to read  
20          your two statements to this Inquiry, your previous  
21          evidence to the court martial and, although there is  
22          quite a lot of ground I need to cover, I am only going  
23          to pick out the most important aspects of those because  
24          everybody has had a chance to read your statements in  
25          the documents that they refer to.  Do you follow?

1 A. Yes, I do.

2 Q. Thank you. May we start then, please, first of all,  
3 just briefly with some aspects relating to your career  
4 history? You tell us in your statement, is this right,  
5 that you joined the army back in 1985?

6 A. Yes, that's correct.

7 Q. Originally I think you had an infantry background,  
8 having been commissioned into the Royal Anglians; is  
9 that right?

10 A. That's correct.

11 Q. You were taught as a platoon instructor and you were  
12 then adjutant on a training wing, overseeing  
13 pre-deployment training for battalions going to  
14 Northern Ireland.

15 A. Yes, that is correct.

16 Q. In 1995, you had a staff officer post and, between 1998  
17 and 2000, you undertook a number of post-graduate  
18 degrees and advanced courses; is that right?

19 A. That is correct.

20 Q. You tell us in your statement that you then moved to the  
21 allied rapid reaction corps in Germany and you also  
22 worked in the US as a liaison officer.

23 A. Yes, that is correct.

24 Q. More directly relevant to this Inquiry, in January 2003  
25 you tell us that you took up a post at the

1 1 (UK) Division. I think in your Inquiry statement you  
2 suggest that that post was the SO1 G2X, but might it in  
3 fact have been SO2 G2X?

4 A. Indeed, that is correct. That is an error. I was the  
5 SO2 G2X.

6 Q. Thank you. And your rank at that stage presumably would  
7 have been of major?

8 A. Yes, it was.

9 Q. Your current post is known to the Inquiry, but isn't  
10 relevant to our terms of reference. Can I confirm that  
11 you still work for the armed forces?

12 A. Yes, I do.

13 Q. And is your current rank lieutenant colonel?

14 A. No, my current rank is colonel.

15 Q. Thank you. With that brief background, can I turn next,  
16 please, to some matters relating to your training,  
17 please, Colonel? You presumably underwent the standard  
18 training at Sandhurst which all officers underwent; is  
19 that right?

20 A. That's correct.

21 Q. So far as treating prisoners is concerned, can you  
22 remember back to your Sandhurst training as to what the  
23 sort of treatment was that you had at Sandhurst relating  
24 to treatment of prisoners of war?

25 A. The training followed the law of armed conflict and the

1 detail of making sure that captured personnel were  
2 treated with dignity and humanity -- and our training  
3 followed that.

4 Q. You refer in your witness statement to the LOAC video  
5 with which the Inquiry, as you will understand, is  
6 familiar. Was the training at Sandhurst any more  
7 detailed than the subsequent annual training that you  
8 would have had on LOAC, relying on the video, or was it  
9 very much the same sort of level of training?

10 A. No, it was more detailed certainly and on exercises  
11 people participated in making sure that if prisoners  
12 were taken, that they were -- the right procedures were  
13 then followed.

14 Q. Was there any central message that you took away, either  
15 from your training at Sandhurst or from your annual  
16 training in LOAC, as to basically how prisoners should  
17 be treated?

18 A. Yes, with decency and not with any violence, and, if  
19 they were hurt, that we were to make sure that we gave  
20 them first aid, triage, just as if they were one of our  
21 own soldiers.

22 Q. Thank you. You tell us in your witness statement, is  
23 this right, that although you had a responsibility come  
24 Op Telic 1 for the management of HUMINT, which included  
25 interrogation facilities and staff, you had not yourself

1 done the training course on tactical questioning or  
2 interrogation?

3 A. That is correct.

4 Q. Can I deal then, please, with some particular aspects  
5 about prisoner handling. I would like to take matters  
6 up to the stage before your immediate deployment to  
7 Kuwait, so I want to look at what your understanding was  
8 prior to that time based on the training that you'd had  
9 in the army. Can I start most significantly with the  
10 questioning of the hooding of prisoners and the  
11 deprivation of sight?

12 Up until your deployment on Op Telic 1, did you have  
13 any understanding or training in whether or not  
14 prisoners could be legitimately deprived of their sight,  
15 whether by hooding or by blindfolding?

16 A. Yes. Our general training was that deprivation of sight  
17 for security reasons was a legitimate activity,  
18 especially when you were escorting or having to remove  
19 prisoners from the point of capture to the holding areas  
20 and potential prisoner of war holding areas in the rear  
21 of whatever battlefield you were on.

22 Q. Can you help us -- I don't mean with the fine detail --  
23 but in general terms what sort of training was it that  
24 gave you that understanding?

25 A. On exercises there were scenarios that would involve

1 capturing other people that were playing the enemy and  
2 then making sure that you could then run through the  
3 procedures that you were expected to do in the  
4 pamphlets.

5 Q. Correct me if I am wrong, would it be fair that you  
6 first came across, then, hooding and deprivation of  
7 sight on army exercises?

8 A. Yes, deprivation of sight.

9 Q. Did you ever see it being used on exercises? If you  
10 would leave aside for the moment any conduct after  
11 capture training, but other types of exercise, more  
12 conventional exercises, did you see hoods actually being  
13 used on exercises?

14 A. Yes, I did.

15 Q. Would that be at the point of capture?

16 A. My recollection is that I actually saw it at the other  
17 end, at the prisoner of war handling end.

18 Q. Thank you. May we have a look, please, at your first  
19 statement to the Inquiry at paragraph 19, BMI05828,  
20 please? You tell us there that while you have not  
21 received or delivered HUMINT training you are familiar  
22 with UK and NATO doctrine on HUMINT that concerns the  
23 conduct of tactical questioning in accordance with the  
24 Geneva Conventions. You say:

25 "This knowledge was gained from army training,

1 doctrine manuals and pamphlets, including JWP 1-10."

2 You also go on a little bit later in your statement,  
3 if we look at paragraph 29, please, to say:

4 "I have always considered that the deprivation of  
5 sight, for as long as operational security demanded, was  
6 a legitimate security measure and not prohibited under  
7 the Geneva Conventions. My understanding of the basis  
8 for permitting hooding of detainees at JFIT derived from  
9 an awareness of the JWP 1-10 in conjunction with (as  
10 previously stated) the reliance that I placed upon  
11 subject matter experts."

12 We will come on a little bit later in your evidence  
13 to discussions that you had with experts in theatre on  
14 Op Telic. Did you, in fact, have any reason, prior to  
15 Op Telic, to consult JWP 1-10 and anything that it might  
16 have said about deprivation of sight?

17 A. No, I didn't.

18 Q. Perhaps we can deal with it now. In a sense it may be  
19 proving a negative, but could we just look, please, at  
20 MOD013471? Take it from me, Colonel, for the moment  
21 that this is the extract from JWP 1-10 which deals with  
22 tactical questioning. We see under 3:

23 "In the course of questioning, tactical questioners  
24 are to adhere to the following provisions ..."

25 Then various points are set out. At (c):

1            "No physical or mental pressure, nor any other form  
2            of coercion may be exerted on a PW in order to induce  
3            him to answer questions. A PW may not be threatened,  
4            insulted or suffer any disadvantage as the result of  
5            refusing to answer questions ...", and so on.

6            These are the sections I am showing you on tactical  
7            questioning. If you take it from me for the moment that  
8            the Inquiry has looked with considerable care at  
9            JWP 1-10 and that it is entirely silent on sight  
10           deprivation, the use of hoods or the use of blindfolds.  
11           You appear to be saying in your witness statement that  
12           JWP 1-10 was part of your understanding that hooding was  
13           permitted. Can you help us with that?

14    A. Yes, I can. I believe that in my witness statement  
15           I did not necessarily put down a number of the other  
16           doctrinal manuals that covered this particular area.  
17           I think JWP 383 [sic] covers it, the internal training  
18           document/aide-memoire from the JSIO at Chicksands  
19           covers -- covered aspects of it and I think AJP 2.5  
20           prisoner handling also, there were some words in there  
21           that covered security.

22    Q. All right. Perhaps we will come on to those when we  
23           look at when the issue arose then in theatre. But  
24           certainly, prior to your deployment on Op Telic 2, your  
25           understanding about hooding -- correct me if I am

1 wrong -- was for security purposes -- is that right?

2 A. Yes.

3 Q. -- and you had seen it on exercises?

4 A. And I had seen it on exercise.

5 Q. Did you, at that stage, have any understanding as to

6 whether hooding could be used for another purpose,

7 sometimes referred to as a "side benefit", which was

8 maintaining the shock of capture?

9 A. Yes, I was aware of that.

10 Q. That's something you were aware of before you deployed

11 on Op Telic 1, was it?

12 A. Yes.

13 Q. Again, without going into any unnecessary detail, can

14 you help us with how you had come to that understanding,

15 the type of training that had given you that

16 understanding?

17 A. Yes, the -- on a number of courses that I had attended,

18 I certainly remember on my platoon commander's course,

19 I think even at Sandhurst, it was stated that, when you

20 captured the enemy, that you needed to maintain the

21 shock of capture and, by maintaining that shock of

22 capture, that there was then a position where it

23 would -- potentially they could help with our inquiries.

24 Q. You say "potentially they could help with [their]

25 inquiries". Putting it more bluntly, did that mean that

1 if you maintain the shock of capture, prisoners are more  
2 likely to divulge information when later questioned?

3 A. Yes.

4 Q. Was any guidance given to you -- again prior, please, to  
5 Op Telic 1 -- as to the proper limits of that  
6 maintaining the shock of capture, what would be  
7 overstepping the boundaries in terms of maintaining the  
8 shock of capture?

9 A. I don't recall anybody setting a limit.

10 Q. Help us then with this: we have talked about hoods or  
11 deprivation of sight being used for security purposes.  
12 Did you understand that hooding could be used for the  
13 purposes of maintaining the shock of capture, even if  
14 there is no immediate need to hood for the purposes of  
15 operational security?

16 A. I think it was -- I don't think it was ever stated like  
17 that. I think the main aspect was that it was always  
18 for operational security and the side benefit was  
19 a shock of capture.

20 Q. Again, I do appreciate it is difficult because you have  
21 to put yourself back in a frame of mind before other  
22 events and other learning has taken place, but  
23 can I give two examples? A prisoner, for example, in  
24 the back of an army vehicle which is windowless, being  
25 hooded in the back of the vehicle, would that be

1           legitimate if there was no security reason for the hood  
2           to have been on in the back of the vehicle, as you  
3           understood it?

4    A.   I want to say I believe that people probably would have  
5           kept a hood on or a blindfold on that person, even if  
6           they were in the back of a vehicle, depending on the  
7           number of people that were there to be able to guard  
8           them in security terms.

9    Q.   That would relate to an operational security matter,  
10           would it --

11   A.   Yes.

12   Q.   -- rather than the shock of capture?  What about --

13   A.   And also -- sorry -- and also protecting the nature of  
14           the other things that were inside that vehicle.  I know  
15           it's all related to security, but it's not only about  
16           looking at the number of people that are guarding you,  
17           but it's about the radios, the maps, all the other  
18           things that pertained to the operation.

19   Q.   Let's see if another example helps.  The Inquiry might  
20           well understand operational security issues about going  
21           into an army base, seeing the army base, its external  
22           layout and so on, but once inside an army base, in  
23           a secure room, if the windows are painted out or blacked  
24           out, again, being left hooded once inside a room like  
25           that, would you understand that that would be

1           legitimate?

2    A.  No, I would say that that -- if there was no clear  
3           security angle, then there was no need to keep a  
4           blindfold on at that particular point.

5    Q.  Forgive me for raising what is in a way a point of  
6           detail, but before discussions in Kuwait and Iraq in  
7           Op Telic 1, did you have any understanding about double  
8           hooding, about whether more than one hood could be used  
9           for this purpose?

10   A.  The point of double hooding was discussed in  
11           relationship to whether people could see through a --  
12           this was in relationship to a hessian sandbag, of  
13           whether people could see through that hessian sandbag.  
14           The discussion about double hooding was that if the  
15           sandbag was of a particularly wide weave, that you may  
16           need two sandbags.

17   Q.  Can I just pause you for a moment?

18   A.  Yes.

19   Q.  Are you talking there about discussions on Op Telic  
20           or --

21   A.  Yes, I am, sorry.

22   Q.  At the previous stage, did you have any experience of  
23           double hooding prior to Op Telic?

24   A.  No, I did not.

25   Q.  Thank you.  Again we will come back to its possible use

1 on Op Telic if we may.

2 When you had seen hooding previously on exercises  
3 you have told us about, was it always hessian hoods that  
4 were used?

5 A. Yes.

6 Q. Did you ever see blindfolds used?

7 A. Yes, I have seen blindfolds used as well.

8 Q. Did you ever see -- I think "plastic bags" is perhaps  
9 not entirely the right way to put it -- the type of  
10 sandbag that is made out of plastic weave, that type of  
11 bag being used on exercises?

12 A. No.

13 Q. May I turn then to stress positions? There's an issue,  
14 obviously, about definitions, as you may recall coming  
15 up when you gave evidence at the court martial.

16 Appreciating that it is difficult, again, prior to  
17 Op Telic 1, what would you have understood a "stress  
18 position" to have been?

19 A. Stress positions I would have immediately said were  
20 positions that were designed to be uncomfortable and  
21 cause some form of pain, and I would immediately think  
22 they were standing against a wall with your arms spread  
23 upright and your legs as far away from the wall as  
24 possible. That would be my understanding of a type of  
25 stress position.

1 Q. Thank you. Again, prior to Op Telic, did you have an  
2 understanding of whether such stress positions could be  
3 legitimately used?

4 A. I was of the understanding that they could not be used.

5 Q. What was the source of that understanding?

6 A. On some other training that I had done or been involved  
7 with in terms of CAC training, there were specific  
8 warnings that stated that the positions that we  
9 experienced or had a chance to experience should not be  
10 used under British Army law of armed conflict.

11 Q. I don't want to go into the details of exactly what  
12 positions may have been used on that conduct after  
13 capture training, but you are telling us, are you, that  
14 there was definitely a specific warning to that effect  
15 on the training that you were involved in?

16 A. Absolutely.

17 Q. I don't need details about how many times you may have  
18 done that training or if you were involved in giving it,  
19 but has that been your consistent experience of CAC  
20 training or have you sometimes been involved in it when  
21 such warnings weren't given?

22 A. No, my consistent experience is that that warning has  
23 always been there, both at the beginning and at the end.

24 Q. Has there been -- apart from your CAC training -- any  
25 other training that you have been involved in which has

1 expressly given you the training and instruction that  
2 the use of stress positions is wrong?  
3 A. Only law of armed conflict discussion --  
4 Q. Was that --  
5 A. -- in our annual ITD training, now called "MATTs  
6 training".  
7 Q. Is that subsequent to Baha Mousa's death that it has  
8 been specifically covered?  
9 A. I'm not sure. My recollection is that it's certainly  
10 stated now under MATTs training. My recollection would  
11 be that it was stated certainly in the discussion period  
12 of the hour on law of armed conflict, that it was stated  
13 by whoever was giving the training.  
14 Q. Including before 2003 or not?  
15 A. Yes.  
16 Q. How confident of that are you, that that was  
17 specifically mentioned in LOAC training prior to 2003?  
18 A. Well I always understood it before I went to Op Telic,  
19 that that was not allowed, so that's what I'm basing my  
20 understanding on.  
21 Q. Forgive me. It is probably my fault. We may be going  
22 slightly in circles. Obviously you had had a specific  
23 warning to that effect on the CAC training. I am  
24 interested in how confident you are that it was also  
25 mentioned in LOAC training prior to 2003 as a specific

1 point that stress positions are out.

2 A. In my experience I believe that under the training that  
3 I had on LOAC training, I received that guidance.

4 Q. If that be right, was anything said at the same time  
5 about the use of hoods and any prohibition on the use of  
6 hoods?

7 A. No.

8 Q. You have mentioned there, Colonel, in your evidence,  
9 a position of standing against the wall with your arms  
10 out in what might be thought to be a standard but fairly  
11 extreme type of stress position. Can I ask you about  
12 lesser positions, if you like, kneeling, sitting or  
13 simply being required to stand for periods of time?  
14 Could those have been stress positions in some  
15 circumstances?

16 A. Well, of course they could if you are left for a very  
17 long period in one position, but I don't believe that --  
18 I don't believe that those positions were stress  
19 positions of people kneeling, standing or sitting down.

20 Q. So the time to cause significant discomfort for those  
21 lesser positions, simply kneeling or simply standing,  
22 would be much longer than a ski sitting position or the  
23 hands splayed across the wall position, wouldn't it?

24 A. Of course, yes.

25 Q. If they were used for a very long period of time, would

1           you have understood them to be legitimate prior to  
2           2003 -- if it was something like kneeling, being forced  
3           to kneel for two or three hours, something like that?

4   A.  No, I don't think that's legitimate because then it  
5           becomes a -- when you are inflicting pain on the  
6           individual.

7   Q.  Thank you.  Can I turn, then, to sleep deprivation and  
8           allowing prisoners to sleep?  Again we will come on to  
9           Op Telic 1 in due course, if we may, and how issues may  
10          have arisen then.  Prior to going to Kuwait and then to  
11          Iraq, did you have an understanding of whether and in  
12          what circumstances it might be permissible to prevent  
13          a prisoner from falling asleep after capture?

14  A.  No, I didn't.

15  Q.  Just have a look at paragraph 38 of your statement,  
16          please, at BMI05834.  You do say there that you  
17          understood that it was permissible to prevent prisoners  
18          from sleeping for a period prior to their being  
19          tactically questioned or interrogated and in order to  
20          maintain the shock of capture.  You say:

21                 "My understanding came from having talked through  
22                 the procedures and practices that were to be adopted  
23                 with JFIT subject matter experts ...", as you had  
24                 described earlier in your statement.

25                 Again, we can come on to Op Telic 1 in due course,

1 but should we understand that that understanding about  
2 preventing prisoners from sleeping prior to TQ'ing was  
3 something that you first came across in discussions in  
4 Kuwait or Iraq?

5 A. Yes, that is correct.

6 Q. The provision of food and drink that you tell us in your  
7 witness statement, you understand that there was an  
8 obligation to provide prisoners with food and drink, of  
9 course --

10 A. Sorry, can you say that again? I didn't quite hear you.

11 Q. The provision of food and drink, you tell us in your  
12 witness statement that you well understood that  
13 prisoners had to be provided with food and drink --

14 A. Absolutely.

15 Q. -- and that the use of white noise was not compatible  
16 with the Geneva Conventions; is that right?

17 A. That's correct.

18 Q. Thank you. Can we turn then, please, to just a slightly  
19 different aspect of training and your understanding of  
20 matters in these areas? Could we have a look, please,  
21 at the 1972 directive, the part 1 directive. We have it  
22 at CAB001020.

23 Colonel, I think you have been given the opportunity  
24 to look at this and it's referred to in your witness  
25 statement. It's the 1972 part 1 directive. If we go

1 over the page, we see it is entitled "Directive on  
2 interrogation by the armed forces in internal security  
3 operations". I don't mean the precise content, but you  
4 will be familiar now, in broad terms, with this  
5 document, I take it.

6 A. Yes, I am, yes.

7 Q. Thank you. At any time in your training, had this  
8 directive been drawn to your attention prior to  
9 Op Telic 1?

10 A. No, it hadn't.

11 Q. Can we just look, please, at paragraph 7 within it at  
12 CAB001024? I just want to measure this against what  
13 your understanding was at the time.

14 "Searching and sustained interrogation should be  
15 carried out in a disciplined atmosphere, and it may in  
16 some circumstances be necessary for interrogation to be  
17 carried out by night. But no form of coercion is to be  
18 inflicted on persons being interrogated."

19 Just pausing there, did you understand that it was  
20 improper to coerce prisoners who were being  
21 interrogated?

22 A. Well, I had never seen this document before November, so  
23 I had --

24 Q. I am not asking if you had seen this; I am asking if it  
25 was consistent with your understanding before you went

1 to Kuwait and Iraq. Did you understand that point?

2 A. No.

3 Q. You didn't. Thank you.

4 "Persons who refuse to answer questions are not to  
5 be threatened, insulted or exposed to other forms of  
6 ill-treatment."

7 Again, you would not have seen this at the time,  
8 I understand that, but is that consistent with your  
9 understanding?

10 A. That's consistent with my understanding of the law of  
11 armed conflict, of treating people correctly.

12 Q. I follow. Then this in the directive:

13 "Techniques such as the following are prohibited:

14 "(a) any form of blindfold or hood."

15 Again, was that consistent with your understanding  
16 or not?

17 A. No it's not consistent with my understanding.

18 Q. "(b) the forcing of a subject to stand or to adopt any  
19 position of stress for long periods to induce physical  
20 exhaustion."

21 A. Well, that is consistent with my understanding.

22 Q. "... noise-producing equipment", you have, I think,  
23 explained to us already.

24 "Deliberate deprivation of sleep", do you tell us  
25 that that is not something that had really come across

1           your radar?

2    A.  No, I had not seen that before.

3    Q.  Thank you.  I am just going to jump ahead just a little

4           bit here.  Once you were being placed in the position of

5           having to manage HUMINT activity for 1 (UK) Div on

6           Op Telic 1, it's not a criticism of you obviously, but

7           do you find it strange that this directive is not

8           something which was brought to your attention or was

9           part of the material that was in circulation and that

10          you saw?

11   A.  Yes, I do.  I find it very strange indeed.

12   Q.  Its derivation, as you will now, of course, understand,

13          comes from the controversy concerning the use of these

14          techniques in internment in Northern Ireland in the

15          August of 1971.

16   A.  Yes.

17   Q.  You had been responsible in part for delivering infantry

18          training for battalions going to Northern Ireland in

19          their pre-deployment training; is that right?

20   A.  Yes, that's correct.

21   Q.  In that context, had you not come across these

22          principles from this directive in that context?

23   A.  No, I hadn't.

24   Q.  Again, does that now surprise you?

25   A.  Yes, it does, but I suspect that, because the police had

1           primacy when I first went to Northern Ireland in 1986  
2           and then continued right the way through when I was  
3           doing that job to 1995, as they do now, that it was --  
4           it was never an issue because the police would do  
5           arresting and that sort of activity.

6   Q.   So we should see it in the context that arresting and  
7       questioning in Northern Ireland was then done by the  
8       civilian authorities rather than the military  
9       authorities?

10  A.   Absolutely.

11  Q.   I follow.  Thank you.

12           Again, just dealing with matters of your  
13       understanding -- we will come on to look at the detailed  
14       directive on HUMINT activity for Op Telic, the  
15       27 February 2003 document, in a moment -- but did you  
16       understand that there had been a ministerial level  
17       policy decision in 1997 that HUMINT activities on  
18       operations had to be governed by a detailed directive  
19       that had to be formed on the basis of up-to-date legal  
20       advice?  Was that a policy with which you were familiar?

21  A.   That was a policy with which I was familiar.

22  Q.   When had you first learnt about that, can you remember?

23  A.   I knew that that -- I came across that policy in  
24       probably around 2000, when I was doing a J2 plans job in  
25       headquarters allied rapid reaction corps.

1 Q. Thank you. Just a very few last matters then on  
2 training, if I may. Pre-deployment training, I think  
3 you tell us that, through pressures of time, you were  
4 not able yourself to undertake the OPTAG training. Is  
5 that right?

6 A. That's correct.

7 Q. Did you, apart from OPTAG training, give or receive any  
8 other training prior to deployment which dealt with the  
9 physical aspects of how prisoners should be handled?

10 A. Yes, I conducted the rest of my ITDs -- individual  
11 training directives -- through November and December on  
12 the premise that, although we hadn't actually been told  
13 that we were going to deploy, that there was a potential  
14 for us to deploy and therefore we wanted to make sure  
15 that we were fully trained.

16 Q. So that training that you had was the standard annual  
17 LOAC training --

18 A. Indeed.

19 Q. -- that ensured that you were in date for that for  
20 deployment?

21 A. Absolutely.

22 Q. But no further training about the physical aspects of  
23 prisoner handling; would that be fair?

24 A. That's correct.

25 Q. Thank you.

1           May we just go back, finally on this topic, please,  
2           to paragraph 19 of your statement at BMI05828, your  
3           first statement? Thank you very much. You started this  
4           paragraph with the words:

5           "While I have not received or delivered  
6           HUMINT training, I am familiar with the UK and NATO  
7           doctrine ..."

8           I don't want to go into any detail that is not  
9           necessary, but can I just ask in general terms, when you  
10          took up the post of SO2 G2X for 1 (UK) Div, did you feel  
11          that you were appropriately trained and qualified for  
12          the post?

13         A. No.

14         Q. Relevant to the aspects that this Inquiry is looking at,  
15          can you help us with what training you would have wanted  
16          or guidance that you would have wanted or qualifications  
17          that were lacking at the time?

18         A. I felt that I probably -- I should have had more  
19          training within prisoner handling, as far as the JFIT  
20          was concerned, and I felt that I probably needed more  
21          training in some of the management aspects of HUMINT  
22          operations.

23         Q. Were those concerns that you felt at the time, on being  
24          given the posting?

25         A. Yes, they were concerns that I felt at the time, but

1 I also felt that, with the very detailed management  
2 of -- and subject matter experts that I had around me,  
3 who were fully trained that I had enough -- I could gain  
4 enough understanding and I could be guided well enough  
5 to -- in order to make the right decisions.

6 Q. We will come on to it in due course, but S040 and  
7 S014 -- I think you will know who I mean by reference to  
8 those two officers -- were those people who were first  
9 of all running the JFIT?

10 A. Yes, they were.

11 Q. Were those included in the people that you could turn to  
12 for subject matter expertise?

13 A. Yes, S014 more than S040 because S014 had worked at  
14 [redacted] and was very familiar with tactical  
15 questioning, interrogation and HUMINT operations.

16 Q. Thank you. Now I want to turn to some questions on the  
17 next topic, please, dealing with the preparations for  
18 the deployment, what your role was in the chain of  
19 command. I think you tell us in your witness statement  
20 that the first indication you had of deployment was in  
21 December of 2002; is that right?

22 A. Yes, that's correct.

23 Q. Initially the information you were given, according to  
24 your witness statement, was that there were going to be  
25 two field HUMINT teams; is that right?

1 A. That's correct.

2 Q. But a third was later added?

3 A. Yes.

4 Q. You deployed to Kuwait, you tell us in your witness  
5 statement, on or about 29 January 2003.

6 A. That's correct.

7 Q. And was it only once you were in Kuwait, preparing for  
8 the war-fighting phase, if it was to happen, that the  
9 issue of a JFIT was first mentioned?

10 A. No, the JFIT -- the meeting that happened at JSIO in  
11 January, date -- I am recalling it at some time around  
12 the sort of 25 January, something like that -- where a  
13 lot of the HUMINT capability came together and  
14 a discussion by PJHQ about the HUMINT directive and the  
15 HUMINT plan incorporated individuals -- S014 -- from the  
16 JFIT.

17 Q. If it matters, can we just have a look at paragraph 7 of  
18 your witness statement at BMI05825? You say there:

19 "There was no mention of a ... (JFIT) or tactical  
20 questioning unit being deployed, and I was informed that  
21 there would be JFIT staff coming into theatre only  
22 during my second or third week of deployment on  
23 Op Telic 1, on or around 10 February 2003."

24 A. Yes. I think my statement is correct, but I know that  
25 S014 was at that meeting at JSIO.

1 Q. Thank you. In terms of the chain of command, you tell  
2 us in your witness statement -- is this right -- that  
3 you reported to the chief of staff, who was the then  
4 Colonel Marriott.

5 A. Sorry, could you say the question --

6 Q. You reported to Colonel Marriott, the chief of staff?

7 A. Yes, I did, yes.

8 Q. And also to an officer, whose name we can use,  
9 Colonel Duncan, who was the SO1 J2X at the national  
10 contingent command headquarters in Qatar; is that right?

11 A. That's correct, yes.

12 Q. Please don't use his name, but it's right, isn't it,  
13 that Colonel Duncan was later replaced for a few weeks  
14 by another individual of the same rank?

15 A. That's correct, yes.

16 Q. Can you help us with Major Waters -- Colonel Waters, as  
17 he now is. He, of course, was the 1 (UK) Div G2, so he  
18 dealt with intelligence more generally. Did you tend to  
19 go straight to the chief of staff or to Colonel Duncan  
20 or did you report to them through the SO2 G2,  
21 Major Waters?

22 A. No, I reported -- I had a symbiotic relationship, if you  
23 like. I -- everything I did in terms of intelligence  
24 collection went to Colonel Waters and, at the same time,  
25 if there were aspects that needed clarification, I would

1 report to the chief of staff, Colonel Marriott.

2 Q. In general terms, on the sort of issues that, as you  
3 will appreciate, we are going to come on to discuss,  
4 concerns that arose at the JFIT, the procedures that  
5 were being used, hooding, sleep deprivation and so on,  
6 would you have tended to involve Major Waters in  
7 discussions arising out of those or would you have been  
8 principally going up the chain to Colonel Marriott or to  
9 Colonel Duncan?

10 A. No, I incorporated those discussions with Colonel Waters  
11 so that everybody was aware of the aspects that were  
12 going on, and anything I discussed with the chief of  
13 staff, Colonel Marriott, I made sure Colonel Duncan was  
14 aware -- understanding as well.

15 Q. In terms of those who were reporting to you, we have  
16 already touched upon the fact, have we not, that S040,  
17 a naval commander, was the OC of the JFIT; is that  
18 right?

19 A. That's correct.

20 Q. We know now that S014 was the ops officer, the 2IC, of  
21 the JFIT; is that right?

22 A. That's correct?

23 Q. It may not matter, but in the statement that you gave to  
24 the SIB at the time and indeed in your court martial  
25 evidence, I think you referred a number of times to S014

1           having been the OC of the JFIT. Is there any particular  
2           reason for that?

3    A. It is an inconsistency and I am afraid it was because  
4           I couldn't actually -- I couldn't remember S040's name,  
5           and I had more dealings to start with, certainly until  
6           mid-April or towards the end of April, with S014.

7    Q. In terms of the command and control arrangements for the  
8           JFIT, can we take it shortly? The Inquiry has  
9           understood from S009 that he did not have any  
10           responsibility for how the JFIT staff carried out their  
11           intelligence functions and that, in terms of how the  
12           JFIT staff were doing their business of interrogation  
13           and the like, the JFIT staff were reporting to you. Is  
14           that fair and accurate?

15   A. That's fair and accurate.

16   Q. Does that summarise the effect of the difference between  
17           TACOM and TACON, tactical command and the tactical  
18           control?

19   A. Yes, it does.

20   Q. Just this then: in his evidence to the Inquiry,  
21           Colonel Vernon, who you may remember was the NCC media  
22           spokesman, told this Inquiry, as he told the court  
23           martial, that on his visit to the JFIT he was told by  
24           two captains at the JFIT that they did not report to  
25           1 (UK) Div, that they were an independent unit and that

1           they reported to their chain of command in London and to  
2           Chicksands. Do you remember that matter being raised  
3           with you, for example, at the court martial?

4    A. Yes, I do remember that, yes.

5    Q. First of all, if that was said by two captains at the  
6           JFIT, were they right?

7    A. No, they were incorrect.

8    Q. I appreciate it may call for speculation and tell us if  
9           you really can't help, but are you able to help us with  
10           why it may have been that staff within the JFIT were  
11           labouring under the misapprehension that they did not  
12           report to 1 (UK) Div but reported directly to Chicksands  
13           or to London?

14   A. I don't know why that is. There was no means of them  
15           being able to report to Chicksands or London. The only  
16           means of them being able to report anywhere was to  
17           1 (UK) Armoured Div.

18   Q. It may be suggested that if that was said, that it might  
19           be indicative of a certain reluctance to have JFIT  
20           procedures interfered with by those outside the  
21           intelligence chain of command. Leaving aside what these  
22           two captains may have said, was that a concept that you  
23           were ever aware of in theatre?

24   A. I know that there was a tension in theatre by S009, that  
25           he felt that, as he controlled the prisoner of war

1 handling organisation, that he didn't have tactical  
2 control of the JFIT. But he had free and fair access to  
3 the JFIT and never articulated to me that it was  
4 anything beyond an administrative issue.

5 Q. On the other side of the coin, though, were you aware  
6 that those subordinate to you on the intelligence side  
7 and in particular at the JFIT may have resented any  
8 attempts at interference in terms of how prisoners were  
9 being handled at the JFIT?

10 A. I would say "yes". The resentment probably would come  
11 from subject matter experts having somebody who doesn't  
12 know anything about the subject then coming in and  
13 suggesting that they should be changing their practices.

14 Q. Being careful about names, was there anyone in  
15 particular at the JFIT who you think took that view?

16 A. Yes, I believe that S040 and S014 had that view.

17 Q. Thank you. May I turn, then, to some aspects relating  
18 to preparations and planning? The first aspect that  
19 I want to deal with under this sub-topic, please,  
20 Colonel, is the suggestion from you that the hooding of  
21 prisoners had come up in discussions with your colleague  
22 staff officers in the preparations and the planning. Do  
23 you understand?

24 A. Yes, I do.

25 Q. Thank you. May we have a look, please, in that regard,

1 at paragraph 10 of your witness statement at BMI05826?

2 You tell us there that:

3 "During the third week of February 2003, a prisoner  
4 of war coordination conference ... was held by  
5 1 (UK) Armoured Div and Colonel S009's organisation ..."

6 You remember that you contributed on aspects only  
7 relating to the JFIT.

8 "The minutes of that meeting are evidenced ..." at  
9 a document we will have a look at.

10 "This meeting was attended by ... Colonel Mercer,  
11 Major Frend, Colonel S009, Captain S014 and ... S040."

12 You say that the matter of hooding was raised. Do  
13 you see that there?

14 A. Yes, I do.

15 Q. Perhaps we could put that on to the left-hand side of  
16 the screen. Could we bring up the minutes of the  
17 meeting, please, on the right-hand side of the screen,  
18 which is at MOD029092.

19 Now just in terms of this particular meeting -- we  
20 will come on to the generality of other discussions in  
21 due course -- do we see there, first of all, that you  
22 are the second named attendee at this meeting on the  
23 right-hand side?

24 A. Yes, I do.

25 Q. We see, as you correctly say in your witness statement,

1           that S014 was present, but there's no record of  
2           Lieutenant Colonel Mercer being present, is there?

3    A.   No.

4    Q.   Do you think that might simply be a mistake in  
5           paragraph 10 of your witness statement, that  
6           Colonel Mercer was present at this particular meeting?

7    A.   That was my recollection, that he and those other people  
8           I stated in my statement were present.

9    Q.   But you would be happy to take the attendance list from  
10           the minutes, would you, as to who was actually there?

11   A.   Yes.

12   Q.   Thank you.  Perhaps on the right-hand side of the  
13           screen, then, could we flick forward to the second page  
14           of the document?  Colonel, I just take you to that so  
15           that you can see the heading which was for the field  
16           HUMINT teams and the JFIT.  Do you see that under  
17           paragraph 5, just the loose heading at the end?

18   A.   Yes.

19   Q.   If we go over the page, this would have been  
20           your section of the meeting, as it were, wasn't it?

21   A.   Yes.

22   Q.   We see that your cipher is there at the beginning,  
23           dealing with that.

24   A.   Yes.

25   Q.   If you will take from me for the moment that, at least

1 as far as the minutes are concerned, what follows below  
2 in sub-paragraphs (a) through to (d) deal with various  
3 aspects of the JFIT and field HUMINT teams, but there is  
4 no mention in the minutes of hooding at all.

5 A. Correct.

6 Q. How confident are you that hooding was actually  
7 mentioned at this meeting?

8 A. My recollection is that hooding was mentioned at that  
9 meeting or deprivation of sight and use of blindfolds  
10 and hoods were mentioned in that meeting.

11 Q. In what context do you think that would have come up?

12 A. In terms of operational -- maintaining operational  
13 security and moving prisoners around the battlefield.

14 Q. You say "deprivation of sight or hooding". I appreciate  
15 it's a long time ago, but do you know, if deprivation of  
16 sight was mentioned at all, whether the concept of using  
17 hoods rather than blindfolds was mentioned?

18 A. There was certainly a discussion about blindfolds --  
19 about if people didn't have blindfolds, that hoods --  
20 but sandbags rather than hoods -- would be acceptable.

21 Q. How confident are you that it was at this particular  
22 meeting, rather than some other meeting, that this was  
23 mentioned?

24 A. My recollection is based on the round -- or the tent,  
25 the tables and the physical aspects of where it was,

1           which was in Kuwait in the camp that we had arrived at  
2           when we first deployed, and that's what I'm basing that  
3           recollection on.

4   THE CHAIRMAN:  You have a picture in your mind of the  
5           location; is that right?

6   A.  Yes, Sir, I have.

7   MR MOSS:  Does that picture in your mind also put  
8           Colonel Mercer as being present?

9   A.  Yes, sir, yes, it has.

10  Q.  Again, the picture in your mind, if that helps, as you  
11       remember it, do you recall any form of legal advice  
12       being given, however formal or informal, about the use  
13       of blindfolds, hooding or sight deprivation more  
14       generally for the purposes of operational security?

15  A.  No, no legal advice at all.

16  Q.  So it wasn't at this meeting that a legal view was  
17       expressed that the deprivation of sight for operational  
18       security purposes would be legitimate?

19  A.  No.

20  Q.  Thank you.  Perhaps the minutes for that could be taken  
21       down, but could we keep paragraph 10 on the screen for  
22       the moment?  You go on to say, in paragraph 10 of your  
23       statement, that this was not the only time when prisoner  
24       handling was raised and you say:

25           "I recall that we considered the matter on multiple

1 occasions, including a stage-by-stage discussion of the  
2 whole PW process (known as a 'rock drill')."

3 Is that right?

4 A. That's correct.

5 Q. You say that that took place before going to the desert  
6 towards the end of February. Do you mean, by that, that  
7 that took place whilst still in Kuwait?

8 A. Yes, it did, yes. It took place in the same location  
9 that I've just described, the first base location in  
10 Kuwait.

11 Q. Thank you.

12 Do you have now -- we will go to what your statement  
13 says about it -- a recollection in your mind of any  
14 stage, prior to issues of controversy arising at the  
15 JFIT, about legal advice being given at a meeting or  
16 a legal view being stated at a meeting or a discussion  
17 about the deprivation of sight?

18 A. I know that it was discussed -- as I stated in my  
19 witness statement, that it was discussed on a number of  
20 occasions and that there was never any legal advice to  
21 say that we could not do it and that it was a practice  
22 that was illegal.

23 Q. Who do you say, doing the best that you can, of the  
24 lawyers -- I don't think there are any lawyers whose  
25 names you can't mention who were in theatre -- who of

1 the lawyers do you remember being present when the use  
2 of blindfolds or hoods was discussed before the war  
3 fighting?

4 A. My recollection is that Colonel Mercer was definitely  
5 aware and was present and my recollection is also that  
6 Major Frend -- now Colonel Frend -- was present.

7 Q. If we have a look, please, at paragraph 30 of your  
8 witness statement, you put it there, it might be  
9 thought, in somewhat bolder terms than you have just  
10 done a moment ago, in saying that:

11 "In January/February 2003 the legal advice was that  
12 we could hood for operational security and that it was  
13 considered best practice."

14 Is that really the position?

15 A. That was the position that I understood at the time.

16 Q. That that was the legal advice, first of all that it  
17 could be hooding as opposed to blindfolding?

18 A. I'm not sure we necessarily had a differentiation  
19 between the two, but that was certainly the advice that  
20 I can remember.

21 Q. And that it was considered indeed to be best practice.  
22 Was it stated to be as high as that?

23 A. Well, it was considered to be the standard operating  
24 procedure that we all understood.

25 Q. It may be thought that there's a difference between an

1           army standard operating procedure that was all  
2           understood and the lawyers endorsing the use of hoods as  
3           operational best practice.

4    A.   Okay, well maybe "best practice" is not necessarily the  
5           correct terminology, but my understanding at the time  
6           was that it was a standard operating procedure and  
7           nobody said that it was not.

8    Q.   I follow.  In terms specifically of Colonel Mercer, if  
9           we go down just a little bit within paragraph 30, if you  
10          would with us, Colonel, three lines up from the bottom:

11                 "The use of hoods was discussed and neither  
12           Lieutenant Colonel Mercer nor anyone else raised any  
13           objection."

14                 I think that is consistent with what you just told  
15           us a moment ago; is that right?

16    A.   Yes, that's correct.

17    Q.   You then say this:

18                 "I remember Lieutenant Colonel Mercer was wholly  
19           supportive of the prisoner handling process that we had  
20           talked through.  Both Lieutenant Colonel Mercer and  
21           Major Frennd said repeatedly that hooding for security  
22           purposes was compliant with the Geneva Conventions."

23                 Put that highly in your witness statement, that  
24           Colonel Mercer was positively and wholly supportive of  
25           the prisoner handling process, including hooding for

1 security purposes and that he was saying that hooding  
2 was compliant with the Geneva Conventions, again, how  
3 confident of that are you?

4 A. Well, that's my recollection.

5 Q. You may have seen, in recent days or weeks, that  
6 Colonel Mercer's evidence to the Inquiry was that he  
7 never took the view that hooding was acceptable; indeed,  
8 that he had significant reservations about sight  
9 deprivation more generally and that he would not have  
10 endorsed its use. Do you think, in fairness, that he  
11 might be right about that and that hooding wasn't raised  
12 at this stage?

13 A. I do not remember him stating vehemently that he was  
14 against sight deprivation on security grounds.

15 Q. Would you accept a possibility that sight deprivation  
16 may have been mentioned in general terms, but that  
17 hooding didn't come up at all before either  
18 Colonel Mercer or Major Frend? Is that possible?

19 A. It could be possible, but my recollection is that sight  
20 deprivation and hooding had -- they were cojoined.

21 Q. Again, you will understand, so that we have your comment  
22 and your assistance on it, Major Frend -- who, of  
23 course, you worked with at the JFIT, you will recall --  
24 his evidence to the Inquiry was that sight deprivation  
25 and hooding was something that was discussed, but that

1 the first time that it came up between you and he was  
2 when the issue arose, if you like, as a matter of  
3 controversy at the JFIT involving the Red Cross and  
4 so on and that he had not previously had any discussions  
5 about the use of hooding with you at all. Again, do you  
6 think, in fairness, he might be right about that?

7 A. I can only tell you my recollection was that in the  
8 discussions that we had -- extensive discussions about  
9 the HUMINT plan, which included the JFIT and prisoner  
10 handling -- that I am sure that this was discussed.

11 Q. I am not going to go through whole tracks of your court  
12 martial evidence in seeking to prove a negative, but  
13 there are lots of lawyers present who will correct me if  
14 I am wrong. If you take it from me for the moment that  
15 I think that throughout your court martial evidence,  
16 this aspect from your Inquiry statement --  
17 paragraph 30 -- the suggestion that Major Frennd and  
18 Colonel Mercer had, in a sense, approved the use of  
19 hooding for operational security purposes is not  
20 something you mentioned at all at the court martial.

21 Now, if that is right, would you accept that that  
22 might be further evidence that your recollections on  
23 this may be fallible?

24 A. I accept that there are inconsistencies, but I went to  
25 the court martial with no preparation and was asked some

1 questions that I was expected to answer very quickly  
2 without much background in terms of dates, times, names.  
3 I have already mentioned that I could not remember S040,  
4 his name --

5 Q. Yes.

6 A. -- and I noticed -- I also note in my statement that  
7 I consistently refer to May as being the date when  
8 a number of the controversies that you have already  
9 stated happened. In producing this statement and then  
10 doing a systematic mind clearance, I believe that what  
11 I'm saying here is correct.

12 Q. If I may press that just a little bit further. Even  
13 making due allowance for that, if we can just step  
14 forward a little bit in the chronology, it is, of  
15 course, the case that when the issue arose at the JFIT,  
16 there was a significant difference of view between,  
17 amongst others, you and Colonel Mercer, wasn't there, as  
18 to the use of hooding at JFIT?

19 A. Yes.

20 Q. Given that that was the case, wouldn't it have been one  
21 of the clearest recollections that you would have had,  
22 which you would have been keen to tell the court  
23 martial, to say, "Well, although Colonel Mercer said,  
24 when the Red Cross made a complaint about this, that he  
25 was against the use of hooding, that was totally

1           contrary to what he told me earlier on and indeed what  
2           Major Frend had said", because surely you would have  
3           felt that the lawyers had done a U-turn on you?

4    A.   Yes, absolutely, and I still felt -- and still feel --  
5           that Colonel Mercer's view, subsequent view, when he saw  
6           things that were going on -- what he allegedly saw at  
7           the JFIT that were incorrect -- that he knew that those  
8           activities were going on because he had been party to  
9           the discussions we had had before we deployed.

10   Q.   Just another aspect of this, if we may. We will come  
11           back to this document later in its proper course in the  
12           chronology, but could we look at MOD011451? Colonel,  
13           I think you will recognise this document. If you take  
14           it from me, on the second page you will see your cipher  
15           has been inserted. It is your loose minute -- if that  
16           is the correct phrase -- to Colonel Mercer of 30 March.  
17           You are familiar with this?

18   A.   Yes, I am very familiar with this.

19   Q.   I am grateful. If you look at paragraph 3(a) on this,  
20           relating to the hooding of prisoners -- as I say, we  
21           will have to come back to this -- you set out there:  
22                    "The JFIT currently hood the screened prisoners  
23                    when they are escorted from the main EPW cages to the  
24                    JFIT ... This is not done to intimidate or cause  
25                    distress but as a security precaution, so they do not

1 observe the route, layout, support functions and staff  
2 within the JFIT area. Once they are moved into an  
3 interrogation room the hood is removed. The reverse  
4 procedure is ... applied ... It is not a procedure that  
5 is designed to remove or damage their sensory capability  
6 and is practised only when at war in order to protect  
7 operational security and is maintained for the shortest  
8 period of time."

9 If we go over the page -- again we will come back to  
10 this later on -- you were talking about the availability  
11 of one of the subject matter experts, S012, to give  
12 advice in this area and saying:

13 "... if you feel that the descriptions I have  
14 described were not as you found them during your visit.  
15 If they are as described and you still feel very  
16 uncomfortable with the situation, I would like the  
17 matter to be referred to the NCC."

18 Now, having taken you to the context of that  
19 document and what it was saying about hooding, if it  
20 were the case that Colonel Mercer had previously advised  
21 you that the hooding of prisoners for operational  
22 security was all right, is that not something that you  
23 would have been bound to have raised in this memorandum  
24 to him, something to the effect of "You didn't have  
25 a problem with the operational security hooding when we

1           discussed it three weeks ago"?

2    A.   Yes, you are correct.

3    Q.   Again, does that not suggest that your recollection to  
4           the effect that Colonel Mercer and Major Frend approved  
5           the use of hooding prior to it arising as an issue for  
6           controversy for the JFIT is mistaken?

7    A.   As I say, my recollection is that they were -- they  
8           fully understood, in terms of the rock drill and all the  
9           other discussions we had, that enemy soldiers would  
10          be -- would have some form of sight deprivation, be it  
11          blindfold or hood, when they were moved around the  
12          battlefield.

13   Q.   Just one final detail then on a slightly different  
14          aspect if I may.  Can we go back to your paragraph 30  
15          from your witness statement at BMI05831?  You see  
16          the section we were looking at a moment ago -- and it  
17          continues over the page -- talking about the meetings  
18          which we were looking at, where your recollection is  
19          that the lawyers had approved of the use of hooding.  
20          You go on to say:

21                 "It was recognised by those present at the meeting  
22                 that hooding would carry the additional benefits of:  
23                 providing privacy/security to prisoners; improving the  
24                 effectiveness of guarding; and preserving the shock of  
25                 capture, as referred to [earlier in your witness

1 statement] ... I believe that it was S014 who indicated  
2 that these additional benefits could arise from hooding  
3 prisoners at the JFIT."

4 Pausing there, that seems to be a specific  
5 recollection that you were giving us that the side  
6 benefit of the shock of capture, as one of the benefits  
7 of hooding, was being raised at these meetings and that  
8 it was Captain S014 who was doing so. How confident are  
9 you in your recollection that it was S014 who was  
10 talking about the benefits of maintaining the shock of  
11 capture?

12 A. I have a strong recollection that it was S014 because,  
13 again, I can remember the place that it happened and --  
14 which again was in the same camp when we first arrived  
15 in Kuwait, so that is what I am basing that recollection  
16 on. He was the subject matter expert and the rest of  
17 his team had not arrived at that particular point.

18 Q. Thank you. Now I need to deal with a second aspect  
19 about the preparations, other than the meetings that we  
20 have been looking at. That's the detailed directive for  
21 HUMINT activities. I think you know the issue about  
22 which I am referring to there.

23 A. Yes.

24 Q. Can we have a look, please, in that context, at  
25 paragraph 24 of your witness statement at BMI05829? You

1 tell us that:

2 "... the procedures used by HUMINT teams and  
3 interrogators were governed by a detailed directive  
4 issued by ... (PJHQ) on behalf of 1 (UK)  
5 Armoured Division."

6 You say that it was not written and published until  
7 June 2003, despite what you refer to as "continued  
8 agitations" from yourself and others for a written  
9 statement of the terms of reference.

10 Just pausing there, as you sit there today, Colonel,  
11 do you still have a recollection of agitating for the  
12 detailed directive?

13 A. Yes, I do, and, to qualify that -- I probably believe  
14 that the date was May, rather than June, as I have  
15 stated in my statement -- but the continued agitation  
16 was from myself and from my 2IC, back to PJHQ, to S062,  
17 who was meant to be producing that HUMINT directive.  
18 And I -- on a nightly basis, I had a conference call  
19 back to the NCHQ to talk to Colonel Duncan and  
20 consistently lobbied him to lobby PJHQ in order to  
21 produce the directive.

22 Q. I think in fairness to you, you did mention -- we don't  
23 need to look it up, but in your second statement you  
24 said it was not until May or June of 2003.

25 Could we have a look, then, at the directive -- or

1           certainly the copy that we have of it -- at MOD049310?  
2           You may understand, Colonel, the difficulty with which  
3           the Inquiry is grappling because, on the face of it,  
4           this is a directive which is not immediately apparent,  
5           is it, to be a draft? It doesn't state that it is only  
6           a draft.

7    A. Yes.

8    Q. It appears to be dated 27 February, so quite some  
9           significant time before you are saying it arrived in  
10           theatre. Just in general terms, can you help us at all  
11           to understand how that may have arisen -- if there was  
12           a directive that was signed off on 27 February, as to  
13           how it may be that it wasn't with you in May, even if  
14           you were agitating to PJHQ for it to be produced -- can  
15           you help us with that?

16   A. I can't, other than saying that perhaps the -- I mean,  
17           we didn't have email at that particular point, so it  
18           would probably have had to come by hard copy. But  
19           nobody said to me, "This has been produced and therefore  
20           we will get a copy of it for you". I was constantly  
21           told, "Yes, they are producing it".

22   Q. In light of the uncertainty that the Inquiry currently  
23           has about this document, I perhaps ought to ask: is it  
24           possible that your recollection about this is mistaken  
25           and that this document was available from late February

1           onwards?

2    A.   I don't believe my recollection is -- that I'm mistaken  
3           about this because, once it did arrive, once we did see  
4           it in May, my 2IC and I openly joked about how out of  
5           date it was, about the fact that it didn't really  
6           incorporate us as an organisation, that the wiring  
7           diagram that pertained to how the HUMINT lay-down was  
8           meant to be delivered was incorrect, and I distinctly  
9           remember that conversation going on.

10   Q.   S040, when he gave evidence to us, said that he had, in  
11          fact, never seen the directive at all.  If it had been  
12          available to you, of course, given that it was meant  
13          to govern the procedures at the JFIT, you and  
14          Colonel Duncan would have been obliged, would you not,  
15          to get it into S040's hands?

16   A.   Absolutely.  He would have had a copy of it.

17   Q.   And it is not the case, is it, that you simply failed to  
18          do that?

19   A.   No.

20   Q.   Having looked at the timing and passing it on,  
21          can I deal briefly, perhaps, with some aspects of its  
22          content?  You tell us in your second witness  
23          statement -- can we have a look at that, please, at  
24          paragraph 11 at BMI07381?  You say:

25                 "Overall, I would say that, insofar as the directive

1 [and the guidance that's with it] ... defined the  
2 concept of operations, command and control arrangements,  
3 and responsibilities for HUMINT operations and since it  
4 referred to JWP 1-10, it was adequate guidance on the  
5 procedures to be used by UK interrogators in Iraq."

6 Just pausing there, can I check, is that still your  
7 view?

8 A. Well, having seen the document again, I would suggest  
9 perhaps that the detail is a little thin.

10 Q. One aspect on which I seek your assistance, could we  
11 look at annex B of the directive at MOD049314, please?  
12 You correctly indicate in your witness statement that  
13 this refers to JWP 1-10, but, as we have already looked  
14 at, that is silent about the use of hoods, blindfolds or  
15 sight deprivation. It also refers to Allied Joint  
16 publication 2.5, which again, if you take it from me for  
17 the moment, the Inquiry has looked at with care and does  
18 not refer to blindfolds or to hoods either.

19 What one doesn't see anywhere in annex B is any  
20 reference to that 1972 directive and the prohibitions on  
21 the use of hooding and blindfolding and so on at all, do  
22 we?

23 A. No, not at all.

24 Q. In all fairness, given that that 1972 directive was  
25 still extant, might you have expected to see reference

1 to it within this detailed direction?

2 A. Absolutely. If it was extant, yes.

3 Q. It may be said that that was a directive that dealt with  
4 internal security operations, whereas this was war  
5 fighting, but I don't think we see anywhere in this  
6 annex a reference in any form to the prohibition on the  
7 use of the five techniques, leaving aside the directive.  
8 Again, would you have expected this detailed directive  
9 to have some kind of cross-reference to the prohibition  
10 on the five techniques?

11 A. Yes, I would have done.

12 Q. Thank you. One final slightly miscellaneous point,  
13 please, about preparations. I wonder if you can give us  
14 some assistance with a completely different document.  
15 May we look, please, at MOD044522? I hope that you may  
16 again have had an opportunity to look at this document  
17 in recent days, but I am afraid it is one of those  
18 that's rather heavily redacted. It's dated 13 February  
19 and addressed, I think, to the director of military  
20 operations, so a high-level document going to the  
21 military assistant, to the ACDS, through the DMO.

22 May we look within it, please, at paragraph 18, at  
23 MOD044525? This is a section of this high-level  
24 document which is dealing with the management  
25 supervision of HUMINT for Op Telic 1. At

1 paragraph 18(b) you will see that there is a reference  
2 to an "In-theatre management board", and it says:

3 "The in-theatre management board will consist of  
4 [chief of staff] or the [assistant chief of staff] ops  
5 NCC, SO1 J2X [Colonel Duncan] POLAD [S034], LEGAD [and a  
6 word has been redacted] ... representatives. It will  
7 also co-opt from J2X staff as required. It will meet  
8 regularly in order to review HUMINT [the word has been  
9 redacted] ... providing a report to SO2 J2X PJHQ after  
10 each meeting."

11 I just ask, first of all, were you aware one way or  
12 the other whether this in-theatre management board  
13 overseeing HUMINT ever actually convened and sat?

14 A. Yes, it did, but it didn't convene and sit until -- my  
15 recollection would be June because, at that particular  
16 point, my understanding, detailed understanding, of  
17 management boards is that these only occur when you are  
18 starting to actually conduct HUMINT operations. This  
19 management board didn't, at the time, deal with the JFIT  
20 or any interrogation or intelligence gained from  
21 interrogation.

22 Q. So in terms of anything that may have arisen and the  
23 matters that we will come on to in a moment after our  
24 short break -- matters arising at the JFIT, hooding at  
25 the JFIT, Red Cross concerns -- that's not something in

1           any shape or form that would have been discussed at this  
2           management board?

3    A.  No, generally my experience of management boards have  
4           been that they have been dealing with directly HUMINT  
5           operations, how they are conducted, set against the  
6           [redacted] ...

7    Q.  I am just going to stop you there if I may.  Can I just  
8           ask you in relation to this -- can you answer this  
9           question "yes" or "no"?  Do you know which of the  
10           lawyers in theatre were, in fact, indoctrinated into  
11           HUMINT matters to provide the legal advice on these  
12           HUMINT matters?

13   A.  Yes.

14   Q.  I wonder, just as a precaution, if you could just write  
15           down the name, please.  (Name written down)

16            You have indicated that that was Colonel Clapham and  
17           Major Frend; is that right?

18   A.  That is correct.

19   MR MOSS:  Sir, would that be a convenient moment, please?

20   THE CHAIRMAN:  Yes.  Very well.  We have a break now,  
21           Colonel.  Would you be kind enough to be back in ten  
22           minutes' time and please do not talk to anybody about  
23           your evidence during the course of the break.

24   A.  Yes, Sir.

25   (11.24 am)

1 (A short break)

2 (11.35 am)

3 THE CHAIRMAN: Yes.

4 MR MOSS: Thank you, Sir.

5 Colonel, can we move on next, please, to look at  
6 your evidence in relation to the concerns that were  
7 raised regarding hooding and other matters at the JFIT.

8 Can I ask you this first of all? In the course of  
9 your role as SO2 G2X at divisional level, during those  
10 early weeks how often did you yourself visit the JFIT  
11 facility?

12 A. The first time I visited the JFIT facility, I believe,  
13 was around 28 March because the invasion was on  
14 21 March.

15 Q. Yes.

16 A. Then I next visited on 1 April, when I first met the  
17 ICRC representative, and then I then probably visited in  
18 the region of anything between three and five times  
19 a week.

20 Q. We can come on to look at the Red Cross visit and the  
21 Red Cross concerns and subsequent visits that you may  
22 have had, but could we look, first of all, please, at  
23 what you had seen on your own first visit to the JFIT  
24 which you say may have been on or about 28 March.  
25 I want to ask you about various aspects of that.

1           In terms of what you yourself saw, did you see,  
2           first of all, prisoners who were hooded?

3    A.   Yes, I did.

4    Q.   What were they hooded with?

5    A.   My recollection is that they were hooded with sandbags,  
6           hessian sandbags.

7    Q.   In terms of what you yourself saw, were they hooded just  
8           with one sandbag or with more than one or could you not  
9           tell?

10   A.   My recollection is it was one sandbag.

11   Q.   In terms of what you yourself saw, were those hoods kept  
12           on prisoners continuously while they were waiting to be  
13           interrogated?

14   A.   I remember asking the question to S014 and S040 how  
15           often the hoods were lifted off and was told in the  
16           region of about 15 minutes. The hoods were lifted off  
17           for about 15 minutes or so sort of every two hours,  
18           I think.

19   Q.   Yes. That is, in fairness to you, the account you give  
20           in your witness statement and you also mention something  
21           similar in your court martial evidence. I just raise it  
22           again for your comment. S040's and indeed S014's  
23           evidence to this Inquiry in gist was that the hoods  
24           remained on throughout that period waiting for the  
25           interrogation, although I think both would accept, of

1 course, that prisoners, in their evidence, would have  
2 had the hoods lifted up for the purposes of giving  
3 prisoners water, but they didn't give an account of this  
4 break every two hours. How confident in your  
5 recollection are you on this aspect?

6 A. I am very confident that that was what I was told at the  
7 time.

8 Q. In the conditions that you saw the hoods being used, did  
9 you yourself think that that break every two hours or  
10 whatever it was was a necessary precaution to protect  
11 the health of the prisoners?

12 A. Yes. I felt that that was in line with making sure that  
13 we were looking after the prisoners well and that they  
14 were being treated within the law of armed conflict.

15 Q. Allowing, of course, for the fact that not everything  
16 can be committed to writing, especially in  
17 a war-fighting phase, that provision of a break in  
18 hooding, is that something that you would have expected  
19 to have seen written down somewhere in some kind of  
20 standard operating instruction within the JFIT or more  
21 generally within the division?

22 A. Probably within the JFIT SOP, yes.

23 Q. Just on that issue, the Inquiry has only received one  
24 draft SOP for the JFIT and it may not even be referring  
25 to this JFIT around this time at all. How confident are

1           you that there was any kind of written SOP for the JFIT?

2    A.   I believe that there was because I think I asked the  
3           question to S014 and S040 when we were in Kuwait, and  
4           they had discussed that the SOP was based on past  
5           experience of the first Gulf War and subsequent work  
6           done by the unit in Chicksands.

7    Q.   Did you ever, yourself, see the written SOP?

8    A.   No, I didn't.

9    Q.   Going back to the hooding, then, that you did see, the  
10           single hessian sandbags, did you get an understanding  
11           from your own visit as to how long those hoods might be  
12           kept on the prisoners from your own visit?

13   A.   At the time, on the 28th, there was a significant amount  
14           of prisoners that were flowing in, not only to the JFIT,  
15           but to the whole prisoner of war handling organisation.  
16           At the time my recollection is that in discussions  
17           people were talking within the region of about 12 hours  
18           by the time individuals were seen -- individual  
19           prisoners were seen.

20   Q.   12 hours is a figure -- we don't need to look it up --  
21           in your court martial evidence that was mentioned,  
22           12 hours. I think, in the context there, that was about  
23           the time that it might take to get the prisoner to the  
24           JFIT. Are you talking here about 12 hours hooded within  
25           the JFIT?

1 A. Indeed. My concern was only within the JFIT.

2 Q. They might have been hooded, obviously, for a period  
3 outside of your subordinates' control, prior to arrival  
4 at the TIF and the JFIT as well?

5 A. Correct answer.

6 Q. I don't want you to guess -- and say if you don't  
7 know -- but did you understand whether the hooding was  
8 only being applied until those prisoners had been  
9 interrogated or would the hoods have been re-applied  
10 after interrogation, as you understood it?

11 A. The hoods were generally re-applied after interrogation  
12 and then they went back to some form of holding area,  
13 and especially at that particular point, right at the  
14 very beginning.

15 Q. So you say that they might be waiting for 12 hours.  
16 Am I right to understand that 12 hours might be the  
17 period before they are interrogated, but they might then  
18 be hooded thereafter while taken back to a holding area?

19 A. Well, they would normally be -- the practice was that  
20 when they were transferred from the interrogation area  
21 to their holding area, they had a hood on.

22 Q. Yes.

23 A. Once they got to their holding area, the hood normally  
24 came off.

25 Q. Was that a holding area within the JFIT itself?

1 A. Yes, it was, yes.

2 Q. S040, when he gave evidence to us, said that, as he  
3 recollected it at least, hoods remained on throughout --  
4 not of course during the interrogation itself -- but  
5 including in the holding areas for the same operational  
6 security reasons, not identifying one another and so on.

7 A. I am not going to disagree with that account. I believe  
8 that over the beginning of the capability, the  
9 development of the JFIT, that because there wasn't  
10 enough tents, there wasn't enough material in order to  
11 sub-divide people, that hoods were used.

12 Q. All right. Again, I don't want you to reconstruct what  
13 your understanding was if you can't remember, but before  
14 any issue of controversy arose, what, then, was your  
15 actual understanding in this early stage about the  
16 maximum sort of length of time that a prisoner might  
17 actually remain hooded if one takes into account hooding  
18 after the interrogation?

19 A. Well, I still was of the understanding that it wasn't  
20 any longer than 24 hours.

21 Q. That is 24 hours on top of any period for which they  
22 have been hooded while being --

23 A. Transported, yes.

24 Q. -- in transit to the TIF?

25 This was obviously earlier on in 2003. Night-time

1           temperatures, I think, probably quite low at that time  
2           of year -- would that be fair?

3    A.   That was correct.

4    Q.   -- requiring blankets and so on, as you detail in your  
5           evidence.

6    A.   Yes.

7    Q.   But daytime temperatures at that time of year would be  
8           rising to what sort of levels?

9    A.   At that particular period, because we had had pretty  
10           inclement weather, it was about 15 -- I would suggest  
11           about 15 -- probably 20 degrees at the most.

12   Q.   Did you yourself have any concerns -- leaving aside what  
13           was said later by Colonel Mercer to the Red Cross -- on  
14           that visit to the JFIT about whether or not this type of  
15           hooding for this length of time was a humane way to  
16           treat people within the JFIT?

17   A.   Well, in the context of the time period where we were  
18           still war fighting and we were still trying to gain  
19           intelligence, I felt this was justifiably humane at that  
20           particular point.

21   Q.   You refer to trying to gain intelligence and that the  
22           war fighting was still on. Those are not matters that  
23           makes it any different for the person who is being  
24           hooded, are they? They may be reasons and explanations  
25           for why hoods, but in terms of the simple question of

1           what it is like to be hooded for that length of time, it  
2           doesn't make any difference for the person who is  
3           actually being hooded, does it?

4    A.   No.

5    Q.   Were you, in fact, concerned as to whether it was really  
6           right and proper to leave these prisoners with sandbags  
7           on their heads for such long periods of time?

8    A.   Yes, I was very concerned, yes.

9    Q.   Did you raise questions about it yourself?

10   A.   I discussed the issue of hoods or -- as you know, by  
11           asking how often the hoods came off, and was satisfied  
12           at that particular point that we were treating people in  
13           a humane manner.

14   Q.   The operational security aspect of the hooding at that  
15           stage, the sort of factors that have been talked about  
16           in evidence -- and we can take it shortly -- first of  
17           all ensuring that the prisoners couldn't see a layout --

18   A.   Yes.

19   Q.   -- of the camp; also that they couldn't identify who  
20           other detainees were -- was that a factor?

21   A.   Yes, that was a factor.

22   Q.   Protection from one another in other words --

23   A.   Yes.

24   Q.   -- and who was cooperating; and also not permitting  
25           identification of guards and interrogators, was that

1 a factor?

2 A. That was a factor.

3 Q. Just looking at those aspects, so far as the layout of  
4 the camp is concerned, can you remember whether it was  
5 actually possible to see into the JFIT camp from a road  
6 that passed nearby?

7 A. No, because a large berm had been constructed that the  
8 JFIT sat in -- it was a rectangle berm that had been  
9 created and the JFIT sat inside that.

10 Q. At the early stages, though, there has been some  
11 evidence to the Inquiry -- perhaps before the  
12 construction was fully completed, but at the same time  
13 as the hooding concerns were being raised -- that it  
14 might have been possible to see in because whatever  
15 barrier it was on the roadside was not particularly  
16 high.

17 A. Well, my recollection from when I first went there was  
18 that the berm was in place by the time I arrived there,  
19 but the JFIT had moved -- my understanding -- had moved  
20 into place around the 23rd or so of March.

21 Q. I follow. In terms of the other aspects of operational  
22 security, were there not means other than the use of  
23 hoods which could have been achieved to secure the same  
24 operational security outcomes?

25 A. Yes, there were blindfolds, which I know that S014 had

1 brought from Chicksands, that fitted over the bridge of  
2 the nose.

3 Q. Did you understand why they were not being used instead  
4 of hoods?

5 A. I think they fell apart. I think they utilised all of  
6 those within the first 24- or 48-hour period.

7 Q. It may not be, by any means, at the heart of the  
8 Inquiry's investigation, but would you accept that that  
9 in itself was a logistics failure if not enough  
10 blindfolds had been brought out to deal with the  
11 prisoners at the JFIT?

12 A. Absolutely.

13 Q. What about the erection of hessian screens for  
14 isolation? Is that something that could have been done  
15 to limit the extent to which prisoners had to be  
16 deprived of their sight?

17 A. We did construct hessian screens some days later, but  
18 that was because we didn't have any hessian at the time  
19 and we were particularly limited in material that we  
20 could utilise in order to be able to make the camp  
21 better.

22 Q. Again, I do not want to jump ahead too much, but we know  
23 from your witness statement that when the concerns  
24 were subsequently raised by the Red Cross or by  
25 Colonel Mercer and there was the meetings and so on and

1 the subsequent visit that you did, that you ordered, if  
2 I have understood it correctly, that more tents should  
3 be provided for different aspects so that prisoners  
4 wouldn't be left out in the sun; is that right?

5 A. That's correct.

6 Q. That was done immediately, is that right?

7 A. That's correct, yes.

8 Q. Is there any reason, if the tents were available  
9 immediately upon your order, why they shouldn't have  
10 been provided earlier on?

11 A. I've got no explanation for that, but I was very pleased  
12 to see that tents were somehow purchased or delivered in  
13 order to make the situation better. I was most  
14 insistent to S014, who was the ops officer who had the  
15 linkage into S009, that they had managed to achieve and  
16 get tents almost instantaneously -- sorry,  
17 "instantaneously" is probably the wrong term, but they  
18 seemed to get them reasonably quickly.

19 Q. Just looking at it in the round, so far as the hooding  
20 is concerned, again just dealing with your own visit and  
21 what you saw, is the reality that it was pretty apparent  
22 that part of the use of the hoods here was being done to  
23 maintain the shock of capture so as to get a better  
24 intelligence product?

25 A. I think by the time that people had arrived, the shock

1 of capture had probably dissipated. The situation we  
2 found ourselves in was that this was for security  
3 purposes as our main concern. We had very limited  
4 guards provided by the infantry platoon and -- which  
5 I remember being an issue -- and we had insurgent  
6 indirect fire and machine and rifle fire still coming in  
7 to that area.

8 Q. We don't perhaps need to look up the reference for the  
9 moment, but during the course of your court martial  
10 evidence, in terms of why you were later to come on to,  
11 if you like, defend -- we will look at the detail of it  
12 in due course -- the use of hooding at the JFIT, part of  
13 the evidence to the court martial was: this was the  
14 war-fighting phase and we were getting good intelligence  
15 product with the use of hooding.

16 Does that not reflect the reality that at least part  
17 of the thinking of yourself and perhaps, as well, your  
18 subordinates was that this use of hoods was helping to  
19 deliver a better intelligence product?

20 A. Yes, potentially it was a by-product, but we hadn't got  
21 any intelligence at the time and this was one of the --  
22 it was appearing a successful method of  
23 intelligence-gathering when people were being  
24 interrogated without hoods.

25 Q. Do you think, looking back, that you might perhaps have

1 done more yourself -- leaving aside concerns that were  
2 raised by others later on -- to question the use of  
3 hoods at the JFIT?

4 A. I was fully satisfied that, at the time, the use of  
5 hoods was legitimate and humane in the conditions we  
6 found ourselves in.

7 Q. Can I deal then with a different aspect, which was the  
8 positions that you saw prisoners in. Physically, what  
9 position were they in when you saw them? Were they  
10 standing up, sitting down, lying down?

11 A. The ones I remember, I remember people -- some standing  
12 up and probably the majority kneeling down, where they  
13 were kneeling down, sitting on the backs of their legs.

14 Q. And were they being required to maintain those  
15 positions, be it kneeling, sitting up or whatever?

16 A. No. When I saw them they were allowed to adopt one  
17 position and then they could change that position after  
18 a period of time. So that's why I said I saw some that  
19 were standing up and some that were kneeling.

20 Q. The evidence of S040 and S014 was to the effect that  
21 they could adopt positions that they wanted, but were  
22 not allowed to stand. Do you think they might be right  
23 about that?

24 A. I'm recalling my first visit there and I distinctly  
25 remembered people standing up.

1 Q. Now, you will be aware that other officers who visited  
2 the JFIT at around this time or in the days following  
3 raised concerns about stress positions. Colonel Mercer,  
4 in writing, used the phrase "stress positions" and there  
5 were concerns too on behalf of S009 and Colonel Vernon,  
6 I think. Looking back at the matter now, do you  
7 understand why it may have been that others were  
8 concerned that a form of stress positions might be used  
9 or at least that it might be perceived that they were?

10 A. Well, I think it goes back to the terminology of "stress  
11 positions". I don't believe -- my understanding of  
12 "stress positions" is what I stated to you earlier and  
13 I don't believe that people kneeling, sitting or  
14 standing for periods of time were stress positions.

15 Q. You say, do you, that whatever you saw exactly at this  
16 time, there was nothing inhumane about such positions as  
17 they were maintaining?

18 A. Yes, that's correct.

19 Q. Was there any limit of time on any positions that they  
20 were maintaining that you could see or were they just  
21 free to do as they liked so far as you could work out?

22 A. I seem to remember that they were free to do as they  
23 liked. They were in a straight line.

24 Q. It's not the case, is it -- as perhaps you have said on  
25 previous occasions -- that they were in positions, but

1           were allowed to change every 30 minutes or so, anything  
2           like that?

3    A.   Well, I think that was -- I am not going to disagree  
4           with that statement. I think that they were allowed  
5           to -- that was probably the approximate amount of time  
6           that people did change their position.

7    Q.   So far as sleep is concerned, on your visit were you  
8           able to see whether or not prisoners were being  
9           prevented from sleeping in any way?

10   A.   Yes. I was again informed by S040 and S014 that -- and  
11           this had been discussed with me prior to this point --  
12           that when they first came in -- when prisoners first  
13           came in -- for their initial interrogation, that they  
14           were not allowed to sleep and that, if some of them  
15           started to doze off, that one of the guards or one of  
16           the interrogators would go in and just nudge them to  
17           make sure that they were awake.

18   Q.   And the purpose of the nudge or the "gentle nudge", as  
19           you put it in your witness statement -- what was the  
20           purpose of them being kept awake?

21   A.   The purpose was to make sure that they were not too  
22           fresh when they first had their first interrogation.

23   Q.   Again, I think perhaps more bluntly, to make it more  
24           likely that they would cooperate during questioning and  
25           actually provide the intelligence that was wanted?

1 A. Yes.

2 Q. There was no security justification for that aspect, was  
3 there, keeping them awake?

4 A. No.

5 Q. What about the periods of time for which they might be  
6 kept awake by this gentle nudging? Was that limited in  
7 any way so far as you were able to ascertain?

8 A. As I say, my understanding at the time was that the  
9 maximum period had been about 12 hours and then  
10 subsequently that 24 hours possibly was again the  
11 absolute maximum.

12 Q. Just have a look, please, at one short aspect of your  
13 evidence to the court martial. It is at Day 59,  
14 page 58. You did seem to say there at the top, your  
15 first answer:

16 "Um, they would be kept waiting but they certainly  
17 would not be made to have no sleep for 24 hours if that  
18 is what you are trying to imply."

19 Are you now telling us that in fact the maximum time  
20 might have been approaching 24 hours?

21 A. Well, as I just said to you, on the 28th -- in my first  
22 meeting I was told that it was about 12 hours and -- but  
23 it could go up to a maximum of 24, so, you know, a sum  
24 in between.

25 Q. Did that not give you cause for concern as to the

1 propriety of what was going on if prisoners were being  
2 kept awake for 12 hours, but sometimes as much as 24,  
3 and then being expected to be interrogated and asked  
4 questions thereafter?

5 A. I understood, in terms of the discussions that I had had  
6 before we deployed, that this was a practice that was  
7 used, a practice that was understood and a practice that  
8 was taught and therefore that this was correct practice.  
9 So I didn't question it because I still felt it was in  
10 the bounds of correct practice, making sure that  
11 obviously we were regarding the law of armed conflict.

12 Q. Being careful about names and use a cipher if it applies  
13 and say if you are not sure, but who had advised you of  
14 that?

15 A. S014, S040 -- I mean they were the two leaders in terms  
16 of the subject matter experts.

17 Q. All right. Was there any limit on it? Would there have  
18 come a time when it was just too long that they were  
19 being kept awake and it wasn't humane, it wasn't proper  
20 and they would have to be allowed to sleep if they  
21 hadn't been interrogated by that time?

22 A. Yes.

23 Q. What was the limit?

24 A. I'm not sure that there was a specified limit, but  
25 equally I don't think we ever reached that point. So

1 I was relying on their judgment that -- in treating  
2 these prisoners that they were going to do it in  
3 a humane fashion and manage it correctly.

4 Q. I don't want to get into a debate about the law or seek  
5 your opinion on the law or anything like that, but,  
6 factually speaking, did it occur to you that, even if it  
7 was only gentle nudging, guards poking prisoners or  
8 nudging prisoners to keep them awake, might, technically  
9 speaking, be an assault?

10 A. It didn't occur to me that that was assault because,  
11 certainly when I saw some of the interrogators nudging  
12 people -- and some of them are female -- that they did  
13 it in a way where they just grabbed somebody's shoulders  
14 and slightly shook them. I did not see that as assault.

15 Q. You do say in your statement that it was a "gentle  
16 nudge" and that you say is what you saw, is it?

17 A. Yes.

18 Q. As regards sitting in the sun, were some of the  
19 prisoners that you saw out in the sun?

20 A. Yes, they were at the time.

21 Q. Did that concern you?

22 A. Well, it did concern me and I did have a discussion with  
23 S014 about more tents that were coming. In fact I think  
24 he said to me that we had more tents coming --

25 Q. Can I just pause you there? Forgive me for

1           interrupting. Do carry on in a moment if you want. Are  
2           you really saying that that conversation took place  
3           before any Red Cross concerns were raised, when you  
4           required more tentage and so on, that you were concerned  
5           initially on your first visit and discussed with S014  
6           the need for more tents?

7    A. I think he stated to me at that particular point that --  
8           I mean, we are talking about a very, very rudimentary  
9           camp.

10   Q. I understand.

11   A. And the processing facility, tent, where people were  
12           first processed in terms of their prisoner of war  
13           number, checked for all of their personal effects, all  
14           of those sorts of things, was all being done in one  
15           large marquee, which was not as the pamphlet had laid  
16           out, and so I questioned that -- my recollection of the  
17           pamphlet and the SOPs from the pamphlet, I think -- I am  
18           trying to recall to say whether it was JWP 1-10 or it  
19           could have been 383. One of those pamphlets had  
20           a diagram of what an interrogation facility should look  
21           like and I questioned when we were going to see the  
22           other infrastructure built at that particular point.  
23           And he stated to me that, you know, there was more  
24           infrastructure -- more infrastructure was coming.

25   Q. Taken in combination with the fact that the prisoners

1           were hooded, the fact that they were left out in the sun  
2           to wait, did it not concern you that those factors  
3           together might be seen to be coercive treatment in the  
4           terms of treating prisoners in a certain way to get them  
5           to be softened up or more likely to answer questions?

6    A.   The environmental conditions at the time, on my  
7           recollection, was that it wasn't particularly sunny and  
8           it had rained and so there was a degree of dampness.  So  
9           my recollection is I don't remember significant heat at  
10          that particular point on the day that I visited nudging  
11          me into "We must make sure that we've got ..." or that  
12          "People are suffering unduly".

13                 I accept that the climatic conditions were in the  
14                 process of changing to become hotter and I think that  
15                 I was satisfied with S014's explanation that there were  
16                 more tents and -- that were in-coming.

17   Q.   Just one final aspect.  Do you remember whether there  
18          were generators within the JFIT?

19   A.   There were generators in the JFIT.

20   Q.   Do you remember where they were located relevant to the  
21          accommodation for the prisoners and the interrogation  
22          tents?

23   A.   I know from reading other people's evidence now, but my  
24          recollection would be that they were to the side of the  
25          tents.

1 Q. You say "the tents"; the interrogation tents or can you  
2 not remember?

3 A. Well, the main marquee was then -- had interrogation  
4 tents coming off on a dog leg and there was a --  
5 I distinctly remember a generator in between the main  
6 marquee, the processing marquee of when people first  
7 came in, and the interrogation tents.

8 Q. Did you understand why the generators were there, close  
9 to the tents?

10 A. No, I didn't question that.

11 Q. So you don't know one way or the other whether it was  
12 used as a sound curtain or whether it was used as  
13 a further aspect of the shock of capture? You just  
14 don't --

15 A. As I say, I never questioned that. I noticed in other  
16 people's evidence over the last few days that they have  
17 stated that it was for a sound curtain.

18 Q. Now I have asked you rather direct questions about  
19 individual aspects of your first visit. Have I missed  
20 anything out that struck you about the way that  
21 prisoners were being treated on your own first visit on  
22 around 28 March?

23 A. My recollection is that the facility was very  
24 rudimentary at the time. The whole prisoner of war  
25 handling facility was vast or it was a vast area and it

1 was again very, very rudimentary. There was an enormous  
2 amount of activity that was going on in order to build  
3 and improve it, so there were -- I remember graders  
4 going along, doing some of the tracks, more tents going  
5 up and other supplies arriving and helicopters landing.

6 Q. So the tempo of what was going on at the time very much  
7 reflecting, at this stage, still in the war-fighting  
8 phase --

9 A. Absolutely.

10 Q. -- and resources still arriving?

11 A. Yes.

12 Q. Would that be a fair summary?

13 A. Yes.

14 Q. Can we turn then, please, to how concerns about prisoner  
15 handling at the JFIT arose? What's your recollection  
16 now of how you first became aware that there were  
17 concerns about how prisoners were being treated at the  
18 JFIT?

19 A. I think my first concern was the next day, when  
20 Colonel Mercer expressed his view, having returned from  
21 the prisoner of war handling organisation -- and  
22 expressed a view about people in, as you have already  
23 stated, stress positions and hooded. Then the  
24 following -- either the following day or the day after  
25 that was when further concern was obviously expressed

1 through Colonel Marriott, who summoned me and told me  
2 that there had been a complaint by the ICRC.

3 Q. Let me pause you there. Thank you. Can we have a look  
4 at paragraph 44 of your statement at BMI05835? It may  
5 not matter too much, but certainly in your witness  
6 statement, under the title of "Red Cross complaints",  
7 the first that you deal with in your witness statement  
8 is this matter of hearing from Colonel Marriott, the  
9 chief of staff of 1 (UK) Div, about the Red Cross's  
10 concerns. But you tell us, do you, as you remember it,  
11 that it may have been Colonel Mercer who was the first  
12 to draw concerns to your attention?

13 A. Yes, I think that -- I am not entirely sure that I am  
14 conflating the two, but I think potentially that there  
15 was a linkage between the two and I have stated there  
16 the date of 28 March. Again, in subsequent reading of  
17 some of the evidence, I would suggest that that was  
18 perhaps a day or so later than that.

19 Q. Of course we will come back to any recollections you  
20 have about conversations with Colonel Mercer, but can we  
21 stick with the Red Cross aspect for the moment? We see  
22 here, don't we, that you are telling the Inquiry in your  
23 statement that you were informed, during this  
24 conversation with Colonel Marriott, that the Red Cross  
25 had witnessed and reported a prisoner being hooded at

1 the JFIT with two sandbags, one made from plastic and  
2 one made from hessian material. Does that remain your  
3 evidence?

4 A. Yes, when I say "plastic", perhaps I need -- the way it  
5 was described to me at the time was that a prisoner had  
6 had a -- I took it to mean a plastic bag on his head  
7 with a hessian bag over the top of that and -- which  
8 I was quite incredulous at at the time.

9 Q. The way that you go on to put it in your statement here  
10 is that you were very angry because that was not only  
11 inhumane, given the high temperatures, but, in addition,  
12 a prisoner could have suffocated; is that right?

13 A. Yes, absolutely.

14 Q. The high temperatures being ...?

15 A. The high temperatures being, you know, anything between  
16 15 and 20 degrees. But the point that -- if it was  
17 a plastic bag, it was somewhat irrelevant about the  
18 temperatures. It was the fact that somebody could  
19 suffocate.

20 Q. Did you do anything as a result of learning that and  
21 your reaction of being angry? What did you actually do  
22 next?

23 A. Well, the discussion between Colonel Mercer and I was  
24 that -- sorry, not Colonel Mercer, apologies -- the  
25 chief of staff, Colonel Marriott and I, was that

1 I needed to get a helicopter down to the JFIT and go and  
2 investigate this allegation instantaneously. The issue  
3 with this was that we were 70 kilometres away from the  
4 JFIT, as the headquarters, and the only way at that  
5 particular point of being able to get there was by  
6 helicopter as it wasn't safe to go there by road.

7 Q. Whatever the means was that you got there, the fact that  
8 you went, as you tell us in your witness statement,  
9 within three hours to the JFIT and within three hours  
10 were speaking to S040 about it, does that, in fairness  
11 to you, give an indication of how seriously you took  
12 this issue?

13 A. Absolutely. I went with the full force of the chief of  
14 staff's power in the headquarters to the air desk and  
15 demanded that they get me a helicopter as soon as  
16 possible.

17 Q. When you tell us in your witness statement at  
18 paragraph 34 -- we don't need to look it up, perhaps --  
19 that you regarded the use of plastic sandbags as not  
20 only forbidden, but dangerous, because of the risk of  
21 suffocation, is that part of the reason why, at this  
22 stage, you were so concerned?

23 A. Yes, but, as I say, my understanding at the time, before  
24 I got there, was that this had been somebody who had had  
25 a plastic bag put over their head with a sandbag

1           directly over the top of that.

2   Q. All right. We will come on to that in just a moment.

3           When you got to the JFIT, was it the OC, S040, to

4           whom you spoke?

5   A. Yes, it was.

6   Q. Can you remember what, if anything, he said about this

7           account you had received from the Red Cross about more

8           than one bag being used and it being a plastic bag?

9   A. Yes, he was very upfront. He said, "Yes, I have done

10          that and that was on my order".

11   Q. When he said "I have done that", did you understand him

12          to mean the use of more than one bag or the use of

13          a plastic weaved bag in combination with a hessian one?

14   A. A plastic weaved bag with a hessian bag over the top of

15          it.

16   Q. Can I ask how confident you are that S040 admitted -- if

17          that's not too strong a word -- the use of a plastic

18          weave bag with a hessian bag?

19   A. Yes, I am adamant that he admitted that, and on the

20          grounds of -- that -- of operational security and that

21          he put a hessian sandbag on top of his own head and

22          could see through the wide weave and therefore prisoners

23          could see what was going on in the JFIT.

24   Q. Perhaps I ought to just summarise for you that S040's

25          evidence to this Inquiry was that he fully accepted that

1 two hessian sandbags might be used, one on top of the  
2 other, and that that would not be unusual if one of the  
3 hessian sandbags was of poor quality and you could see  
4 through it, but that he would never have authorised the  
5 use of mixed double bagging, that is the use of  
6 a hessian bag together with a plastic weave one. That's  
7 not as you recall it, I take it?

8 A. Well, no, and as I say, I was going off the fact that  
9 this had been an independent complaint that had come  
10 into the headquarters, to the chief of staff, who told  
11 me about it, and then I then went to investigate it.

12 Q. May we look in this context, please, Colonel, to the  
13 statement you did give to the SIB, the statement of  
14 4 July 2006 at MOD000897, because you spoke about this  
15 aspect. What you told the SIB was that -- perhaps  
16 two-thirds of the way down:

17 "Initially the practice of double-hooding was  
18 employed to prevent the detainees from observing their  
19 surroundings, as one hood was proving inadequate."

20 Do you see that there?

21 A. Yes, I do, yes.

22 Q. What was your source of the information that one hood  
23 was proving inadequate then?

24 A. That was from the JFIT. That was from S040.

25 Q. Thank you. You do go on to say:

1            "This practice was stopped on my order ..."

2            You tell us about that in your witness statement,  
3            that you said that the double hooding was not to carry  
4            on.

5            "... and was being employed without my knowledge."

6            Just pausing there, is that right, that you hadn't  
7            known about it previously?

8            A. Yes, yes.

9            Q. What you, though, went on to say -- and I wonder if you  
10            could particularly try to assist the Inquiry with  
11            this -- is as follows. You said:

12            "Although this is a method that is acceptable within  
13            the realms of MoD doctrine, it was felt that due to the  
14            high temperatures within Iraq, one hood would be  
15            acceptable and proper in the circumstances."

16            A. Yes. I can't explain that statement particularly well.  
17            My understanding, as I have already stated, was that  
18            what was acceptable was deprivation of sight for  
19            security reasons and -- so that's the first piece. The  
20            second piece, in terms of the high temperatures within  
21            Iraq, of course you are then starting to inflict pain on  
22            people, which is not what we were trying to do.

23            Q. Because even if -- we may need to come back to the  
24            question of single hooding and whether that appears  
25            anywhere in army doctrine -- but you are not really

1           aware of anything in army doctrine, are you, that  
2           suggests that double hooding is acceptable?

3    A.   No.   My recollection is that deprivation of sight in  
4           JDP 383 [sic] and the JSIO document on running a JFIT,  
5           that was where I was getting my understanding from.

6    Q.   As it happens, none of those refer to hooding at all or  
7           certainly the JSP 383 does not refer to hooding, it  
8           refers to blindfolding.   But none of them refer to  
9           double hooding in any shape or form, do they?

10   A.   No.

11   Q.   Why is it then that you were telling the SIB that double  
12          hooding was acceptable within MoD doctrine?

13   A.   I have got no account of why I stated that at the time.

14   Q.   I preface my next question with the fact that you did,  
15          in your court martial evidence, tell the court martial  
16          that you were surprised when you saw the double hooding  
17          that was going on, but there's no mention either in this  
18          statement to the SIB, is there, of what you now say was  
19          your anger on hearing about this double hooding?

20   A.   You are correct.   But my recollection now, as I say --  
21          having had a fairly detailed mind-clearing exercise over  
22          the last year about all the events that were going on,  
23          my statement I maintain is true to the best of my  
24          knowledge.

25   Q.   Is the truth of it, Colonel, that in 2006 you were being

1 careful to seek to protect and not open up to too much  
2 scrutiny double hooding, the use of plastic bags and  
3 things that you knew had gone on at the JFIT and were  
4 seeking to say that they were acceptable within  
5 doctrine, but you could have stopped them anyway?

6 A. No, I don't believe that I was trying to hide anything  
7 and I was convinced that we were dealing with -- that  
8 there was no abuses going on, that we were dealing with  
9 prisoners in a fair manner during that period and that  
10 the activities we put in place in order to make things  
11 better met the requirements for everybody, especially  
12 the International Red Cross.

13 Q. But you do now have a clear recollection, do you, of  
14 learning about the use of plastic bags -- whether they  
15 were plastic Sainsbury's-type bags or plastic weave bags  
16 we will come on to -- and being angry about it and  
17 flying down promptly because you were so concerned?

18 A. Yes, I do have a clear recollection of that.

19 Q. May we look, please, in that regard, at your court  
20 martial evidence, please, beginning at page 55.  
21 Colonel, if it helps you to get the context, this is  
22 where Mr Langdale QC, who was the barrister for -- and  
23 still is -- Colonel Mendonca was asking you questions.  
24 Towards the bottom you will see that his  
25 cross-examination started. You will see he says he did

1 not want to go over the same ground so far as hooding  
2 was concerned, but then says:

3 "... I think that there was a period of time in the  
4 comparatively early stage when plastic hoods were used?

5 "Answer: Um, not that I -- I am aware of, no.

6 "Question: We are going to have reference to it  
7 from a later witness. I would just like you to deal  
8 with it: was it the case that plastic hoods were used,  
9 plastic bags?

10 "Answer: No, I mean, everybody knows you would not  
11 stick your child's head in a plastic bag and in that  
12 sort of environment --

13 "Question: Instead of being a hessian bag,  
14 a sandbag which was plastic, did you recall that ever  
15 happening?

16 "Answer: No, no.

17 "Question: If you do not recall it at all --

18 "Answer: No, I do not recall that at all. As far  
19 as I was concerned it was hessian sandbags. The sort of  
20 sandbags that we were using obviously to build  
21 fortifications."

22 Just pausing there, that was, in your sworn evidence  
23 in 2006, the clearest possible evidence from you, was it  
24 not, that you knew nothing about plastic bags, including  
25 a sandbag which was plastic? You were claiming to know

1 nothing about that at the court martial.

2 A. You are correct. I have no defence for myself in regard  
3 to that statement. I made that statement, but it's not  
4 correct.

5 Q. You say that it's not correct. If your evidence to this  
6 Inquiry is true, you couldn't have forgotten about it  
7 because you were angry about its use.

8 A. As I already stated to you earlier, I had no preparation  
9 for the court martial, no advice, and unfortunately  
10 I believe I don't give a -- I didn't give a particularly  
11 good account of myself or what happened at the time.

12 Q. But it might be said that --

13 THE CHAIRMAN: I think I have that point, Mr Moss.

14 MR MOSS: I am grateful. Perhaps I ought to deal with it so  
15 that you can at least respond to it and give your  
16 account. Might it be the case that, in fact, you were  
17 lying to the court martial and simply not telling the  
18 truth about what you knew was the use of plastic bags?

19 A. I don't believe that I knowingly lied to the court  
20 martial about plastic bags. I accept that my evidence  
21 was incorrect, but I don't believe that I went there  
22 with the due intention to lie.

23 Q. Thank you.

24 Can we go back then, please, to the Red Cross  
25 concerns and what happened? May we look, please, at

1 paragraph 46 of your witness statement at BMI05836. You  
2 say that, having had this conversation with S040,  
3 a meeting was convened with the Red Cross and it took  
4 place at the JFIT that day. You were present,  
5 Major Frend, S009, S040, and that the IRC sent a female  
6 representative. You then go on to say that other  
7 concerns were raised at that meeting. What can you  
8 remember about what the other concerns were that were  
9 raised by the Red Cross?

10 A. Well, I think -- my recollection is that the main  
11 concerns by the female from the Red Cross were obviously  
12 hooding, temperatures and -- I don't think I state it in  
13 there -- but food and water and whether people were  
14 being correctly fed and watered. I think that's what  
15 I mean by "a number of concerns".

16 Q. You say in paragraph 48 that:

17 "The [Red Cross] were also concerned that the  
18 prisoners had been left sitting in the sun due to the  
19 lack of tents and the limited water available. While  
20 I knew that the limited water supply affected both  
21 soldiers and detainees alike, I had not known that  
22 prisoners were sitting in the sun."

23 Just pausing there, is that quite right?

24 A. Well, as I said to you, when I had been there on the  
25 28th, some days before, (a) it wasn't particularly sunny

1 and (b) I was of the understanding that more tents were  
2 coming because the place wasn't completely finished in  
3 terms of its infrastructure.

4 Q. But the truth of the matter is that you did at least  
5 know that the prisoners were sitting outside?

6 A. Yes, I knew that the prisoners were sitting outside,  
7 yes.

8 Q. That can be taken down for present purposes. Thank you.  
9 Just help us then with the nuts and bolts of this  
10 meeting. What was the outcome of the meeting, the first  
11 meeting with the Red Cross, as you recall it? Was  
12 anything said there and then to the Red Cross about what  
13 was going on happen?

14 A. No. I accepted the Red Cross's points and said that we  
15 would look into them immediately and I think that's how  
16 we left the meeting. But we did agree that we would  
17 then meet in four to five days in order for us enact the  
18 changes that potentially they had sought. But  
19 I wasn't -- at that time I wanted to make sure that we  
20 weren't immediately jumping to conclusions that weren't  
21 necessarily true.

22 Q. I follow. Was anything said there about the double  
23 hooding aspect, the use of more than one hessian bag or  
24 the mixed use of hessian bags and plastic weave bags?

25 A. I don't remember it being specifically mentioned, but

1 obviously hooding was mentioned as the key point.

2 Q. Can we just have your statement back on the screen at  
3 paragraph 49. I appreciate that there were several  
4 meetings and this may be an area where there is the  
5 opportunity for confusion, but what you say in your  
6 witness statement was that it was agreed -- and you  
7 still seem to be talking about the Red Cross meeting.

8 "It was agreed that 'double hooding' ... would be  
9 immediately and expressly prohibited, that we would  
10 review our prisoner handling processes and a second  
11 meeting ..." would be held.

12 So you did seem to be saying in your witness  
13 statement last year --

14 A. Yes, you are right, and I believe that that was  
15 connected to the plastic bag -- bearing in mind I had  
16 just come from the JFIT before this meeting -- that it  
17 was related to the sort of plastic bag double hooding  
18 incident.

19 Q. Thank you. That can be taken from the screen. You go  
20 on to say in your witness statement that immediately  
21 after the meeting with the Red Cross, you had a meeting  
22 with the JFIT subject matter experts, the JFIT  
23 specialists, who were on shift. What was the outcome of  
24 that meeting, do you remember?

25 A. Can I see my statement again?

1 Q. By all means. Do you recall it, just thinking about it  
2 now? I don't want to stop you looking at your  
3 statement --

4 A. I do recall speaking to S040 and S014 and some of the  
5 interrogators. I do believe that -- I think we stopped  
6 it virtually immediately and we certainly stopped the  
7 double hooding immediately.

8 Q. All right. Just have a look, then, at paragraph 50 by  
9 all means:

10 "Immediately after that initial meeting there was  
11 a discussion at the JFIT with me [the word redacted --  
12 it is not very helpful for you -- is the name of your  
13 2IC, I think] ... and the rest of the JFIT specialists  
14 who were on shift at the time. I gave a specific  
15 direction that no hooding should take place. I also  
16 directed that cuffing should take place with arms at the  
17 front, not at the back ... prisoners were not to be left  
18 in the sun and that tents were to be found immediately  
19 to shade them ..."

20 Is that right?

21 A. Yes, that's correct.

22 Q. How quickly -- I don't mean precisely -- was it  
23 possible, by then, for the extra tents to be found?

24 A. Well, I gave that order to S014 and I presume that he  
25 then went to S009's organisation and then gained some

1 more tentage from that. The JFIT was under the -- we  
2 call it the "J1/J4", but the logistical supply chain of  
3 the prisoner of war handling organisation.

4 Q. I follow. You go on to say that there was a second  
5 meeting with divisional staff, with the GOC,  
6 General Brims, Colonel Marriott, Colonel Mercer,  
7 Major Frend, that it took place at divisional HQ. Just  
8 looking at these meetings, the first Red Cross meeting,  
9 your meeting with JFIT staff and the divisional meeting,  
10 you have all of those happening the same day as the  
11 account you have given in your witness statement --

12 A. Yes.

13 Q. -- and you also have yourself giving an order  
14 immediately after the first meeting with the Red Cross  
15 that hooding was to stop at the JFIT. Do you think it's  
16 possible that you have somewhat compressed the timescale  
17 there and that there was a lengthier debate about those  
18 matters?

19 A. No, I don't believe that there was -- there was  
20 definitely a lengthier debate, but we adopted the  
21 recommendations of the Red Cross immediately, with the  
22 view that we could potentially re-instigate some form of  
23 blindfolding for security purposes later on, once we had  
24 had our second meeting with them some four or five days  
25 later.

1 Q. You appreciate -- and I hope I summarise this fairly --  
2 that the evidence of the JFIT specialist and those who  
3 were in command at the JFIT was that, after the issue  
4 had first arose, a matter of days later an order came  
5 down from divisional level that hooding was to stop --  
6 we will look at whether that was actually implemented --  
7 but that there was that gap, not an immediate  
8 requirement from you that hooding was to stop. How  
9 confident are you that you gave an immediate cessation?

10 A. I am very confident that I gave an immediate order and  
11 that that was subsequently discussed that evening with  
12 the GOC in the meeting that you have just described.

13 Q. Perhaps that leads us conveniently on then to look at  
14 the memorandum, if we may, please, Colonel, that arose  
15 out of the concerns being raised. It is 30 March. We  
16 have looked at it, I think, once already. It is at  
17 MOD011451.

18 Just in terms of that question of timescales and  
19 your recollection that you ordered a cessation of  
20 hooding, if that was right -- we see that this is dated  
21 30 March and we can see, can't we, from paragraph 1,  
22 that Colonel Mercer had already raised his concerns  
23 because you are referring to them in the first paragraph  
24 and seemed to be responding to them; is that right?

25 A. Correct.

1 Q. When you deal with hooding in paragraph 3(a) -- we  
2 looked at the wording just a little bit earlier on --  
3 there isn't a reference there which is to the effect,  
4 "Nevertheless, I make you aware that for the time being  
5 I have ordered a cessation on the use of hoods at the  
6 JFIT", is there?

7 A. No, because I hadn't made that decision when I had  
8 written that. I believe that the next day was when  
9 I had got told about the double hooding incident with  
10 the ICRC and then the ICRC activity happened around  
11 1 April. So this was just purely directed towards  
12 Colonel Mercer's visit and what he had seen on his  
13 visit.

14 Q. I follow. And that the Red Cross visit, what, was  
15 shortly after this period?

16 A. Yes, it was, yes --

17 Q. I follow.

18 A. -- the following day.

19 Q. Thank you. Forgive me for raising it, Colonel, it may  
20 be a matter of semantics and me being pedantic, but is  
21 there a reason why this memorandum refers to "tactical  
22 questioning of EPWs" in its heading and, in paragraph 2,  
23 "the current doctrine for tactical questioning" and, in  
24 paragraph 3, "EPWs while undergoing tactical  
25 questioning", because the issue had arisen, had it not,

1           about interrogation, not tactical questioning, and  
2           interrogation, not tactical questioning, that was going  
3           on at the JFIT?

4    A.   You are right.  We were doing interrogation and the  
5           title is incorrect.

6    Q.   Again, I hope without discourtesy or even a criticism of  
7           you, does that perhaps reflect the fact that you were  
8           still fairly new to the doctrine in this area, the fact  
9           that -- again without criticism -- there was a wrong  
10          reference to "TQ'ing", when it should have been  
11          "interrogation"?

12   A.   Yes, I think that's a valid statement.

13   Q.   Can we look, then, at the substance of paragraph 3(a),  
14          the hooding of prisoners section.  You say:

15                "The JFIT currently hood the screened prisoners when  
16                they are escorted... not done to intimidate or cause  
17                distress but as a security precaution, so they do not  
18                observe the route, layout, support functions and staff  
19                within the JFIT area."

20                Put shortly, the operational security concerns;  
21                would that be right?

22   A.   Correct.

23   Q.   "Once they are moved into an interrogation room the hood  
24          is removed."

25                There is no issue about that, is there?  It was well

1 understood that hoods couldn't be used in the  
2 interrogation itself?

3 A. Categorically understood, yes.

4 Q. Not least because you need to be able to see the facial  
5 expressions during an interrogation?

6 A. Yes.

7 Q. "The reverse procedure is the applied when they  
8 return to the main EPW cage. It is not a procedure  
9 that is designed to remove or damage their sensory  
10 capability ..."

11 Just help us with that, "... not a procedure that is  
12 designed to remove or damage their sensory capability",  
13 what did you have in mind there?

14 A. I had in mind that it wasn't long-term damage to sight  
15 or hearing or anything else. This was just a -- it was  
16 for a short-term purpose.

17 Q. Yes. Can I summarise, without going to it, that in your  
18 court martial evidence, when asked about this, you  
19 indicated that some concern may have been raised that  
20 hooding might actually be damaging to the sight in the  
21 longer term and that that's what you were responding to  
22 here, to say that it wasn't going to damage the sight,  
23 it was only done for the purposes that you set out and  
24 it wasn't thought to damage the sight in the long term.

25 A. Yes.

1 Q. That's not a reference to the shock of capture?

2 A. No.

3 Q. "... and is practised only when at war in order to  
4 protect operational security and is maintained for the  
5 shortest period of time."

6 All right?

7 A. Yes.

8 Q. Now in that explanation to Colonel Mercer, it's right,  
9 isn't it, that you made no reference to the side benefit  
10 of the shock of capture?

11 A. Yes, that's correct.

12 Q. Was there a reason for that?

13 A. No, no reason at all.

14 Q. Because you are clear in your evidence -- and refer  
15 to it several times in your witness statement -- about  
16 what S014 had told you about that as the side benefit.  
17 You don't seem to mention it at all in this memorandum.

18 A. Yes, you are right.

19 Q. Was that because you knew that, if that aspect of the  
20 use of hooding was referred to Colonel Mercer, it would  
21 make him all the more concerned about the use of hoods?

22 A. I don't believe that I left it out for that reason.  
23 When I was writing this, I was writing it quickly.  
24 I just did not put it in. That was not my primary  
25 concern at this particular point. It was about the

1 reasons why we were hooding prisoners and our  
2 operational security.

3 Q. It may be said that you might have been slightly leaning  
4 into the wind, as it were, against Colonel Mercer's  
5 concerns or, putting it more bluntly, giving something  
6 of a sanitised account here. Would that be fair?

7 A. I don't believe it was a sanitised account. I had --  
8 I was representing what I felt was a legitimate interest  
9 from an intelligence point of view about the reasons why  
10 we were hooding prisoners, and it was the intelligence  
11 that I was interested in, considering that we were still  
12 war fighting at the time.

13 Q. Just sticking with this memorandum, if I may digress to  
14 deal with another aspect.

15 Once the issues were alive and were being discussed  
16 and debated, was Mr Ayling, the divisional POLAD,  
17 someone with whom these matters were discussed?

18 A. My recollection is that I didn't -- I know that I spoke  
19 to Mr Ayling on a regular basis. I don't remember  
20 having a direct conversation with him about this, but  
21 equally I was -- I am hesitating to say "assumption" --  
22 would be that the chief of staff who had -- who  
23 Mr Ayling basically reported to would have discussed  
24 these matters with him.

25 Q. Because again -- I hope I paraphrase it fairly and

1 accurately and others will correct me -- the thrust of  
2 Mr Ayling's account was that he knew about  
3 Colonel Mercer's concerns and he discussed them with you  
4 to get the HUMINT expertise that was available to him  
5 within division and that you set out for him what the  
6 operational security justifications were, that you  
7 thought that the use of hoods was entirely within army  
8 doctrine. But he said he had no recollection of you  
9 raising the shock of capture side benefit of the use of  
10 hoods with him and, indeed, he thought that if you had  
11 said that, it might have set alarm bells off.

12 Might it be the case that, once the debate was going  
13 on, you were not keen to mention to your colleagues at  
14 staff officer level the side benefit of the shock of  
15 capture and that was part of the use of hooding?

16 A. No, as I say, I mean, I didn't mention it and I was not  
17 trying to hide anything at the time. I think that the  
18 aspects of potentially shock of capture perhaps were  
19 slightly diminishing in terms of length of time from  
20 point of capture to reaching the prisoner of war  
21 handling organisation, so my main concern, as I have  
22 stated before, was -- and stated in this -- was the  
23 operational security of my staff in the JFIT and the  
24 operational security of the force, if you like, of  
25 making sure that people were not seeing maps and all the

1 other layout and vulnerabilities.

2 Q. If we go back to the section on screen, Colonel, the  
3 next section down to stress positions, just to look at  
4 that, you say:

5 "When the prisoners are moved from the EPW cages to  
6 the JFIT they are told to either sit or kneel down in  
7 the waiting area (situated in the centre of the JFIT  
8 compound and where you observe the prisoners during your  
9 visit). At no time are they put into other more extreme  
10 stress positions."

11 What did you mean by that, that at no time were they  
12 put into other more extreme stress positions?

13 A. Well, I don't think I have probably expressed it  
14 particularly well in English, but the -- as I stated to  
15 you earlier, my understanding of stress positions were  
16 not -- were the actions I described to you earlier,  
17 standing against a wall and so on. I did not deem, when  
18 Colonel Mercer mentioned stress positions, I couldn't  
19 envisage that he had seen anybody in any of those --  
20 what -- I immediately had a thought of what a stress  
21 position was and I did not see that sitting, kneeling or  
22 lying down was a stress position, so hence "extreme  
23 stress positions" were my understanding of people being  
24 made to stand against walls or conduct a stress position  
25 that was quite categorically illegal.

1 Q. So you will correct me if I am wrong, but is the thrust  
2 of what you are saying, then, that the Inquiry should  
3 not understand, simply because you referred to then "not  
4 allowed to go into other more extreme stress  
5 positions" -- that shouldn't be read as a knowledge on  
6 your part that stress positions were in use, but they  
7 were at the lower end of the spectrum?

8 A. Yes, that's correct. I knew that any form of stress  
9 position was completely and utterly illegal and against  
10 the law of armed conflict.

11 Q. Others may have more questions, Colonel, to it, but for  
12 my purposes the final aspect of this memorandum that  
13 I would like your assistance on, please, is paragraph 4  
14 over the page. We saw this briefly earlier:

15 "The chief instructor from F Branch, S012, is  
16 currently running the [field HUMINT team] ... with  
17 16 Air Assault Brigade. He can advise the JFIT on  
18 working practices if you feel that the descriptions  
19 I have described were not as you found them during your  
20 visit. If they are as described and you still feel very  
21 uncomfortable with the situation I would like the matter  
22 to be referred to the NCC."

23 That seems to be -- correct me if I am wrong -- if  
24 things were not being run properly and things were not  
25 being run according to procedures, you were pointing out

1           that there was somebody who was very knowledgeable and  
2           experienced in theatre who could be used to advise the  
3           JFIT, but if things were being run according to  
4           procedures, you wanted it staffed to a higher level.

5    A.   Yes, I think there are three aspects to that.  First of  
6           all S012 -- I had a conversation with S012 in order to  
7           find out what his thoughts were on the criticisms that  
8           had been levelled against the JFIT and from  
9           Colonel Mercer's visit, which -- he described to me what  
10          he thought was acceptable in terms of deprivation of  
11          sight --

12   Q.   Yes.

13   A.   -- for security purposes.  The second area was that  
14          I felt that Colonel Mercer was not necessarily  
15          representing the UK view on the conduct of an  
16          interrogation facility and what we were trying to  
17          achieve in intelligence terms and that -- knew that in  
18          a discussion with Colonel Duncan and -- which I think  
19          also led into -- excuse me, I am just checking for  
20          a cipher here -- Major Davis and Commander Brown that  
21          what we were doing was correct.

22                 That was the information that I had received from  
23                 the NCC.  So what I was stating there was that I would  
24                 like the NCC to take a view and then state categorically  
25                 to 1 Div that this was legal and to be practised or it

1           wasn't.

2    Q.   All right.  Well, we may come back to the NCC level.

3           Can we deal with the first aspect you spoke about, which

4           was the conversation with S012?

5    A.   Yes.

6    Q.   You accept, do you, that you did speak to S012 about

7           these matters in theatre?

8    A.   Yes, I did.

9    Q.   What's your own recollection about what the nature of

10          S012 told you?

11   A.   We had a reasonably wide-ranging discussion but --

12   Q.   Sorry, forgive me, on this aspect, the use of blindfolds

13          and hoods and the Red Cross aspects that have been

14          raised?

15   THE CHAIRMAN:  Can we have a thumbnail of it, if you

16          wouldn't mind, please, Colonel.

17   A.   That it was -- that blindfolding or deprivation of sight

18          was allowed for security purposes.

19   MR MOSS:  Deprivation of sight was allowed for security

20          purposes?

21   A.   Yes.

22   Q.   Is it not the case -- and S012 has told us in his

23          witness statement -- that what he told you was that

24          hooding for security reasons was not as such illegal,

25          but that it was not ideal because of the risks of

1 raising a person's temperature and possibly restricting  
2 their breathing and that blindfolds should be used in  
3 preference?

4 A. Yes, he may well have stated that, but the fact was at  
5 the time we didn't have any blindfolds and the JFIT had  
6 run out of blindfolds.

7 Q. You say that he may well have said that. Do you  
8 actually recall that that was the case?

9 A. I don't recall him saying that. The piece I recall is  
10 him saying that -- in security terms that it was  
11 acceptable for people to have deprivation of sight for  
12 security purposes.

13 Q. How clear is your recollection of the fact that you  
14 consulted and spoke to S012 in theatre?

15 A. I was complete -- I have total recollection that  
16 I consulted him.

17 Q. Forgive me, there is a lot of paperwork and again I will  
18 be corrected if I am wrong, but I don't think you  
19 referred to that conversation specifically as being  
20 a conversation with S012 in your witness statement. You  
21 talk about consulting subject matter experts, but not  
22 a specific conversation where sight deprivation was  
23 raised with him in theatre.

24 A. Okay, well I am -- I should have incorporated it into my  
25 statement then.

1 Q. You see, it may be said, Colonel, that a difficulty with  
2 your evidence and the account that you gave to the court  
3 martial was that you were at pains to make clear, in  
4 defence of the JFIT's use of hooding, that hooding was  
5 within MoD doctrine, that it was taught at Chicksands --  
6 I summarise and paraphrase -- but that it was taught at  
7 Chicksands -- [redacted] was a phrase that you used in  
8 your court martial evidence -- and that it was approved  
9 for use and taught, whereas on the evidence that the  
10 Inquiry has seen in terms of a written statement from  
11 S012, he spoke to you and almost, as it were, warned you  
12 that hooding was not illegal, but that blindfolding in  
13 fact was the preferred option and that that was what was  
14 taught at Chicksands.

15 A. My understanding was based on the subject matter experts  
16 that I had consulted, which was S040 and S014, and their  
17 staff. They, at no time, turned round and said that  
18 hooding was not correct and that -- at no time did they  
19 turn round and say that at Chicksands, on the courses,  
20 that they had not used hoods.

21 Q. But if S012 did say that to you, he was, as you knew,  
22 the very officer commanding of the relevant section  
23 within Chicksands that actually taught the course, was  
24 he not?

25 A. Yes, he was, yes.

1 Q. So, what, is the position that there may have been  
2 a contrast between what S040 and S014 were saying and  
3 what S012 was saying?

4 A. As I just said to you, my recollection is that he did  
5 not turn round and say to me that hoods could not be  
6 used. He stated that deprivation of sight, in whatever  
7 means, was a legitimate activity in terms of security --  
8 that is my recollection -- and the same applies for S012  
9 [sic] and S040.

10 Q. And the conversation with S012 that you accept took  
11 place -- again I don't want you to guess but can you  
12 help -- did it take place before or after you had  
13 written your 30 March memorandum to command legal?

14 A. No, it informed my 30 March memorandum.

15 Q. Because if that is the case and you had spoken to S012  
16 before your memorandum where you are referring to  
17 hooding and S012 is right about what he told you, would  
18 you not have been dutybound to say to Colonel Mercer,  
19 "I have taken advice from the OC of the relevant section  
20 who tells me that blindfolding is the preferred way to  
21 do this"?

22 A. I accept your premise, but, as I say, I don't remember  
23 him differentiating between blindfolding and hooding,  
24 so -- but I remember the conversation that I had with  
25 him that informed me to be able to write that memo.

1 MR EVANS: Sir, I do not want to interrupt Mr Moss's  
2 cross-examination, but a security issue has arisen which  
3 I would need a couple of minutes to deal with and  
4 I would need to be dealt with before we actually rise  
5 for lunch. Might I have two minutes to deal with that  
6 with Mr Moss before we go any further?

7 THE CHAIRMAN: Why is it necessary to deal with it at this  
8 stage? Can we not wait until lunch? Mr Moss can deal  
9 with something else.

10 MR EVANS: There are reasons why we might not be able to,  
11 sir, which I don't really want to express in public, if  
12 that is all right.

13 THE CHAIRMAN: Two minutes, no more.

14 (12.54 pm)

15 (The short adjournment)

16 (1.55 pm)

17 THE CHAIRMAN: You are still on oath, Colonel.

18 MR MOSS: Sir, Mr Evans and I are grateful for the time and  
19 the other matter has been resolved.

20 THE CHAIRMAN: Good.

21 MR MOSS: Thank you, Colonel. Good afternoon. Could  
22 I start this afternoon, please, by looking at  
23 a different memorandum, MOD022122? As you will  
24 recognise, Colonel, this is a memorandum from the SO2  
25 legal at national contingent headquarters command,

1 Major Davis. Are you able to help us as to whenabouts  
2 in the chronology of events this memorandum was  
3 produced?

4 A. Yes. This was produced after the first ICRC visit and  
5 before the second ICRC meeting, which was around 5 or  
6 6 April, so I suspect this was probably produced around  
7 2 April.

8 Q. As the Inquiry knows, this is Major Davis referring to  
9 a conversation that he had had with you. So we take  
10 into account that this is, as it were, a second-hand  
11 account of things that you had said.

12 In the fourth paragraph down or so, there  
13 is a paragraph beginning "The length of time spent  
14 hooded ...", which refers to you having assessed that  
15 "... during particularly busy periods a total of about  
16 ten high value intelligence PWs may have been held in  
17 hoods for up to 24 hours". Again, could you just help  
18 with the source of your information, if you did indeed  
19 say that?

20 A. Yes. The source of that information was S040 and S014.

21 Q. A little bit further down we have the paragraph:

22 "The use of hoods is considered necessary to protect  
23 not only members of the JFIT, but the PWs themselves."

24 There are various references to operational security  
25 aspects which you have already addressed in your

1 evidence. At the bottom of that paragraph, Major Davis  
2 continued:

3 "The hooding also makes them far easier to control,  
4 isolating them from potential sources of support and  
5 removing any physical threat they may pose."

6 Taken on its face, Major Davis' account there of the  
7 isolation aspects of hooding seems to have been linked  
8 more to controlling the prisoners, rather than  
9 maintaining the shock of capture for the purposes of  
10 getting a better intelligence product. Do you follow?

11 A. Indeed I do.

12 Q. Did you, in fact, discuss the side effect of hooding, of  
13 shock of capture, with Major Davis?

14 A. I mean we discussed the whole gambit, so I would have  
15 suggested that, yes, we did, but this degree of control  
16 that he is talking about here was, I think, more linked  
17 to the lack of guards that we had.

18 Q. I think, in fairness to you, we should look at the next  
19 paragraph:

20 "In my opinion, this course of action will be lawful  
21 as long as it is carried out for valid military reasons,  
22 such as those outlined above, and as long as it is  
23 restricted to only that which is absolutely necessary in  
24 terms of time and effect."

25 Do you recall that that was the nature of legal

1           advice that was coming down from the national contingent  
2           headquarters, that hooding was lawful, with the caveat  
3           that it had to be restricted to that which was  
4           absolutely necessary for the shortest period of time?

5   A.   Yes, I do.

6   Q.   He goes on to say that:

7           "G2X ..."

8           Presumably, here, is that a reference to you?

9   A.   Yes, it is.

10   Q.   "... must take all steps possible to reduce the time  
11         that these prisoners of war spend in these hoods to  
12         a minimum."

13           He went to say that you had already made a good  
14         start towards that end; is that right?

15   A.   Correct.

16   Q.   We have looked, Colonel, at your own memorandum and that  
17         of Major Davis. As we see from Major Davis' memorandum,  
18         obviously the matter did go up to NCC headquarters  
19         level. Do you know whether, in fact, PJHQ were  
20         consulted in the course of this debate about the  
21         propriety of hooding?

22   A.   I know that -- excuse me. I am just looking at the  
23         cipher list -- I know that S062 was aware of the fact  
24         and he was at PJHQ. I don't know how much further it  
25         went in PJHQ, other than that.

1 Q. Thank you. That is the J2X at PJHQ, S062; is that  
2 right?

3 A. Yes.

4 Q. Again, without naming him, how do you know that he was  
5 aware of the issue?

6 A. Because I either had a conversation with him or my 2IC  
7 had a conversation with him and we ascertained that he  
8 was aware of it from a conversation that he had had with  
9 the NCC from -- Colonel Ewan Duncan.

10 Q. How confident are you that that conversation took place  
11 between you and S062?

12 A. I am very confident because I ended up speaking to him  
13 on a reasonably regular basis and he would have  
14 definitely known about that.

15 Q. Thank you. In terms of what was to happen thereafter,  
16 you will correct me if I am wrong but your position, as  
17 it were, in these various discussions about the use of  
18 hooding was that hooding was compliant with army  
19 doctrine. Is that right?

20 A. That was what I was led to believe, yes.

21 Q. I think you mentioned earlier in your evidence today  
22 a number of publications. JWP 1-10 and AJP 2.5 --

23 A. Yes.

24 Q. -- we can leave to one side because they don't mention  
25 either blindfolding or hooding in terms.

1           JSP 383, you mentioned that. Do you know what that  
2           joint service publication was otherwise known as?

3    A. I forget the exact name. I think ...

4    Q. "The manual of military law", does that --

5    A. Chapter 8? I am afraid I don't know the name.

6    Q. Yes. Do you actually have a recollection of consulting  
7           that in theatre or speaking to people who had consulted  
8           it or is it something you have learnt of subsequently?

9    A. No, no, when we were going through the rock drill and  
10           discussing the aspects of prisoner handling, the manuals  
11           and directives that we had with us, we reviewed all of  
12           those to make sure that we understood them.

13   Q. I followed that. It might be said that one of the  
14           peculiarities about this, though, was that, at the time,  
15           JSP 383, the manual of military law, was not finalised,  
16           it was only in draft form. How confident are you that  
17           you had it in theatre?

18   A. Well, I'm reasonably confident that I saw a number of  
19           documents that stated that what we were doing was  
20           correct and was legal. I cannot be sure that -- what  
21           every one of them was in terms of number.

22   Q. All right. May we just look -- we have an extract from  
23           it and it is probably the only relevant extract for  
24           these purposes -- at MOD023052? You mentioned chapter 8  
25           and you will see that the extract here being referred to

1 is 8.34.2:

2 "Blindfolding and segregation may be necessary in  
3 the interests of security, the physical restraint of  
4 prisoners of war or to prevent collaboration prior to  
5 interrogation, but these discomforts must be truly  
6 justified and be for as short a period as possible."

7 Having looked at that wording, do you think that  
8 that was available to you at the time in theatre?

9 A. I believe it was, yes.

10 Q. And it's right, isn't it, that that does not refer at  
11 all to hooding --

12 A. No.

13 Q. -- but to blindfolding?

14 A. Yes.

15 Q. Can you give us any further assistance, then, with any  
16 documents that you actually saw in theatre that may have  
17 referred specifically to the use of hoods?

18 A. I can't, no.

19 Q. May we just look briefly, please, at some evidence that  
20 you gave to the court martial on this aspect at Day 59,  
21 page 34. This was, I think, in the course still of your  
22 examination-in-chief and you were being asked about  
23 doctrine by Mr May at line 15, I think it is.

24 "Question: Yes, NATO doctrine, thank you.

25 "Was that verbal or written or both?

1           "Answer: That was verbal and written but the  
2           teaching at the time was for bagging."

3           By "bagging", presumably you meant hooding, is that  
4           right?

5   A. Yes.

6   Q. "Question: Verbal and written? Do you know where it was  
7           written.

8           "Answer: It was certainly written in the teaching  
9           notes on all the people who attended the courses --  
10           certainly the interrogation courses."

11           You were asked where they took place and you said  
12           "Chicksands".

13           Just pausing there -- correct me, please -- but does  
14           that reflect a recollection that you have that people in  
15           theatre had their teaching notes from Chicksands courses  
16           and that they referred to the use of hoods?

17   A. My understanding in the documentation I had that I just  
18           referred to a few moments ago was that there was a JSIO  
19           aide-memoire that referred to blindfolding, deprivation  
20           of sight and I believed, at the time, that it  
21           probably -- that it may have linked it to hooding, but  
22           deprivation of sight and blindfolding certainly.

23   Q. Yes. One of the difficulties that the Inquiry struggles  
24           with is that the course materials for JSIO prior to  
25           2003, so we are told, haven't survived.

1 A. Um-hm.

2 Q. Looking at those for 2003 and 2004, there are  
3 undoubtedly references in various places to  
4 "blindfolding", but not to "hooding".

5 A. Yes.

6 Q. It is on that matter, if you will forgive me, that I do  
7 want to press you because, if it were the case that  
8 there were JSIO teaching materials from the courses that  
9 referred to hessian bags being used, it may be  
10 significant for the Inquiry and its investigations. So  
11 can you help us? Do you actually remember Chicksands  
12 training documents referring to hoods, as opposed merely  
13 to referring to blindfolding or to the deprivation of  
14 sight?

15 A. I can't recall that detail, that exact detail.

16 Q. The question went on:  
17 "You say it was certainly in the teaching notes  
18 there?  
19 "Answer: It was certainly in the teaching notes  
20 and -- yes, it was in the teaching notes and it was in  
21 the doctrinal pamphlet produced at the same time."  
22 You then say that that was a doctrinal pamphlet  
23 produced at Upavon. The "doctrinal pamphlet" at the  
24 time, what do you think that is a reference to?

25 A. Well, I assuming that I am referring to 383, 1-10 -- all

1 of those pamphlets were produced by -- I am led to  
2 believe were produced by DGDND at the time. That was  
3 the organisation at Upavon.

4 Q. All right. That can be taken from the screen. Thank  
5 you very much.

6 It may be said that if one takes all of those  
7 together -- JWP 1-10, AJP 2.5, JSP chapter 8 and even  
8 together with the Chicksands training materials -- that  
9 in fact the doctrine was patchy and unclear and to the  
10 extent that it referred to the deprivation of sight, it  
11 tended to refer to blindfolding and not to hooding at  
12 all. What do you say about that?

13 A. You are correct.

14 Q. If that's the case, if the doctrinal position was  
15 sketchy and unclear, why was it that the line that you  
16 took in theatre was that hooding was clearly within the  
17 permitted doctrine?

18 A. Because that was what I was being told by my subject  
19 matter experts. Nobody else told me that that was  
20 incorrect. The NCC J2X didn't say that was incorrect,  
21 PJHQ didn't say that was incorrect, and nor -- which  
22 I stated earlier -- until Colonel Mercer's first  
23 statement on 29 March, nobody else had said that that  
24 was incorrect activity.

25 Q. When you say that the subject matter experts were saying

1           that it was all right and was not incorrect, "subject  
2           matter experts" there is what, those at the JFIT, S040  
3           and S014?

4    A.   Yes, and bearing in mind that obviously all the people  
5           that they had underneath them were also fully trained as  
6           well.

7    Q.   Would you, in these circumstances, have expected --  
8           given what you say about the doctrine being patchy and  
9           unclear -- for the resolution to go up at least to the  
10           level of PJHQ for a determination?

11   A.   Yes, I would.

12   Q.   Other than the fact that you can say that S062 was  
13           apprised of the debate, do you know one way or another  
14           whether that in fact happened?

15   A.   I am afraid I don't, no.

16   Q.   Was it for you, as the G2X S02 at divisional level, to  
17           ensure that that matter was staffed up to PJHQ? Was  
18           that part of your responsibilities?

19   A.   Yes, it was -- well, sorry, my responsibility is to the  
20           NCC at Qatar.

21   Q.   Taking it shortly, would you say that your job was done  
22           by having been part of the process by which the matter  
23           was put up to the NCC and that further staffing to PJHQ  
24           wasn't your responsibility or --

25   A.   Yes, I would say that.

1 Q. Thank you.

2 Can we turn to a different topic just briefly, which  
3 is the second meeting with the Red Cross. The Inquiry  
4 has heard that it was likely to have taken place on  
5 6 April. You tell us in your witness statement that it  
6 was S034, the NCC POLAD, who led at that meeting; is  
7 that right?

8 A. That's correct.

9 Q. She was, in fact, bearing in mind her equivalent rank,  
10 the most senior person there, was she not?

11 A. She was.

12 Q. Were you aware, one way or the other, whether  
13 Colonel Mercer may have been instructed not to speak at  
14 that meeting?

15 A. Yes, I was.

16 Q. How did you become aware of that?

17 A. Because there was a conversation that happened between  
18 S034 and Colonel Mercer on the way to the JFIT --

19 Q. Yes.

20 A. -- to the meeting, where S034 said that he was not  
21 representing the UK view, he was representing his own  
22 view and that it was the UK view which she was going to  
23 give.

24 Q. As far as you perceived it at the time, was there  
25 anything unusual in that? Was that an attempt to

1           silence Colonel Mercer or was it a pretty ordinary way  
2           for business to be done?

3    A.   Well, I think she was being reasonably forceful because,  
4           at the time, Colonel Mercer only had one view and didn't  
5           believe anybody else -- or certainly didn't given  
6           reference to anybody else's views at all.  So I think  
7           she was, I think, just being exceptionally forceful at  
8           the time to say "This is the UK view".

9    Q.   You tell us in your witness statement that after this  
10           meeting, you believed that some kind of guidance note  
11           was published, a written guidance note; is that right?

12   A.   Yes, that's what I was led to believe.

13   Q.   Whose responsibility would it have been to finalise that  
14           and whose would it have been to see that it was sent  
15           out?

16   A.   In rules and regulations terms, I would have suggested  
17           it was Colonel Mercer's responsibility, passing that  
18           through the J3 ops chain to push it out either into  
19           a single note or as a FRAGO or part of the daily FRAGO  
20           routine that went out each evening.

21   Q.   Were you aware of an earlier verbal order that may have  
22           been given following a decision of General Brims that  
23           hooding should be banned?

24   A.   Yes.  There was a verbal order by Colonel Marriott on  
25           the telephone system, the ptarmigan telephone system, on

1           one of the evening calls.

2    Q.   Were you present when that was given?

3    A.   Yes, I was.  I was standing at the edge of the table.

4    Q.   And would all of the brigades have been either present

5           or listening in on the telephone conference?

6    A.   Yes, they would.

7    Q.   Major Maciejewski, the SO2 J3 ops on the J3 side,

8           I think had no recollection of a written order dealing

9           with these matters and certainly not one that he was

10           responsible for issuing.  How confident are you that

11           there was a written guidance note following this second

12           meeting with the Red Cross?

13   A.   I'm confident that there was a -- some form of note was

14           drafted and that it was due to be sent out.

15   Q.   Did you ever see the finalised version?

16   A.   I can't say in true recollection that I remember it, no.

17   Q.   Would you have been likely to have received a copy at

18           the time?

19   A.   I would have done, yes, because obviously it related

20           partly to us.

21   Q.   Did you keep a copy of it in theatre?

22   A.   I suspect the answer is probably "yes".

23   Q.   It may be a forlorn hope, but you are not able to assist

24           the Inquiry as to where that document may be, if it ever

25           existed?

1 A. Well, I am -- my recollection doesn't serve me well in  
2 terms of whether it was electronic or whether it was  
3 hard copy and, at that particular point in time,  
4 I didn't have electronic email connectivity with the  
5 rest of the headquarters.

6 Q. I follow. Thank you.

7 By whatever means, once hooding was prohibited, were  
8 you aware whether that prohibition was in fact honoured  
9 at the TIF and at the JFIT?

10 A. Yes, at the JFIT it was.

11 Q. You may be aware of evidence given to this Inquiry --  
12 first of all by S014 -- to the effect that, despite  
13 being aware of General Brims' order prohibiting hooding,  
14 he interpreted it as not applying to the transit of  
15 prisoners within the JFIT and, at least for a while,  
16 continued to use hoods in moving prisoners around the  
17 JFIT. First of all, can I check, are you aware of his  
18 evidence to that effect?

19 A. Yes, I am. I read it yesterday.

20 Q. Were you aware of that happening at the time?

21 A. No, I was not aware that that was happening at the time.  
22 We had categorically had the order that there was no  
23 hoods and we were transitioning to getting glasses --  
24 sunglasses -- with black tape on the outside of them so  
25 that they could then utilise those, as agreed with the

1 Red Cross.

2 Q. You did tell us earlier on in your evidence that you may  
3 have gone to the JFIT as many as three to five times  
4 a week after these initial visits. Are you sure you  
5 didn't yourself see the ongoing use of hoods at the  
6 JFIT?

7 A. Yes, I am absolutely positive that I didn't see anybody  
8 using hoods at the JFIT after that order was given.  
9 I saw people using -- having glasses, as I have just  
10 mentioned, but not hoods.

11 Q. S040 said that he was not aware that S014 was continuing  
12 to use hoods within the JFIT, but he, S040, was aware --  
13 indeed he said it was a matter of routine -- that  
14 prisoners were still turning up at the JFIT and at the  
15 TIF hooded; put more simply, that arresting soldiers  
16 bringing prisoners to the TIF, to the JFIT, were still  
17 bringing them with hoods on. Were you aware of that?

18 A. Yes, he did report that to me on a number of  
19 occasions -- I can't specify how many occasions he  
20 reported that -- and I reported that back through to  
21 G3 ops, Colonel Mercer, and I think -- I believe  
22 I mentioned it and probably stated it in one of my  
23 statements -- that I mentioned it to Colonel Marriott as  
24 well.

25 Q. If we just have a look at paragraph 65 of your witness

1 statement, please. I will be corrected if I have missed  
2 a relevant reference, but at paragraph 65, having been  
3 asked about hooding and ongoing hooding, your answer on  
4 that in your witness statement is:

5 "The Inquiry has asked about the extent to which  
6 I was aware of the continued practice of hooding within  
7 the 1 (UK) Div area of operations. I had no knowledge  
8 of the practice taking place elsewhere. Brigades should  
9 have been conducting some form of audit ... but  
10 ultimately commanding officers and the chain of command  
11 would have been responsible for monitoring and enforcing  
12 compliance."

13 You didn't seem to say there, in your statement to  
14 this Inquiry, that you knew that there were ongoing  
15 breaches of the prohibition on hooding because people  
16 were still turning up hooded to the TIF.

17 A. Yes, I think that, in paragraph 65, I am maybe stating  
18 there that I wasn't aware that hooding was taking place  
19 at the sort of -- the front end, if you like, in terms  
20 of -- at battlegroup level -- in terms of, you know,  
21 tactical questioning or in holding cells or anything  
22 like that.

23 Q. Well, I entirely follow what you are saying about that,  
24 that they may be a reference to the use of  
25 forward-deployed soldiers in paragraph 65. Again I will

1 be corrected if I am wrong, but I don't think elsewhere  
2 in your witness statement that you did mention that you  
3 were well aware of ongoing breaches at the JFIT or the  
4 TIF in terms of the position of soldiers who were being  
5 delivered to the internment facility.

6 A. I didn't just say I was well aware.

7 Q. Forgive me.

8 A. I said that S040 had stated to me -- certainly once,  
9 possibly twice -- that they had had an individual come  
10 in a hood. I then had taken that back up and reported  
11 that back into 1 Div headquarters.

12 Q. Thank you. Could I just invite your assistance on one  
13 miscellaneous matter next, please? Could we look at  
14 MOD023001. This is a memorandum from S034, the  
15 NCC POLAD, Colonel.

16 If we go over the page to MOD023002, we see within  
17 that, at paragraph 4, reference to, just after halfway  
18 through the paragraph:

19 "As a result of [Red Cross'] ... allegations,  
20 I recall being told that a very limited number of  
21 incidents of abuse (kicking etc) had been uncovered as  
22 a result of which the interrogator concerned had been  
23 removed from theatre."

24 Do you remember an interrogator being removed from  
25 theatre on disciplinary grounds?

1 A. I think, as I stated in my statement, I do believe that  
2 there was an interrogator that was removed from the  
3 JFIT, but I believe that that was in the period of the  
4 initial deployment and around sort of 28/29 March.  
5 I know that it was a TA soldier and I am afraid I have  
6 no other recollection of the individual because he had  
7 already been removed by the time I got to the JFIT.

8 Q. All right. I think that there was evidence from S014  
9 and S040 to the effect that the interrogators or members  
10 of the interrogation staff who were sent home were for  
11 unrelated reasons -- it may have been health reasons or  
12 whatever -- but not for disciplinary reasons. Do you  
13 actually remember an interrogator being sent home for  
14 disciplinary reasons?

15 A. I can't give you any more detail than I have just said.

16 Q. But your recollection is of an interrogator rather than  
17 a guard being sent home; would that be right?

18 A. Yes, that's my recollection.

19 Q. Again, so that we have your evidence, if you can help  
20 about it, S014 and S040 suggested that the only  
21 disciplinary matter they were aware of relating to the  
22 JFIT interrogations was not in relation to an  
23 interrogator, but in relation to a guard, who  
24 effectively had kicked a prisoner up the backside and  
25 was removed from the JFIT and an indication given that

1 he should never work at the JFIT again, evidence to that  
2 effect. Is that a different incident than the one that  
3 you have some recollection of?

4 A. No -- well, as I say, I have a very limited knowledge  
5 which I have just stated. I could have conflated those  
6 two issues together, but I'm pretty sure that it  
7 happened within -- before I arrived at the JFIT, to see  
8 it for the first time, when it was first being set up.

9 Q. Thank you. Can we turn then, now, to a completely  
10 different matter and the last main topic that I want to  
11 raise with you, which is the order FRAGO 29. We have it  
12 at MOD016186. When I say "FRAGO 29", I don't mean the  
13 earlier divisional support group FRAGO, but the order of  
14 26 June which brought in certain changes in relation to  
15 how the internment process was going to operate.

16 A. Yes.

17 Q. I think you will know the order to which I'm referring.

18 Now, in relation to this order, Colonel, can you  
19 just help us, in general terms, please, with what your  
20 recollection is of the extent to which you were involved  
21 with the production of this FRAGO or with the thinking  
22 and discussions that lay behind it.

23 A. Well, I think, as I stated, that my department would  
24 have been involved in this, but I did not write this and  
25 I did not draft this FRAGO. This was a -- the G2 had

1           been involved in this, which was -- I was just a part  
2           of.

3    Q.   Yes.  So the G2 side of the headquarters involved in it?

4    A.   Yes.

5    Q.   In fact, Major Wilson, who is the SO2 detention,  
6           accepted that he had done a first draft of the actual  
7           writing of it, but said that he was doing it on your  
8           behalf.  Now do you think that he is right about that?

9    A.   I don't, because it doesn't really make any sense  
10           when -- I was just a collector or organising HUMINT  
11           collection, I wasn't running the G2, and this was more  
12           broadly focused on the wider collection activity and  
13           target packs.

14   Q.   So accepting for the moment what you say, that you did  
15           not actually write the order, what about involvement in  
16           the discussions about the changes that were introduced  
17           by this order?  Were you part and parcel of those  
18           discussions?

19   A.   I'm not going to say that I wasn't involved in  
20           discussions.  I think that I probably was involved in  
21           discussions, but that's as far as it went.

22   Q.   Taking this, I hope, relatively briefly, there were,  
23           were there not, a number of changes that were introduced  
24           by this order?  First of all, it's right, isn't it, that  
25           G2 were designated as taking over the lead on the

1 internment process. If we look at "Scope of order", you  
2 will see, in particular in the last sentence, a clear  
3 reference to that.

4 A. Yes.

5 Q. The Inquiry has also heard that a change that is  
6 introduced by this FRAGO 29 system was that, instead of  
7 battlegroups having to hand over suspects who were  
8 thought to be a risk to security within one to two hours  
9 to the RMP, battlegroups were now going to be permitted  
10 to hold suspects themselves for a longer period,  
11 provided that they could be delivered to the TIF within  
12 14 hours. You know and understand, don't you, that that  
13 was a change introduced by this order?

14 A. Yes.

15 Q. Were you aware at the time that that had reversed the  
16 previous trend, whereby there had been a sequential  
17 shortening, over the course of two or three orders, of  
18 the time for which battlegroups were permitted to hold  
19 prisoners?

20 A. Yes, I was aware of the change, but I think the change  
21 was more dictated by the fact that the force levels that  
22 we had were reducing and therefore -- and geographically  
23 we were spread out further, and this was to reflect the  
24 fact that, from point of capture to delivery at the TIF,  
25 that there may well be a period of at least 14 hours

1           that it could take for somebody to get there.

2   Q. All right. If we can just leave aside the reasons and  
3       the justifications for it and just look at the changes.  
4       Can I be clear about it? Did you understand that  
5       previously the times for which battlegroups were able to  
6       hold suspects had got narrower and narrower, but by this  
7       order it was being increased, a reversal of that trend?

8   A. No, I didn't, because my focus was the JFIT at the  
9       level 2 and not at the front end at battlegroup level.

10   Q. Others may want to point to other aspects, but a final  
11       change of approach, at least arguably here, was in  
12       relation to questioning. For that purpose we ought to  
13       just look at one of the previous orders. Could we look  
14       at FRAGO 163 at MOD017179? If we could go over the  
15       page, please, and over the page again, do we see that at  
16       the end of this FRAGO 163 -- the date of it was 30 May,  
17       but there was a provision at the very end of the main  
18       body of the FRAGO, saying:

19                "Under no circumstances may a suspect be  
20                interrogated until he has been processed by the TIF."

21                Do you see that there?

22   A. Yes.

23   Q. Were you aware of that provision in this earlier  
24       1 (UK) Div FRAGO of 30 May?

25   A. Yes, I was.

1 Q. Can I ask you what you understood the meaning of that to  
2 be, "Under no circumstances may a suspect be  
3 interrogated until he has been processed by the TIF"?

4 A. Well, I think it was the fact that the UK engagement  
5 within the TIF was transferring to US control and there  
6 was also a degree of US prisoners that were then flowing  
7 into the TIF, and it was making sure that the UK and US  
8 prisoners were suitably controlled and separated in  
9 administration terms.

10 Q. There has been some evidence to the Inquiry that while  
11 the choice of the word "interrogate" may not have been  
12 the best, the purpose of this was actually to prevent  
13 tactical questioning or interrogation of prisoners at  
14 battlegroup level and that tactical questioning and  
15 interrogation should be left to the specialists at the  
16 TIF. Were you aware of that?

17 A. No. I mean, the JFIT did interrogation and didn't do  
18 tactical questioning.

19 Q. So you didn't understand there to have been any previous  
20 prohibition or desire, even, to prohibit tactical  
21 questioning at battlegroup level?

22 A. No. My organisation, in terms of the field HUMINT  
23 teams, during the war-fighting phase -- before they  
24 moved into the transition to HUMINT collection -- they  
25 did a lot of that tactical questioning.

1 Q. Be that as it may, whatever your understanding, that  
2 provision in FRAGO 163, if you take it from me for the  
3 moment, was not replicated in FRAGO 29. So whatever the  
4 meaning and purpose of that phrase, FRAGO 29 had no  
5 reference to a prohibition on interrogation prior to  
6 going to the TIF. Did you know anything about why  
7 FRAGO 29, first of all, didn't have that same provision  
8 in?

9 A. No. I am presuming because it was still extant.

10 Q. Now, you will forgive me, Colonel, I did interrupt you  
11 earlier on, when you started to talk about the reasoning  
12 that lay behind those changes. Can you just briefly  
13 summarise, to the extent that you were aware of them,  
14 why it was that those various changes in FRAGO 29 were  
15 being brought into effect?

16 A. Yes. It was the -- it was trying to separate tomato  
17 farmers from insurgent activity. What we were seeing  
18 was that people were -- when we were receiving prisoners  
19 in the JFIT, there had been no triage as such, and so we  
20 were getting common criminals set against insurgents who  
21 were trying to fight us. It took quite a lot of time in  
22 order to process those individuals and suddenly realise  
23 that there was no need for them to have come to the JFIT  
24 or no need for them to have been maybe interned. So it  
25 was a process of trying to stream decent criminals away

1 from insurgents.

2 Q. So there had been, had there, a lack of previous sifting  
3 out of the common criminals from the insurgents?

4 A. Yes.

5 THE CHAIRMAN: It was a filter process --

6 A. Indeed, sir, yes.

7 MR MOSS: Was there another consideration, that there had  
8 been concern at battlegroup and brigade level that  
9 intelligence that had been gleaned from interrogations  
10 at the JFIT had been slow to be cascaded back down to  
11 brigade and battlegroup levels?

12 A. Yes, that was a constant complaint.

13 Q. Was FRAGO 29 seen as a way to resolve that concern as  
14 well?

15 A. I hesitate to say I think that they were linked.  
16 I think it was the fact that it was exceptionally poor  
17 communication that didn't allow us to pass intelligence  
18 back to the battlegroups as quickly as we needed to.

19 Q. That may be the reason why it was difficult to get the  
20 intelligence back down --

21 A. Yes.

22 Q. -- but it may be thought that one advantage potentially  
23 of the FRAGO 29 system -- I want your evidence as to  
24 whether this was in people's minds at the time -- might  
25 be that, by allowing battlegroups a greater role in

1 immediate tactical questioning and sifting, they would  
2 get some information on the ground -- more information  
3 about the people that they had taken and some  
4 intelligence from tactical questioning on the ground --  
5 and they would have that intelligence there and then and  
6 then they would be passed down for further exploitation  
7 at the JFIT.

8 A. Absolutely. That was standard SOP at the time.  
9 Tactical questioning at the front end would or could  
10 deliver you some immediate intelligence leads.

11 Q. So far as the RMP is concerned, the change whereby the  
12 sifting and the assessment was no longer to be done by  
13 the RMP and the RMP making the decision whether people  
14 should go to the TIF, did you know any reasons why there  
15 were shifts in that regard?

16 A. No, I don't.

17 Q. There has been some evidence to the Inquiry that there  
18 was a significant drawdown, for example, in the number  
19 of RMP in theatre. Were you aware of that having been  
20 a factor at the time?

21 A. Well, as I just said to you a few moments ago, I know  
22 that there was obviously a significant drawdown from the  
23 20,000 or so. I think we were heading down towards  
24 6,500, so that would have incorporated ...

25 Q. Thank you. Were you aware that there had, by this time,

1           been a number of deaths in custody of prisoners on  
2           Op Telic 1?

3   A.   I have a recollection that commander legal had stated  
4           that there had been a number of deaths in custody, yes.

5   Q.   It is referred to, for example, in FRAGO 152, which --

6   A.   Yes.

7   Q.   -- I think you will be familiar with.

8           I don't mean to suggest in any way that you would  
9           have been the only person who might have thought of  
10          this, but was consideration given to the fact that, by  
11          increasing the amount of time that prisoners could be  
12          held by battlegroups and therefore be held by the  
13          infantry who had been involved in their capture, there  
14          might be an increase in the risk of mistreatment at that  
15          vulnerable time in the hours after capture --

16  A.   I'm not aware that people made that connection.

17  Q.   -- or that that was a risk factor in the FRAGO 29  
18          changes?

19  A.   Yes, or that that was a risk factor in the FRAGO 29  
20          changes.

21  Q.   That didn't occur to you?

22  A.   It didn't occur to me and I think that the chain of  
23          command assumed that the brigades and battlegroup  
24          commanders knew their responsibilities.

25  Q.   Because it might be said that that previous narrowing of

1 the timescales for which battlegroups could hold  
2 prisoners having been reversed -- it may be said that it  
3 might have been a fairly obvious risk that ought to have  
4 been taken into account by you and perhaps by others.  
5 Would that be fair?

6 A. Well, as I say, I -- my department didn't -- we didn't  
7 draft that and this was a commander legal and SO2  
8 detention FRAGO that had a G2 spin on it, so I can't  
9 really -- I can't really state categorically "yes".

10 Q. You say that it wasn't a G2 document. If we go back to  
11 the FRAGO itself and look at the signature block, for  
12 example, we see, do we not, that in terms of the side of  
13 the house that it was being authenticated by, that it  
14 was indeed the G2 side?

15 A. Yes -- yes, indeed. I'm sorry I hesitated when I said  
16 that, but I believe that this was a -- you know,  
17 a collective document, that G2 had their signature  
18 on it, but this had been drafted with the legal and  
19 detention areas of the rest of the headquarters.

20 Q. Before I come back to that, if it was going to be the  
21 case that there was going to be more exploitation of the  
22 potential for questioning at battlegroup level, would it  
23 not be right that FRAGO 29 ought to have at least  
24 mentioned the use of tactical questioning at battlegroup  
25 level --

1 A. Perhaps in hindsight, yes.

2 Q. -- and given guidance and a reminder about the  
3 safeguards and the procedures in relation to proper  
4 treatment of prisoners during tactical questioning?

5 A. As I say, yes, in hindsight, yes. But there had been  
6 a number of other FRAGOs that had been pushed out  
7 by Colonel Mercer that stated what people's  
8 responsibilities were in terms of looking after  
9 prisoners of war.

10 Q. In terms of the input, I think perhaps we ought to just  
11 look, if we may, at your witness statement for one  
12 moment in this regard about the production of this  
13 order.

14 If you just look, please, at paragraph 84 on  
15 BMI05845. In terms of the post of BGIRO -- I am sure  
16 you understand the BGIRO post --

17 A. Yes.

18 Q. -- being one that was the battlegroup level who was  
19 going to be involved in the sifting essentially, you  
20 suggest that Colonel Mercer created the post and it was  
21 then initiated by Colonel Mercer, Colonel Forster-Knight  
22 and Major Stewart Wilson.

23 A. That was my understanding, yes.

24 Q. How did you come to that understanding?

25 A. Well, Colonel Mercer, Colonel Forster-Knight and

1 Major Wilson all sat next to each other and, when there  
2 had been some engagement in discussions about some of  
3 these bits and pieces, they were all involved.

4 Q. Because it was Colonel Mercer's evidence to the Inquiry  
5 that, far from creating the post of BGIRO, he knew  
6 nothing about it or of FRAGO 29 until it had actually  
7 been issued. Colonel Forster-Knight, in his evidence,  
8 indicated that he was engaged with other matters and  
9 wasn't involved, certainly in any shape or form, with  
10 the detail of this at all. As I have indicated,  
11 Major Wilson suggests that although he did draft it --  
12 was involved in its drafting -- he was doing so on your  
13 behalf.

14 A. Well, I have no answer for why those people have made  
15 those statements.

16 Q. It is not possible, is it, perhaps out of a concern  
17 about FRAGO 29 and its contents, that you are seeking to  
18 minimise your own involvement and influence over the  
19 changes that were introduced by it?

20 A. Categorically not. I did not write FRAGO 29.

21 Q. You tell us in your statement, I think, that you were  
22 not aware of any specific training that was provided to  
23 the BGIROs in terms of the intelligence sift that they  
24 would have to carry out -- is that right?

25 A. Correct.

1 Q. -- but you think that that may have been discussed at  
2 a meeting at headquarters.

3 A. Yes. I think I also said in my statement that, on  
4 a visit to the JFIT, I came across some BGIROs who were  
5 having a tour of the JFIT so that they could understand  
6 the processes and mechanisms that were going on.

7 Q. If you will forgive me for saying so, it's apparent from  
8 your answers that you have given some thought now to  
9 FRAGO 29. Should things have been done differently or  
10 better in relation to that FRAGO now that you look at it  
11 in detail?

12 A. As I said to you earlier, my responsibility was for the  
13 JFIT and the delivery of interrogation in the JFIT, not  
14 what was going on at battlegroup level. That was not my  
15 responsibility, so --

16 Q. Yes, forgive me. While understanding that answer,  
17 perhaps it is not directly answering the question that  
18 I asked as to whether, if you like, corporately, things  
19 should have been done differently in relation to that  
20 FRAGO 29, leaving aside your own personal responsibility  
21 for the moment.

22 A. Potentially, but as I say, I had little to do with the  
23 production of FRAGO 29 and little to do with the  
24 understanding of what was going on at battlegroup level.

25 Q. You will be relieved, I am sure to hear, that there are

1 just very few minor miscellaneous matters or  
2 miscellaneous matters, at least, to deal with.

3 Your handover, please, to your successor, Colonel:  
4 your successor was S015, is that right, looking at your  
5 cipher list?

6 A. Yes.

7 Q. Are you able to help us, in relation to that handover,  
8 as to whether you would or did mention to S015 the  
9 concerns that had arisen about hooding and how they had  
10 been resolved?

11 A. I believe that I would have told him about the issues of  
12 hooding and I certainly know that he and I visited the  
13 JFIT together and met the rest of the JFIT staff, who  
14 were not the ones that had been there right at the very  
15 beginning -- they had changed over by that particular  
16 point -- and they understood the rules of no hooding and  
17 I am sure that he was told about the no hooding rule.

18 Q. The changes in relation to FRAGO 29, would that have  
19 been something covered, do you think, in the handover?

20 A. Yes, I would have thought that he would have understood  
21 FRAGO 29. But, as I say, it was a G2-led thing, rather  
22 than a J2X-led thing.

23 Q. Now, in relation to Colonel Mercer, during the course of  
24 my questioning, Colonel, I have taken you to certainly  
25 three aspects of evidence that you had given in relation

1 to him. The first was the suggestion that he approved  
2 the use of hooding, at least for operational security  
3 matters; secondly, evidence that you gave in your  
4 witness statement that it was for him to finalise any  
5 guidance note that arose out of the meeting with the  
6 Red Cross; and, thirdly and more recently, your  
7 suggestion that it was Colonel Mercer who created the  
8 post of the BGIRO.

9 In giving that evidence in relation to  
10 Colonel Mercer, are you motivated in any way by any  
11 desire to shift responsibility towards Colonel Mercer,  
12 he being very much on the opposite side of the hooding  
13 debate that had taken place?

14 A. Are you suggesting that I am being biased towards  
15 Colonel Mercer in my viewpoint?

16 THE CHAIRMAN: I think he is rather suggesting that you  
17 might be biased against Colonel Mercer.

18 A. No, Sir, I am not.

19 THE CHAIRMAN: Did you get on with him?

20 A. Yes. I had -- yes, I had a degree of difference with  
21 him on a number of issues and so did many other people,  
22 but I still ate with him in the canteen, I still drank  
23 tea with him and we still discussed other things.

24 MR MOSS: So your relations with him remained professionally  
25 cordial, despite professional differences; would that be

1 right?

2 A. Absolutely, absolutely, which is what we expected across  
3 the whole headquarters.

4 MR MOSS: I follow.

5 Sir, I regret that, if only in relation to  
6 consistency with questions that have been asked of other  
7 witnesses, I think we ought to go into camera. It will  
8 only probably take a matter of --

9 THE CHAIRMAN: Do we actually need to go into camera? The  
10 only times that we have ever done it, nobody has had any  
11 questions at all.

12 MR MOSS: That is right. Sir, I am in your hands. I would  
13 prefer to do so --

14 THE CHAIRMAN: If there are going to be any questions and  
15 everybody would know if there are matters that they want  
16 to deal with in camera, perhaps I can ask.

17 Are there any matters that you need to deal with in  
18 camera?

19 MR MOSS: Yes, but it will be a matter of moments.

20 THE CHAIRMAN: Right. Well, let us go into camera then.

21 (2.49 pm)

22 (Proceedings in camera)

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9 (2.53 pm)

10 (Proceedings in public)

11 Questions by MR SINGH

12 MR SINGH: Yes, thank you, Sir.

13 THE CHAIRMAN: Thank you very much.

14 MR SINGH: Colonel, can I start with the topic of hooding?

15 I can take you back to your court martial evidence if  
16 you would like to be reminded of it -- by all means ask  
17 for that if you would like it -- but trying to take it  
18 briefly if I can, is it right that, certainly when you  
19 gave your evidence to the court martial, your  
20 understanding was that what has sometimes been described  
21 as the "side benefit of hooding", which was  
22 disorientation, to maintain the shock of capture, that  
23 that was not just an incidental benefit, but actually  
24 part of the taught doctrine of why hooding was a good  
25 thing?

1 A. Yes.

2 Q. And you yourself, is it right, regarded it as a good  
3 thing in the deployment in early 2003 because you were  
4 of the view that you were still getting good  
5 intelligence, and getting people through shock of  
6 capture and being able to hood them, that that should  
7 continue as a practice? Is that fair?

8 A. That's fair, set against the context of the war-fighting  
9 environment that we were in at that point.

10 Q. Indeed.

11 One particular aspect of your evidence at the court  
12 martial I also want to ask about is this -- it is  
13 a different point: do you recall discussing with  
14 Major Davis, who was one of the lawyers, the question of  
15 shock of capture in the context of hooding?

16 A. I believe that it was discussed because the conversation  
17 about hooding and its security benefits and all the  
18 other aspects were wholly discussed.

19 Q. So is it your understanding, Colonel, that Major Davis,  
20 at least amongst the lawyers, would have understood that  
21 there was this benefit of hooding which was to maintain  
22 shock of capture?

23 A. Yes, and I believe that everybody understood that.

24 Q. A different point, if I may. S034, you referred to her  
25 in the context of the meeting that we have all heard

1 about with the ICRC. I think you gave evidence that she  
2 described something as being "the UK view". I hope  
3 I correctly quote you.

4 Can you just help us with this? What did she say,  
5 that you are aware of, was the UK view on hooding?

6 A. She -- my recollection from that meeting is that she  
7 majored on the reasons why we wanted to maintain some  
8 form of sight deprivation capability in terms of  
9 operational security, and she was -- the UK view was  
10 that that was legal and she wanted endorsement from the  
11 ICRC for that to continue.

12 Q. Colonel, given that a moment ago you said to me that not  
13 only Major Davis, but really everyone, knew that one of  
14 the benefits of hooding was to maintain the shock of  
15 capture, surely that was also one of the things that  
16 she, S034, would have included as being part of the UK  
17 view, or is that not right?

18 A. Yes, but she didn't mention it and I can't account for  
19 that.

20 Q. She only mentioned the security rationale; is that  
21 right?

22 A. My recollection is that the main thrust of her  
23 conversation was about operational security, which is  
24 the main thing that we were worried about at that  
25 particular point.

1 Q. Turning to a different point now, the plastic bag  
2 incident --

3 A. Yes.

4 Q. -- where you had seen an incident of hooding with  
5 a plastic bag and you were furious about it, I think,  
6 weren't you?

7 A. I was.

8 Q. Had that been sanctioned by S040?

9 A. That was my recollection, that -- in the conversation  
10 I had with him when I flew to the JFIT, he stated that  
11 that had been on his order.

12 Q. Just remind us, how senior was he at JFIT?

13 A. Well, he was commander JFIT, a TA officer from the  
14 Royal Naval Reserve.

15 Q. Did you regard that as inhumane treatment?

16 A. I did.

17 Q. Was there any follow-up to it? Was there a written  
18 report about this inhumane treatment?

19 A. Well, no, there wasn't a follow-up report, but obviously  
20 we put some -- we put activities in place immediately to  
21 make sure that it never happened again.

22 Q. Was any disciplinary action taken against the officer  
23 who had sanctioned inhumane treatment?

24 A. No.

25 Q. Presumably it follows from that answer that there was

1 certainly no criminal investigation into this behaviour.

2 A. No.

3 Q. May I ask you, please, if we can have a look at your  
4 first witness statement to this Inquiry at paragraph 32,  
5 which is BMI05832. In the first half of that paragraph,  
6 do you see that you refer to that period of a maximum of  
7 24 hours, which you have told us about, and then say:

8 "... however, I believed that the hoods would be  
9 taken off intermittently for fifteen to twenty minute  
10 periods every two hours or so."

11 If that's right and that was done in practice, how  
12 does that square with the security rationale of hooding?

13 A. Well, when people had their hoods lifted, we made sure  
14 that they were facing a particular direction so that  
15 they couldn't see any of the other activities that were  
16 going on in the JFIT.

17 Q. And why couldn't that be done without hooding at all  
18 then?

19 A. Because at the time when this happened, the JFIT wasn't  
20 fully built and we didn't have the materials and extra  
21 tents in order to make that easy.

22 Q. Are you sure that there was this practice or have you  
23 tried to construct this after the event because you  
24 realised that what was going on was wrong?

25 A. No. As I stated earlier -- and I wouldn't have stated

1           it in my written submission if I didn't think that it  
2           happened -- when I asked the question to S040 and S012  
3           [sic], that's what they stated to me that was happening.

4   THE CHAIRMAN: I think you mean "S014".

5   A. Sorry, Sir, yes, S014.

6   MR SINGH: But you yourself did not see it, is that right?

7   A. I did see it on the 28th.

8   Q. 28 March?

9   A. 28 March.

10   Q. How does this square with maintaining the shock of  
11       capture?

12   A. Well, as I say, I think that the degree of shock of  
13       capture was probably dissipating by that particular  
14       point for a number of people because the sheer quantity  
15       of prisoners of war of different categories are flowing  
16       in right at the beginning of the war-fighting phase.

17   Q. Earlier in your witness statement, Colonel, at  
18       paragraph 26 -- if we could just have a look at that,  
19       please, on page BMI05830 -- at the very end of  
20       paragraph 26 you tell the Inquiry:

21           "... however the term 'conditioning' is not used  
22       anymore."

23           Can you tell the Inquiry why it is not used anymore?

24   A. That is my understanding, that the term "conditioning"  
25       is not used anymore by people in the interrogation wing

1 at Chicksands.

2 Q. But you don't have any understanding yourself of why?

3 A. No.

4 Q. Then staying with your witness statement at  
5 paragraph 38, please -- which is page BMI05834 -- in the  
6 middle of that, under the heading "Sleep deprivation",  
7 you say:

8 "I also relied upon subject matter experts in the  
9 JFIT to advise me as to what was proper and lawful."

10 I think -- correct me if I am wrong, Colonel -- in  
11 answer to Mr Moss, you said that the people you had in  
12 mind there were S014 and S040; is that right?

13 A. Yes.

14 Q. Now they weren't lawyers, were they?

15 A. No, they weren't.

16 Q. I can understand your evidence to the Inquiry that they  
17 would advise you as to what was proper, but they weren't  
18 advising you on what was lawful, were they?

19 A. No, but I am -- perhaps what I'm trying to imply in  
20 there is that they would not have been conducting  
21 practices that were unlawful and that their training  
22 would have not taught them something that was unlawful.

23 Q. Were you yourself aware of any lawyers who were giving  
24 advice to those subject matter experts, as you called  
25 them?

1 A. Well, I know that there were lawyers available. I know  
2 that Major Frend was available. Obviously I know that  
3 Colonel Mercer was available.

4 Q. What about -- sorry.

5 A. Sorry -- I am just double-checking. I am afraid his  
6 name has just gone out of my head, but the --

7 Q. I think I can mention it. Is it the name of Clapham?

8 A. Yes, but he was at NCC, at Qatar --

9 Q. But he visited this facility a number of times. I think  
10 you give evidence about it.

11 A. Yes, he did. Indeed he visited it with me and  
12 Colonel Duncan.

13 Q. Does that perhaps jog your memory? Could it be that the  
14 primary lawyers who were involved on the ground in  
15 advising were not, in fact, Colonel Mercer, but rather  
16 Lieutenant Colonel Clapham and Major Frend?

17 A. Well, Major Frend worked for Colonel Mercer.  
18 Colonel Mercer linked directly into Colonel Clapham at  
19 the NCHQ. So they were all in their own chain of  
20 command and I am assuming that they all talked to each  
21 other.

22 Q. Did you yourself have discussions with Colonel Clapham?

23 A. Yes, Colonel Clapham was fully involved in the  
24 discussions about hooding --

25 Q. Yes.

1 A. -- and about sight deprivation and the whole meeting on  
2 the 6 April.

3 Q. And, presumably, does it follow from that and earlier  
4 evidence you have given today that Colonel Clapham would  
5 have been fully aware that at least one of the taught  
6 doctrines about hooding was its beneficial effect in  
7 relation to maintaining shock of capture?

8 A. Well, I'm not sure that I can make -- say that his  
9 understanding was --

10 Q. Did you discuss it with him?

11 A. Sorry?

12 Q. Did you discuss it with him?

13 A. I can't recall that I did.

14 Q. Were you aware of views to this effect, that ending  
15 hooding would have an adverse impact upon the standard  
16 operating practice in relation to interrogations?

17 A. No, because the compromise that we had come up with in  
18 terms of the dark glasses of protecting our operational  
19 security seemed a logical step and was easy to  
20 implement.

21 Q. Was it regarded as controversial and contrary to  
22 standard practice when hooding was ended?

23 A. What was ending? Sorry.

24 Q. When hooding was ended.

25 A. I think we understood the reason why hooding was ended,

1 but hooding was a fact that it was the easiest  
2 methodology in order to deprive sight.

3 Q. If I may move to a different topic now, please, Colonel.  
4 MOD022122. We saw it earlier. I am not going to repeat  
5 the questions that were asked earlier. I want to ask  
6 about some different passages, if I may.

7 First, just to put it in context, in the middle of  
8 that paragraph, as you have mentioned, some of the  
9 detainees at least could be held in hoods for up to  
10 24 hours. Then there is a passage two paragraphs  
11 further on which ends with the sentence that the only  
12 restriction is that they may not sleep. I think that is  
13 consistent with the evidence you have given today, isn't  
14 it?

15 A. Yes.

16 Q. In the last paragraph, which I think was not  
17 read earlier today, which begins "The only other  
18 complaint ..." received by you, was the fact that high  
19 value prisoners were not being issued with soap and  
20 water for washing prior to interrogation.

21 Major Davis' note certainly says that this was  
22 a complaint made to the ICRC representative by some  
23 prisoners. You had refused this request as you did not  
24 want these prisoners coming to interrogation refreshed  
25 after having washed themselves. We can see the

1 reasoning behind that if we need to, going into the text  
2 on the next page.

3 First of all, has Major Davis recorded accurately  
4 what is attributed to you?

5 A. Yes.

6 Q. What I want to ask you about, Colonel, is this: suppose  
7 a British soldier had been captured by an enemy in  
8 a traditional armed conflict, like the Second World War  
9 or what we once used to fear might happen with the  
10 Soviet Union, he is protected obviously by the Geneva  
11 Conventions, isn't he?

12 A. Yes.

13 Q. Suppose you were told that that British soldier has been  
14 kept in a hood for up to 24 hours, pending  
15 interrogation, prevented from falling sleep for that  
16 period by the enemy and prevented from having access to  
17 washing facilities, would you have regarded that as  
18 humane treatment of that British soldier?

19 A. I would say that was humane treatment if the context at  
20 the time was that they were in a war-fighting situation,  
21 and the context of this, at the bottom of the page, is  
22 that we were in a war-fighting situation at the time.

23 THE CHAIRMAN: Mr Singh, if you will forgive me, I think  
24 that is more of a comment which you will no doubt make  
25 submissions about. I do try and stick to the --

1 MR SINGH: Sir, may I move to the last topic I have, which  
2 is about FRAGO 29.

3 THE CHAIRMAN: Yes.

4 MR SINGH: On that, the Inquiry has heard -- particularly  
5 from Colonel Mercer -- that his understanding at least  
6 of what was going on with the drafting of FRAGO 29 and  
7 the changes introduced on 26 June was that G2 had  
8 perceived that the police and lawyers had strayed on to  
9 their turf. Would you agree with that analysis?

10 A. No, I wouldn't. I think it was --

11 Q. Why do you say that?

12 A. Well, I think it was purely based on what I said  
13 earlier, that the difficulty was that units were  
14 capturing prisoners that were of common criminals set  
15 against insurgents and set against innocent people, and  
16 all of those were arriving without any form of filter  
17 and we wanted to have a better filtering process.

18 Q. Insurgency was becoming quite intense by June, was it  
19 not?

20 A. It was becoming more intense than we realised.

21 Q. For example, the Inquiry has heard about some RMP  
22 officers being murdered --

23 A. Indeed.

24 Q. -- that month. So although it was not technically the  
25 war-fighting phase that you described earlier, it was

1 still a very hostile environment for occupying forces,  
2 was it not?

3 A. It is -- it was very hostile.

4 Q. And you, as G2, would have been understandably anxious,  
5 wouldn't you, to make sure that you could fight the  
6 insurgency as effectively as possible?

7 A. Yes. I am hesitating because, per se, you know, I was  
8 only an element of the G2 and I did the collection  
9 activity of the G2, I did not command the G2 or deal  
10 with processing multiple pieces of intelligence  
11 together.

12 Q. Were you aware of any precedent of G2, which is  
13 responsible for intelligence, having responsibility for  
14 prisoner handling as opposed to the RMP doing that?

15 A. Only in terms of an intelligence exploitation  
16 capability, where you have an interrogation facility,  
17 you have a sort of biometrics facility, you have  
18 a facility that can interrogate electronic media and  
19 read documents.

20 Q. But not overall responsibility -- G2 were not trained,  
21 were they, to oversee prisoner handling?

22 A. No.

23 MR SINGH: Sir, those are my questions.

24 THE CHAIRMAN: Thank you. Ms Dobbin?

25 Questions by MS DOBBIN

1 MS DOBBIN: If not you, are you able to identify any  
2 individual who did have responsibility for the policy  
3 behind FRAGO 29?

4 A. Only the people that I stated earlier, which was  
5 obviously chief G2, Major Waters, and -- sorry, excuse  
6 me. I am just double-checking my cipher and names --  
7 Colonel Mercer and the SO2 detention and presumably  
8 Colonel Forster-Knight.

9 Q. I thought you were suggesting previously that those were  
10 the people whom you would have expected to have  
11 responsibility for it. Are you saying that they did in  
12 fact or that any of those individuals did in fact have  
13 responsibility for FRAGO 29?

14 A. Well, they'd had responsibility up until that particular  
15 point to do with detainees, detention facilities, RMP  
16 being fully involved in that whole process, so I can't  
17 imagine that they would then not be involved in the  
18 process and not have been consulted on it.

19 MS DOBBIN: Sir, that is all. Thank you.

20 THE CHAIRMAN: Thank you. Ms Edington?

21 Questions by MS EDINGTON

22 MS EDINGTON: Thank you, Sir. You had a meeting on  
23 25 January, you said earlier to Mr Moss, which was your  
24 HUMINT meeting in London, pre-deployment; is that right?

25 THE CHAIRMAN: It is my fault, I am sure, but I can't hear

1           you from this end of the room.

2   MS EDINGTON: I do apologise, Sir. It is obviously a  
3           difficulty from back here.

4   THE CHAIRMAN: What you really need, Ms Edington, is  
5           a podium upon which to put your microphone.

6   MS EDINGTON: I will try to lean down in that way, Sir.  
7           I do apologise.

8           You had a meeting pre-deployment in January -- and  
9           you said this morning it was 25 January -- about your  
10          HUMINT and Major Frend came to that meeting.

11   A. Yes, it was at Chicksands.

12   Q. Indeed. Now you had two HUMINT indoctrinated lawyers  
13          and you have named them today. Is it not right to say  
14          that actually, if you had had any issues with HUMINT in  
15          the JFIT, you would have discussed it with them, not  
16          with Colonel Mercer?

17   A. Yes, that is true. But bearing in mind that those  
18          individuals were geographically displaced at times -- so  
19          Major Frend was then sent down to the TIF, he was also  
20          then sent up to Al Amarah and a number of the other  
21          young lawyers were sent to some of the other brigades,  
22          the person that I naturally speak to who was in the  
23          headquarters was Colonel Mercer.

24   Q. But before the heated discussion you had -- and it was  
25          a heated discussion, wasn't it, about the JFIT and the

1 treatment of prisoners on 29/30 March?

2 A. Yes.

3 Q. -- you hadn't actually spoken to Colonel Mercer about  
4 the JFIT matters at all, had you?

5 A. I believe that I -- my recollection is that I had  
6 discussed with Colonel Mercer about the JFIT and that  
7 I had seen him at numerous meetings and I saw him in the  
8 headquarters on a daily basis.

9 Q. Well, indeed you may do. But the rock drills, in fact,  
10 were not passed through Colonel Mercer, were they?

11 A. I didn't run the rock drill, but I'm assuming that he  
12 would have got to have known about them.

13 Q. But that's your assumption?

14 A. Indeed. But it was run by the DCOS, I believe.

15 Q. Now you aren't aware of whether Major Frend actually  
16 told Colonel Mercer that he was also doing some advisory  
17 work for you, were you?

18 THE CHAIRMAN: Well, there are two points about that. Was  
19 he doing advisory work for you?

20 A. Yes, he was, Sir.

21 THE CHAIRMAN: Did you tell Colonel Mercer?

22 A. I thought that Colonel Mercer was aware, Sir.  
23 Colonel Mercer used to come to my tent where Major Frend  
24 was sitting on numerous occasions and discuss various  
25 elements with him and I am pretty sure that he was aware

1           that he was advising us.

2   MS EDINGTON: Did you tell Colonel Mercer that Major Frend  
3           was advising you on the JFIT?

4   A. I have no recollection that I said to him,  
5           "Colonel Mercer, he is advising me", but equally there  
6           were lots of discussions where he would have known that  
7           Major Frend was advising me.

8   Q. Or would have assumed -- you believe you assume, that he  
9           knows that Major Frend was advising you?

10 A. Well, they were colleagues, they worked together, so  
11          I can't -- I can't comment on their relationship.

12 Q. Of course you have Colonel Clapham who comes into the  
13          JFIT quite a lot to visit with you as well, doesn't he?

14 A. Define "quite a lot". I seem to remember that he came  
15          twice.

16 Q. Indeed. I shall lose that point.

17                The loose minute that you wrote on 30 March, which  
18                obviously has been sent up to the national contingent  
19                command -- and we can see that from Colonel Mercer's  
20                annotation on the top -- you wanted the whole thing  
21                sorted once and for all, didn't you, about hooding,  
22                stress positions, the sun, et cetera, et cetera?

23 A. My -- I didn't support stress positions.

24 Q. Not more extreme stress positions is what you have  
25          actually --

1 A. I didn't support stress positions and I stated what  
2 I thought a stress position was earlier. With reference  
3 to hooding for security reasons, yes, that was the  
4 reason I wrote that as part of that memo and, yes,  
5 I wanted a -- that's why I said in that last paragraph  
6 there that the NCHQ or NCC should take a view, a UK  
7 view, of exactly what policy we should be following.

8 Q. And you are quite definite that S034 told Colonel Mercer  
9 that he was banging his own drum and not the UK policy  
10 drum?

11 A. Yes, I am adamant that she said that.

12 Q. You said that the HUMINT committee sat in June. Which  
13 legal adviser did it sit with?

14 A. I am afraid I cannot remember that.

15 Q. But it wasn't Colonel Mercer, was it?

16 A. I don't think it was, no.

17 Q. The last thing is: do you see a difference between sight  
18 deprivation at the point of capture and sight  
19 deprivation in the JFIT after the people have already  
20 been through the PWHO and had their sight deprivation  
21 removed?

22 A. Yes, because, as I stated earlier, in the JFIT it was  
23 a case of moving them from the holding area to the  
24 interrogation rooms and protecting our operational  
25 security and that was the time when they had their

1 restriction of sight.

2 Q. And then the restriction of sight then commenced again  
3 until they then got back to the holding area?

4 A. Yes.

5 MS EDINGTON: Thank you very much.

6 THE CHAIRMAN: Mr Evans?

7 Questions by MR EVANS

8 MR EVANS: Thank you, Sir.

9 Colonel, in your capacity as S02 J2X div, you told  
10 us you were just a "collector", your phrase. Can you  
11 just tell us a little about what your job actually  
12 involved as prime focus?

13 A. The prime focus was HUMINT operations and setting up the  
14 capability to be able to collect intelligence from  
15 HUMINT operations.

16 Q. From human sources?

17 A. From human sources.

18 Q. Now, the position, of course, is different today,  
19 looking at it from an Inquiry perspective, but at the  
20 time, how central an issue was prisoner handling for you  
21 in Iraq in March/April 2003?

22 A. It wasn't my central focus. My central focus was about  
23 establishing our HUMINT operations network set in  
24 7 Brigade and 3 Brigade and eventually 16 Brigade, when  
25 I set up a team there.

1           The period of time that the JFIT occupied my time  
2           the most was obviously from the 28 March through to  
3           6 April, when we were trying to clarify everything that  
4           we have discussed today.

5   Q.   In that early period -- without going into any detail --  
6           did you have any HUMINT intelligence capability?

7   A.   No, and we were utilising the field HUMINT teams in the  
8           tactical debriefing role within the brigades in order to  
9           try and start developing our methodology.

10   Q.   Was that, therefore, a highly important and major focus  
11           of your work at that time?

12   A.   Indeed it was.

13   Q.   You told us that you haven't had any TQ or interrogation  
14           training.  Is it unusual to be appointed as J2X staff  
15           officer without that kind of detailed training?

16   A.   Yes.

17   Q.   Did it affect the way in which you managed things in  
18           your capacity as SO2 J2X?

19   A.   I don't believe it did because I had a subject matter  
20           expert that I could speak to and learn from and lean on  
21           in order to clarify areas that I was perhaps unsure of.

22   Q.   How reliant were you, therefore, on them in terms of  
23           what was standard and appropriate practice for  
24           interrogation and TQ?

25   A.   At the beginning of the operation I was completely

1           reliant on them.

2       Q.   Can I turn to the security concerns that were present at  
3           the JFIT?  You have been asked a little bit about this.  
4           You said that you were still under "indirect fire", your  
5           phrase.  Can you tell us what that meant in practice?

6       A.   Yes, we still had mortar rounds coming into the TIF at  
7           that particular point and we still had sniper rounds  
8           aimed at tents and a number of those did hit the JFIT.

9       Q.   Perhaps it is an obvious point, but if prisoners were  
10          able to see the layout and accommodation of the internal  
11          JFIT, what risk would that present to you -- or might  
12          that present to you -- and your staff?

13      A.   Well, if they could identify it and then pass  
14          information on to other people, then perhaps we could  
15          then be targeted by further indirect fire or further  
16          small arms.

17      Q.   Were you referred in your training to the  
18          Geneva Conventions?

19      A.   Yes.

20      Q.   Can I put part of Article 17 to you?  It says this:

21                 "No physical or mental torture nor any other form of  
22                 coercion may be inflicted on prisoners of war to secure  
23                 from them information of any kind whatever."

24                 Did that accord with your understanding of the  
25                 position in Iraq in 2003?

1 A. Yes.

2 Q. Were you aware, before you became aware of the  
3 1972 directive, that depriving prisoners of sleep as an  
4 aid to interrogation was banned?

5 A. No.

6 Q. When were you first referred to the 1972 directive?

7 A. I believe it was October or November of last year.

8 Q. And what was your reaction when you saw the prohibitions  
9 that were set out in the 1972 directive?

10 A. I was extremely shocked, based on the fact that it had  
11 never been revealed to me before then and that it had  
12 never been revealed to me by the legal representation in  
13 Iraq at the time.

14 Q. Turning to generators, not perhaps the most major point,  
15 but did you notice many generators in the JFIT when you  
16 were there in March or was it a standard set-up for  
17 generators?

18 A. They -- it was a reasonably standard set-up. We are not  
19 talking about big generators. We are talking about  
20 small generators and also the staff were living and  
21 working around them.

22 Q. Was there anything unusual, as far as you were  
23 concerned, in the way they had been placed?

24 A. No.

25 Q. Was there anything there to make you think that they

1           were being used other than as power generators?

2    A.  No.

3    Q.  Can we please have MOD011451 on screen?  Thank you.  Can

4           you tell us, please, what the source of the explanation

5           of the interrogation techniques described here was for

6           you?

7    A.  Yes.  The sources were soldiers S040 and S014 and

8           obviously the discussion with S012.

9    Q.  It has been suggested to you that you were giving

10           a sanitised account and that you were not keen to

11           mention the fact here of the preservation of the shock

12           of capture as a side benefit of hooding.  Did you

13           believe at best this time that preservation of the shock

14           of capture was a legitimate side benefit of hooding?

15   A.  I understood it to be a legitimate side benefit.

16   Q.  And what was the source of that belief?

17   A.  The JSP 383, I think, and one other document, which

18           I think was the JSIO internal training document, which

19           stated about shock of capture.

20   Q.  Documents aside, did you have any other source of belief

21           for that?

22   A.  Yes, it was discussed -- well, as I stated earlier -- in

23           my earlier training about shock of capture and also it

24           was mentioned by S014.

25   Q.  In those circumstances, did you have any reason to

1 suppress your belief that preservation of the shock of  
2 capture was a legitimate side effect of hooding?

3 A. No.

4 Q. FRAGO 29, please, next. I don't need to take you to it,  
5 but can you tell us this: how did you understand the  
6 phrase in FRAGO 29 "a G2-led G3 ops responsibility"?

7 A. I understood it as an intelligence-led operations,  
8 rather than intelligence-led in terms of prisoners of  
9 war. So, therefore, intelligence-led operations were  
10 specifically targeting individuals that were insurgents  
11 that were -- that we had little intelligence on and so  
12 that we could then gain more understanding.

13 Q. So, is this right: the intelligence aspect was to  
14 identify the target --

15 A. Absolutely.

16 Q. -- and the G3 aspect was to carry the mission out?

17 A. Correct answer.

18 Q. After the issue of FRAGO 29, did Colonel Mercer ever  
19 approach you to identify any weaknesses, as he saw it,  
20 with the FRAGO itself or, in particular, with regard to  
21 the post of BGIRO?

22 A. Not in my recollection.

23 Q. Would you have expected him to do so if he had had any  
24 such concerns about it?

25 A. Yes, I would, but I think that he would have also

1 directed those perhaps towards the G2 as well, to  
2 Colonel -- Major Waters.

3 MR EVANS: Yes.

4 Yes. Thank you very much. Thank you, Sir.

5 THE CHAIRMAN: Thank you. Mr Moss?

6 Further questions by MR MOSS

7 MR MOSS: Just one matter, if I may, Colonel, for  
8 completeness. Mr Evans asked you about Article 17 of the  
9 Geneva Convention. The second sentence of the second  
10 part of Article 17 carries on:

11 "Prisoners of war who refuse to answer may not be  
12 threatened, insulted or exposed to any unpleasant or  
13 disadvantageous treatment of any kind."

14 For completeness, was that also part of your  
15 understanding?

16 A. Yes.

17 Q. In terms of unpleasant or disadvantageous treatment of  
18 any kind being prohibited in relation to prisoners of  
19 war who refused to answer questions, in terms of  
20 prisoners of war being hooded at the JFIT, did you see  
21 that as unpleasant or disadvantageous treatment?

22 A. No.

23 MR MOSS: Sir, those were my additional questions.

24 Questions by THE CHAIRMAN

25 THE CHAIRMAN: Just one matter I want to ask a question

1           about before you go, please, Colonel. Presumably in  
2           your job there with division, you regarded that as  
3           a staff job; is that right?

4    A. Yes, sir.

5    Q. How much staff work had you done before?

6    A. I had done one job beforehand, which was in the allied  
7           rapid reaction corps as the SO2 J2 plans.

8    THE CHAIRMAN: When was that?

9    A. From 2000 to 2002.

10   Q. So you were not perhaps the most experienced staff  
11          officer?

12   A. No, Sir.

13   THE CHAIRMAN: All right. Thank you. Thank you very much  
14          for coming to the Inquiry. I am very grateful to you  
15          for your evidence. You are now free to go.

16   A. Thank you, Sir.

17   THE CHAIRMAN: We will break now for ten minutes.

18   MR MOSS: Our the time estimate for the rest of today's  
19          business is no more than 40 minutes.

20   THE CHAIRMAN: I rather anticipate that we will take the  
21          next witness a lot more quickly, Mr Halliday; is that  
22          right?

23   MR HALLIDAY: Yes, Sir.

24   THE CHAIRMAN: Very good. Thank you. 20 to then, please.  
25   (3.31 pm)

1 (A short break)

2 (3.40 pm)

3 MR HALLIDAY: Thank you, Sir. The next witness is  
4 Nicholas Ord.

5 THE CHAIRMAN: Thank you. If you would be kind enough to  
6 stand up and take the oath, I would be grateful.

7 NICHOLAS EDWARD ORD (sworn)

8 THE CHAIRMAN: Thank you. Do sit down. I am sorry you have  
9 been kept waiting for some time.

10 A. It's no problem, Sir.

11 THE CHAIRMAN: I apologise for that. If you could get as  
12 close as you can -- it is rather uncomfortable doing  
13 so -- to the microphone and speak into it, we shall all  
14 be able to hear. I shan't mind in the slightest if you  
15 shout into it, but it probably won't be necessary.

16 Yes, Mr Halliday.

17 Questions by MR HALLIDAY

18 MR HALLIDAY: It is "Major Ord", is it not?

19 A. Yes.

20 Q. Sorry, I jumped ahead of myself. Can you state your  
21 full name, please?

22 A. It is Nicholas Edward Ord.

23 Q. Could you open that red folder, please --

24 A. Yes.

25 Q. -- and turn to the final page?

1 A. Yes.

2 Q. Does the red folder contain your witness statement?

3 A. Yes, it does.

4 Q. Does your signature appear on the final page?

5 A. Yes, it does.

6 Q. When you signed this statement, were you attesting that

7 it was true to the best of your knowledge and belief?

8 A. That's correct.

9 Q. Thank you. Is it right that, after being sponsored

10 through university by the army, you started at Sandhurst

11 in 1995?

12 A. That's correct.

13 Q. You are now in the Territorial Army?

14 A. That's right.

15 Q. In December 1996 you joined 1 Black Watch?

16 A. That's correct.

17 Q. Did you deploy to Kuwait with 1 Black Watch in

18 February 2003?

19 A. That's right.

20 Q. What was your rank at that time?

21 A. I was a captain.

22 Q. Did you go to Iraq with the rest of the battlegroup in

23 March 2003?

24 A. Yes, that's right.

25 Q. What roles did you have at the start of that tour?

1 A. I had two roles. I was the assistant battlegroup  
2 operations officer and I was also the brigade liaison  
3 officer, so that is the liaison officer to the brigade  
4 HQ -- a battlegroup appointment. I was the liaison  
5 officer between battlegroup and brigade.

6 Q. Did your roles change at any point during that tour?

7 A. Yes, it did. I think it was in May I took over -- or  
8 I stepped up from being the assistant operations officer  
9 to the operations officer and shortly after that  
10 I handed over the role as brigade liaison officer to  
11 Captain Robert Sanford.

12 Q. Can you recall when in May that occurred?

13 A. It was roughly the middle of May. I don't have an exact  
14 memory of it.

15 THE CHAIRMAN: If I say that your predecessor,  
16 Captain Percy, said he left four weeks before the end of  
17 the tour or changed over, does that sound about right?

18 A. I think Captain Percy left a couple of weeks earlier  
19 than I did from Iraq and so I think it was probably four  
20 weeks before he personally left. I think I had about  
21 six weeks in post, so I think roughly between 15 and  
22 20 May, that sort of period.

23 THE CHAIRMAN: I see. Thank you.

24 MR HALLIDAY: That six weeks taking you through to the end  
25 of the tour in early July --

1 A. The very end of June, that's right, yes.

2 Q. The end of June?

3 A. Yes.

4 Q. So you took over from Captain Percy as operations  
5 officer?

6 A. Yes.

7 Q. Starting with the roles you had early in the tour, could  
8 you describe briefly your duties as brigade liaison  
9 officer?

10 A. Certainly. The role of brigade liaison officer is to  
11 assist the passage of information between the brigade  
12 and the battlegroup. I was therefore acting as  
13 a representative of the commanding officer at brigade  
14 level or in brigade, and I would go at least twice a day  
15 to the brigade headquarters during the war phase and  
16 during the subsequent phase. I would go back and forth  
17 at least twice so that I could attend brigade briefings,  
18 answer questions, if I knew them, about battlegroup  
19 matters and bring back information from brigade.

20 Q. The information you brought back, did this ever consist  
21 of written orders or FRAGOs?

22 A. Yes, it could be verbal or written. Definitely the  
23 bringing back written printed FRAGOs was very much part  
24 of that job.

25 Q. Was that distinctively your role as opposed to the role

1 of other people in the battlegroup, to obtain written  
2 FRAGOs from brigade?

3 A. I was the person who, as a matter of course, went to  
4 brigade headquarters at least twice a day, so invariably  
5 they would come into my hands. It is also possible that  
6 other people who were at brigade headquarters on other  
7 business may have been given FRAGOs or indeed other  
8 information to bring back, but I -- yes, I probably  
9 dealt with more of it than anyone else.

10 Q. But sometimes the orders would be brought back by other  
11 people from the battlegroup?

12 A. Yes, that's right.

13 Q. You also mentioned oral orders. You would sometimes  
14 pass on oral orders from brigade to the battlegroup, did  
15 you?

16 A. That's right, yes. I would attend the brigade  
17 conference in the morning and in the evening, which is  
18 all the brigade staff officers. If something was not  
19 given in FRAGO form or in printed form, I would record  
20 what was given and pass it on once back at the  
21 battlegroup.

22 Q. Dealing with written FRAGOs, first, if you were given  
23 a written FRAGO, what would you then do with it?

24 A. I wasn't there just as a courier, I was also the  
25 assistant operations officer, so I had an understanding

1 of the importance of FRAGOs and how I deal with them.  
2 My first action, on receiving a FRAGO, was to look at it  
3 and make an assessment of what needed to be done.  
4 I would then bring it back to battlegroup headquarters,  
5 I would invariably discuss it with the operations  
6 officer, when I was assistant operations officer, that  
7 is, and/or with the commanding officer and/or with, say,  
8 the battalion 2IC -- the battlegroup 2IC -- and we would  
9 then work out what to do with -- or what we would  
10 subsequently do with that FRAGO.

11 Q. Would that, for example, involve figuring out to whom  
12 the FRAGO had to be given?

13 A. I mean, I would say that any FRAGO written from the  
14 brigade to one of its subordinates, the battlegroup, is  
15 addressed to the headquarters element of that, and so  
16 that it really wouldn't be addressed to anyone other  
17 than the commanding officer, the operations officer, the  
18 2IC, the key planning officers. So that wasn't really  
19 a huge issue to work out who it was to go to.

20 Q. So what would you actually do with the physical copy of  
21 the FRAGO? To whom would you give it?

22 A. There were -- the physical copy of the FRAGO we would  
23 use it when we were working out in consultation what we  
24 would use with that -- how we would deliver that order.  
25 The physical copy tended to go into one of two places.

1 It would -- sorry, it would always go into one of two  
2 places.

3 As somebody who was in the operations room a lot of  
4 the time, we had a file of current op orders which were  
5 relevant in the ops room so they could be immediately  
6 referred to. Operation orders received from brigade  
7 also could go once they had been dealt with or once they  
8 had been expedited or, indeed, once they had expired --  
9 could go into the war diary which the battalion 2IC  
10 kept, but that was in a separate room and that was why  
11 we would keep the relevant orders in the ops room.

12 Q. So the ops room record was a selection of the extant  
13 FRAGOs and the war diary kept by the 2IC in his room was  
14 a comprehensive record of all FRAGOs; is that correct?

15 A. Yes, it is possible, clearly, for something to be  
16 initially in the ops room and then only subsequently  
17 into the war diary. But, yes, the war diary is the  
18 cumulative record of everything. The ops room copies  
19 were those which we needed for running current  
20 operations.

21 Q. Typically, once a FRAGO had been received by the  
22 battlegroup, how would it be disseminated within the  
23 battlegroup?

24 A. Depending on the nature of what was in the FRAGO and the  
25 resources we have available and the time with which we

1 had to turn it around, we had a number of options: we  
2 could produce our own written copy of a FRAGO, so  
3 cascading it down to our subordinates. That clearly  
4 required printing and possibly photographic  
5 reproduction, photocopiers, to be able to distribute  
6 that; we could pass the information of FRAGOs at our  
7 daily coordination conferences, and when we did that  
8 routine every day in the afternoon, the company  
9 commanders would come in and we would brief them on  
10 FRAGOs; the content of a FRAGO could even go out over  
11 the battlegroup radio net if it was sufficiently  
12 significant to do that; or it could -- it could even --  
13 it could be -- if, say, we had to plan an operation but  
14 not for some time -- that wasn't going to happen for  
15 some time -- the FRAGO could actually remain with the  
16 battlegroup headquarters whilst they planned it, until  
17 such time as we either wrote our own FRAGO or  
18 disseminated the information by any of those other  
19 means.

20 Q. Moving to a different topic, a couple of very short  
21 questions about your training, please. Were you ever,  
22 in your army training, taught to deprive prisoners of  
23 their sight?

24 A. No, I was not.

25 Q. You never came across that in your training at all?

1 A. No, I was not -- sorry, no, I did not.

2 Q. You never came across the placing of sandbags over  
3 prisoners' heads in your training?

4 A. No, I did not.

5 Q. Is that something you ever became aware of on exercise  
6 or on operations, the sandbagging of prisoners?

7 A. No, no, it's not. It's not something we practised or  
8 that I was trained in.

9 Q. In your army career, did you ever come across something  
10 referred to as the "shock of capture"?

11 A. Yes, I did.

12 Q. When did you come across that?

13 A. I don't remember.

14 Q. You don't remember the circumstances in which you came  
15 across it?

16 A. I don't remember the circumstances in which that term  
17 was mentioned, no.

18 Q. So you don't remember who mentioned the term to you?

19 A. No, I don't.

20 Q. Was it a term in general currency in the army? Did you  
21 hear many people use it.

22 A. I think in the early part of my career, when we were  
23 mainly preparing to go to Northern Ireland, it was not  
24 something which I heard. I think probably in the  
25 subsequent or the latter half of my regular army career,

1           when Iraq had started and Afghanistan had started, it  
2           was probably used more, but I don't remember exactly  
3           when I first heard it.

4   Q.   What did the term mean to you, "shock of capture"?

5   A.   My understanding of the term "shock of capture" is that  
6           that refers to the fact that someone who has been taken  
7           into custody is in a dazed and confused state.

8   Q.   What was the purpose of talking about the shock of  
9           capture? Were you taught that it had any benefit for  
10          British soldiers?

11  A.   No, I was not. My understanding of it is that it is  
12          a psychological state as a result of being captured. It  
13          doesn't -- it wasn't something that I was trained had  
14          a particular benefit.

15  Q.   Were you taught that it was something that you could use  
16          or exploit in any particular way?

17  A.   No, because I was never involved in questioning people  
18          or trying to gain intelligence.

19  Q.   The implication of your answer is that it's something  
20          that could be used by others in order to help gain  
21          intelligence when questioning people. Is that what you  
22          understood at the time?

23  A.   That's sort of retrospective in that, at the time, it  
24          wasn't -- in the terms of reference in my job -- having  
25          seen some of the other statements and having heard some

1 of the other evidence, I can see how retrospectively  
2 there were people for whom that may have been  
3 applicable, but I was not one of them.

4 Q. Did you not have any understanding at the time that the  
5 shock of capture could be used in order to make  
6 a prisoner more likely to answer questions?

7 A. Again, it's sort of retrospectively I can see that at  
8 some stage I formed that opinion, but I can't say  
9 whether it was before, after or during my time in Iraq.

10 Q. Do you recall becoming aware of any method to maintain  
11 or prolong the shock of capture?

12 A. No, I do not, no.

13 Q. Turning to your tour in Iraq, Op Telic 1 --

14 A. Yes.

15 Q. -- did you ever see any prisoners at 1 Black Watch's  
16 main camp?

17 A. Did I ever see prisoners? Yes, I did.

18 Q. Were they ever hooded with sandbags?

19 A. No, I never saw that.

20 Q. Ever blindfolded?

21 A. Never blindfolded.

22 Q. Did you ever see them in stress positions?

23 A. No, I never saw them in stress positions.

24 Q. Did you ever become aware that prisoners were being  
25 hooded by, for example, being told that this was what

1           was happening?

2    A.  No, I did not, no.

3    Q.  Were you ever told that prisoners were being

4           blindfolded --

5    A.  No, I was not.

6    Q.  -- or put into stress positions?

7    A.  No, I was not.

8    Q.  There is some evidence that the general officer

9           commanding 1 Div issued an order in or around early

10           April 2003 --

11   A.  Yes.

12   Q.  -- an oral order, which banned hooding.  Is that

13           something which you recall learning of during the tour?

14   A.  No, it's not.  I mean, my understanding of that is that

15           was issued by General Brims, but that is not something

16           that -- I wasn't privy to those meetings and it was not

17           something I heard.

18   Q.  So you don't think it's a matter of being told about the

19           order at the time and now having forgotten about it?

20           You think that you were actually not told about this

21           oral ban on hooding?

22   A.  I simply would not have been in a position to hear the

23           general -- his headquarters when that was said.  I never

24           went to the divisional headquarters.

25   Q.  I appreciate that, of course, but our understanding at

1 the Inquiry is that the order should have been cascaded  
2 down to battlegroups. Was it cascaded down to you?

3 A. Sorry, I don't remember if it was cascaded. I remember,  
4 you know, a variety of FRAGOs dealing with how we dealt  
5 with people who we apprehended, but I don't remember  
6 that either those referred to it being initiated as  
7 a verbal order, if you see what I mean. But clearly  
8 I have seen the FRAGOs and I am aware that a ban was  
9 imposed.

10 Q. We will come to the FRAGOs in a second.

11 A. Okay.

12 Q. Sticking with the oral order, if an oral order was given  
13 at divisional level and then cascaded down to brigade  
14 and subsequently down to 1 Black Watch, how would you  
15 expect to learn of it?

16 A. It could either be verbally, at the brigade conference,  
17 when I was there, if someone from the brigade  
18 headquarters were relaying it to the battlegroups; it  
19 could be turned into a paper FRAGO and then issued to us  
20 or it could be a combination of those; or it is possible  
21 that an order could come over the battlegroup net, that  
22 it could be conveyed from division to brigade and then  
23 onto us by radio from brigade.

24 Q. Moving to the written FRAGOs, do you recall, during the  
25 tour, becoming aware of the FRAGO which prohibited the

1 covering of prisoners' faces?

2 A. One moment, please.

3 Q. Could I just ask what it is that you are looking at  
4 there?

5 A. I am just trying to -- okay, yes, I do remember. I am  
6 trying to --

7 THE CHAIRMAN: Hang on a moment. What were you looking at?

8 A. I was just -- I was looking at the list of FRAGOs on the  
9 front cover of my witness statement.

10 THE CHAIRMAN: I don't think you need bother about that. If  
11 you are asked to look at one, they will come up on a  
12 screen.

13 A. Okay, Sir. Thank you.

14 MR HALLIDAY: I will take you to the FRAGO I am referring  
15 to. It may assist. It appears at MOD031014.

16 A. Yes.

17 Q. We can see at the top left, can't we, Major Ord, that  
18 this is a 7 Armoured Brigade FRAGO issued on 21 May  
19 2003?

20 A. Yes.

21 Q. It is FRAGO 63.

22 A. Yes.

23 Q. The distribution list is on the right-hand side.

24 A. Yes, it is.

25 Q. It includes 1 Black Watch, doesn't it?

1 A. Yes, it does.

2 Q. The first paragraph reads:

3 "Detention of civilians. A number of civilians have  
4 died in coalition forces custody and human rights  
5 organisations are actively investigating alleged abuses.  
6 At annex A is a comprehensive guide to the detention of  
7 civilians which is to be briefed to all those likely to  
8 be in a position of contact with civilians under  
9 detention at any stage in the chain. Battlegroups and  
10 sub-units are to adhere to this policy."

11 Then two pages on, please, this is the annex  
12 referred to. Over the page, we focus on the top  
13 paragraph, thank you. This paragraph is describing the  
14 treatment to be afforded to detained persons. Six lines  
15 down it says:

16 "Under no circumstances should their faces be  
17 covered as this might impair breathing."

18 Do you recall seeing this order during Op Telic 1?

19 A. Yes. As soon as I saw that FRAGO -- the first time  
20 I saw it, I knew that I had seen it before, yes.  
21 I don't recall the circumstances, but I knew that I had  
22 seen that before.

23 Q. The first time you saw it you were sure that you had  
24 seen it before?

25 A. I am sure I saw it on Telic 1, yes.

1 Q. When was the first time you saw it?

2 A. I don't remember exactly when it is, but looking at the  
3 date it's -- I was -- it's around the time that I was  
4 either the assistant operations officer or the  
5 operations officer and/or the brigade liaison officer.  
6 So I am certain -- just visually I just know that I have  
7 seen that piece of paper before.

8 Q. That's not quite what you said in the written statement  
9 to the Inquiry. Can we have paragraph 18 of that  
10 statement on screen, please, at BMI07565.

11 At the top of the page, you list a number of FRAGOs  
12 including, at (b), brigade level FRAGO 63, which is the  
13 one we have just been looking at. Do you see that?

14 A. I do see that, yes.

15 Q. Then in the next paragraph you say:

16 "With the exception of FRAGO 010, I do not remember  
17 having seen the brigade FRAGOs referred to above but  
18 I am sure that I would have done in the course of my  
19 roles as brigade liaison officer, assistant ops officer  
20 and ops officer."

21 You said there, didn't you, that you did not  
22 remember having seen this FRAGO?

23 A. I did say that, yes. I'm certain that I have seen that  
24 before and that I saw that in Iraq.

25 Q. Are you able to explain why you said you did not

1 remember seeing it in your witness statement?

2 A. To be honest, no, I am not. I find that slightly  
3 strange. For some reason I know that -- I have a visual  
4 memory of seeing that piece of paper before.

5 Q. Do you recall how the order was disseminated within the  
6 battlegroup?

7 A. I don't remember how this particular order was dealt  
8 with, as -- I am sure it would have been by one of the  
9 methods which I described earlier, but I don't remember  
10 the particular circumstances in which the battlegroup  
11 dealt with this op order.

12 Q. You don't recall it being read aloud at one of the CO's  
13 O Group meetings by Major Channer or indeed anyone else?

14 A. I don't remember it being read out, no.

15 Q. Can we go back to the order, please, and over the page  
16 to paragraph 5? Looking at that phrase, "Under no  
17 circumstances should their faces be covered as this  
18 might impair breathing", what do you understand that to  
19 mean?

20 A. That there was a risk if someone -- if someone's face  
21 was covered, that they could be exposed to an element of  
22 danger, that in -- you know, in very extreme  
23 circumstances, that could impair their breathing.

24 Q. According to your understanding, did the prohibition on  
25 the covering of faces mean a prohibition on putting

1 sandbags over prisoners' heads?

2 A. I would say that putting a sandbag over someone's head  
3 is covering their face and therefore it would be  
4 prohibited, yes.

5 THE CHAIRMAN: Have you just applied your mind to that  
6 particular sentence or was that always your view, do you  
7 think?

8 A. I don't remember -- Sir, I don't remember thinking about  
9 this in theatre, but I am certain that that is -- that  
10 seems remarkably logical to me, that a prohibition on  
11 covering faces would prohibit that, Sir.

12 MR HALLIDAY: Do you recall the use of that particular  
13 phrase in the FRAGO? Do you recall seeing it during  
14 your tour?

15 A. I don't have a memory of seeing it or -- no, I don't  
16 recall it. It's the -- my visual memory of this  
17 particularly refers to the first -- the cover letter,  
18 the one in capitals -- not the annex, the actual FRAGO  
19 itself.

20 Q. I understand. A few questions, Major Ord, about the  
21 handover at the end of your tour.

22 It's right, isn't it, that you and the rest of the  
23 battlegroup handed over to 1 QLR?

24 A. That is right, yes.

25 Q. To whom in 1 QLR did you personally hand over?

1 A. To their incoming ops officer, Captain Elliott.

2 Q. Did you cover prisoner handling in your personal  
3 handover with him?

4 A. We -- our personal handover covered a number of things.  
5 It covered how we dealt with incidents, how we ran the  
6 day-to-day business of the battlegroup. I do not  
7 actually remember covering specifically prisoners of war  
8 with him, but I do know that he and I discussed on  
9 a number of occasions and we looked through FRAGOs which  
10 were relevant.

11 Q. Did you expect that you would have covered FRAGOs which  
12 dealt with the physical handling of prisoners in your  
13 personal handover with him?

14 A. Absolutely certainly, yes.

15 Q. You do say in your statement the following -- it is  
16 paragraph 106 at page 23, BMI07570 -- describing your  
17 handover with Captain Elliott, you say:

18 "I do not remember the details of the handover but  
19 we would probably have discussed how to manage the  
20 movement and processing of prisoners in and out of the  
21 battlegroup area. However I would not have gone into  
22 any detail regarding the procedures for the physical  
23 handling of prisoners."

24 A. Sorry, I understand why you are asking that. Sorry,  
25 that was my interpretation of your immediate question

1           then. The initial question was handling -- I understood  
2           that as everything. I was answering that question  
3           understanding it in terms of everything from the point  
4           of apprehension to the end of our responsibilities to  
5           the TIF.

6           So if I would like to clarify, myself and  
7           Captain Elliott discussed how we dealt with prisoners in  
8           terms of moving them on from the point of capture  
9           through us through to the TIF. As I said in my  
10          statement, because I was not someone who came into  
11          contact with people who could end up being detained and  
12          by the nature of his job he would not either, he and  
13          I did not actually discuss the physical things which  
14          I think you have alluded to.

15        Q. So would you expect to have covered the prohibition on  
16          covering prisoners' faces that we saw earlier in that  
17          FRAGO a few minutes ago?

18        A. Yes, I would because -- not because he could be involved  
19          in taking prisoners, but because it would have been an  
20          operation order which was in the file in the ops room  
21          which he and I went through and handed over.

22        Q. So you expect you would have taken him through that  
23          particular prohibition, but you don't actually have any  
24          recollection of doing so now?

25        A. That's correct. It's a FRAGO which would have been

1 applicable. I am certain I would have -- I am certain  
2 it was in the ops room file and that he and I would have  
3 looked at and discussed it, yes. But I do not remember  
4 actually looking at that piece of paper with him, if you  
5 see what I mean.

6 Q. I understand. Whose responsibility within the  
7 battlegroup was it to ensure that 1 QLR received copies  
8 of FRAGOs which were extant?

9 A. Within the battlegroup, that was my responsibility.

10 Q. As ops officer?

11 A. Yes, within the battlegroup, yes.

12 Q. You have mentioned going through FRAGOs with  
13 Captain Elliott.

14 A. Yes.

15 Q. Did you take any other steps to ensure that written  
16 FRAGOs were handed over to 1 QLR?

17 A. Well, if I was handing over written FRAGOs to 1 QLR,  
18 I was handing them over to Captain Elliott rather than  
19 to other individuals because handovers take place at  
20 a one-to-one level, yes.

21 Q. Did you provide Captain Elliott with a copy of every  
22 FRAGO received by 1 Black Watch during the tour or  
23 a selection of FRAGOs?

24 A. I was not in a position -- if a FRAGO was clarified as  
25 secret, I would not have been in a position -- I would

1 not have been in a position to hand it over or copy it  
2 to him or, you know, give him a copy. He could have  
3 sight of it, but I would not be able to give him a copy.  
4 So it is possible that I did not hand over every single  
5 FRAGO, particularly those which were classified as  
6 secret. But I am sure that relevant FRAGOs, extant  
7 FRAGOs, which were not classified as secret and which  
8 therefore could be handed over or copied, that is what  
9 happened to them.

10 Q. In deciding which orders to pass to him, would you apply  
11 any filter apart from security classifications on  
12 operation?

13 A. Yes, I would. There could be FRAGOs within our  
14 operations file -- within the file in the operations  
15 room which had simply time-expired; for example, we  
16 could have mounted a battlegroup operation in Basra at  
17 some stage which had passed and was not therefore  
18 applicable to the QLR battlegroup. So if something was  
19 time-expired like that, I may not have handed it on to  
20 him, but I could have done for their own interest and  
21 to -- so they could see how we had conducted plans.

22 Also anything which perhaps -- the content of  
23 a FRAGO could contain something which I would consider  
24 administrative about the re-supply of Land Rovers or  
25 something like that. If it was something which didn't

1           have a relevance to them, I would have removed that or  
2           I would not have handed that over to them. So there are  
3           some categories in which I would not have handed them  
4           over, yes.

5   Q.   So you went through a process of selecting the relevant  
6           or key FRAGOs before handing those over?

7   A.   Absolutely.

8   Q.   Would you have expected to have included FRAGO 63 in  
9           that particular handover?

10  A.   Very much so, yes.

11  Q.   Is it possible that FRAGO 63 was not included in the  
12           selection of key FRAGOs which you passed on?

13  A.   I don't see how my judgment could have been such that  
14           I would not have handed it over to him, no.

15  Q.   Why is that?

16  A.   Because it is clearly of such weighty significance.  
17           It's not a FRAGO which had a time-expired -- it wasn't  
18           of historical interest in terms of an operation which we  
19           had previously done. It is clearly a FRAGO which at  
20           that time was still in force and, therefore, I don't see  
21           how I could have omitted -- I don't see how my judgment  
22           would have led me to omit it from the handover.

23  Q.   As for the remainder of the FRAGOs, the ones which were  
24           not selected by you as part of this process --

25  A.   Yes.

1 Q. -- would they have been passed on to 1 QLR?

2 A. Sorry --

3 Q. The FRAGOs which you deemed irrelevant, would they have  
4 been passed on to 1 QLR?

5 A. No, they would not. They would be things which, for  
6 time reasons, or were just related to operations which  
7 we had conducted -- they would have gone into the war  
8 diary, the record of all the paperwork which we received  
9 or issued which the 2IC held.

10 Q. That war diary was not handed over to 1 QLR?

11 A. No, a war diary is very specific to each battlegroup.

12 THE CHAIRMAN: So you only hand over those ones which are  
13 still extant and operational?

14 A. That's right, sir.

15 MR HALLIDAY: In your statement you mention the fact that  
16 FRAGO 63 was sent for information to 19 Mech Brigade.

17 A. Yes, I do.

18 Q. Paraphrasing, you say that for that reason it should  
19 have reached 1 QLR via 19 Mech Brigade.

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. In saying that, are you saying that this absolved  
24 1 Black Watch of responsibility for handing over the  
25 FRAGO --

1 A. No, I am not saying that. I am saying that the passage  
2 of FRAGOs to an incoming battlegroup, some come from  
3 brigade headquarters and some come from the battlegroup.  
4 Technically speaking, a 7 Brigade FRAGO, such as  
5 FRAGO 63, is only addressed to the subordinates of  
6 7 Brigade and clearly 1 QLR were not. However, I passed  
7 it over as a reinforcing mechanism to ensure that 1 QLR  
8 had the FRAGOs -- all the FRAGOs -- which they required.

9 Q. So it should really have reached 1 QLR, according to  
10 you, both through 1 Black Watch and also through  
11 19 Mechanised Brigade?

12 A. Absolutely, because 19 Mechanised are the superior  
13 headquarters to the 1 QLR, and my absolute certain  
14 understanding of why it was an information copy from  
15 7 Brigade is because 7 Brigade cannot order 1 QLR to do  
16 something, but 7 Brigade, understanding the significance  
17 of that order in exactly the same way as I did, referred  
18 it on. They referred it to 19 Brigade, their parallel  
19 organisation, who were responsible for 1 QLR, for them  
20 to turn around a FRAGO and pass it down their chain.

21 MR HALLIDAY: Thank you.

22 THE CHAIRMAN: Thank you. You may be asked one or two more  
23 questions. Ms Hetherington?

24 MS HETHERINGTON: No thank you, Sir.

25 MR DONMALL: Thank you, sir. I am mindful of the time.

1 THE CHAIRMAN: So am I, but take your time.

2 Questions by MR DONMALL

3 MR DONMALL: Training, you say in your statement that you  
4 joined 1 Black Watch in January 2003.

5 A. That's right.

6 Q. Do you know if Black Watch had had any training already  
7 in anticipation of potential conflict in Iraq by that  
8 stage?

9 A. I was phoned up by the commanding officer in about  
10 November of 2002 at my job in Scotland and we discussed  
11 that I would come back to the Black Watch, probably as  
12 the brigade liaison officer. It was clear from that  
13 phone call that some work-up had already started in  
14 presentation for deployment, but I can't remember  
15 specifically what it was. So, yes, the battlegroup  
16 preparation in broadest terms for going to Iraq began  
17 before January -- or in some senses it began before  
18 January 2003.

19 Q. Moving to the issue of prisoners at 1 Black Watch, did  
20 your job as assistant ops officer and then ops officer  
21 involve you directly in the physical handling of  
22 prisoners?

23 A. Absolutely not at all. It's very much a headquarters  
24 office-based job.

25 Q. You said -- paragraph 61 of your statement, and we can

1 go to it if you need, but I do not think so -- that you  
2 went on patrols. How often did you go on patrols?

3 A. Infrequently. Clearly my main responsibilities were in  
4 the ops room in the battlegroup headquarters.

5 Q. You say "infrequently" ...

6 A. Maybe a couple every fortnight or so.

7 Q. What sort of patrols would you go on?

8 A. They were perhaps visits to police stations, they were  
9 perhaps familiarising ourselves with an area, they were  
10 perhaps looking at areas that we may be planning  
11 operations in.

12 Q. Were prisoners ever taken on such patrols?

13 A. No, absolutely not.

14 Q. You say you saw detainees at BG Main.

15 A. That's correct.

16 Q. How often?

17 A. Definitely not daily. It's hard to tell an average, but  
18 maybe once a week or something like that.

19 Q. Did you ever go inside the temporary detention facility?

20 A. No, I would did not. I mean the way I -- I saw them  
21 because it was open-walled or there were not walls on  
22 all four sides and, therefore, it was possible to see  
23 them without actually going into it, if you see what  
24 I mean.

25 Q. As operations officer, am I right in thinking that you

1 worked in the operations room?

2 A. That's right, yes.

3 Q. How long would you spend there on average?

4 A. It would depend on how busy our day was, but invariably

5 at least a morning to evening shift, as it were. But

6 I would nip out from time to time for my meals or that

7 sort of thing or if I had to go out onto the ground.

8 But the majority of my working day and often the working

9 night was spent in the ops room.

10 Q. Moving on to FRAGO 63, you told the Inquiry that when an

11 order came through from brigade, there were a number of

12 options as to how it might be dealt with.

13 A. Yes.

14 Q. Dissemination of a further written order, discussion at

15 the battlegroup orders group --

16 A. Yes.

17 Q. -- and perhaps being put out over the radio net.

18 A. Yes.

19 Q. Looking at the FRAGO now and its date, can you help the

20 Inquiry as to which method do you think may have been

21 used in all probability?

22 A. I think probably discussed -- of those options, the one

23 I would say it was most likely to have been transmitted

24 by would have been at the battlegroup conference that

25 evening with our company commanders.

1 Q. Do you think a paper FRAGO would have been written,  
2 a Black Watch FRAGO that is?

3 A. That would depend on -- I don't know, to be honest.  
4 That depends on what printing and photocopying  
5 facilities we had.

6 Q. At the time, what printing and photocopying facilities  
7 did you have?

8 A. Sorry, the date, was it 21 May?

9 Q. Yes.

10 A. Five and a half/six weeks before the end of tour,  
11 possibly not or probably not. I think it was later that  
12 we got -- I think it was into June, quite towards the  
13 end of our time, that we actually received more  
14 resources.

15 Q. If we can just leave that FRAGO on the screen, I just  
16 want to look at paragraph 1 of that, MOD031014:  
17 "At annex A is a comprehensive guide to the  
18 detention of civilians which is to be briefed to all  
19 those likely to be in a position of contact with  
20 civilians under detention at any stage in the chain."  
21 Were you one of the people who may be responsible  
22 for briefing those who may be in contact with prisoners?

23 A. No, because I was not in charge of soldiers who were  
24 going to go onto the ground.

25 Q. Who would have been responsible under this FRAGO for

1 giving such a briefing to soldiers?

2 A. The company commanders, the majors who we saw on a daily  
3 basis at our conferences and throughout -- and sometimes  
4 they would come and see us or we would see them through  
5 daily business anyway. They had primary responsibility  
6 for the actual men on the ground. So what I would  
7 imagine is that they would -- or I knew they would  
8 always leave our meeting, they would hold their own  
9 meeting with their platoon commanders, their sergeants,  
10 their sergeant majors and they could disseminate the  
11 information that way.

12 Q. Do you have any reason now to think that those  
13 responsible for such briefings would not have been made  
14 aware of this annex?

15 A. No, no, I do not.

16 Q. Moving finally to handover. You discussed with Counsel  
17 to the Inquiry the process of selecting FRAGOs.

18 A. Yes.

19 Q. Can I just see if I understood this right? You say that  
20 there is a key orders bundle that was kept in the  
21 operations room.

22 A. That's right.

23 Q. Was that kept in the operations room for the duration of  
24 the tour --

25 A. Um --

1 Q. -- or was it compiled solely for the handover?

2 A. Sorry, I see what you mean. No, the operations officer  
3 and the ops room, whether it is a room in a building or  
4 an armoured vehicle with radios fitted in it, have to  
5 have physical sight of the relevant information that  
6 they need, and so --

7 Q. So did this --

8 THE CHAIRMAN: Don't interrupt him, please, Mr Donmall.  
9 I quite want to hear the end of that.

10 A. So the purpose of that was it was to assist with the  
11 daily running of the operations. That's its primary  
12 purpose. It then immediately becomes something which is  
13 of great value for the handover. But the purpose of  
14 having that file in the operations room is to run  
15 operations.

16 MR DONMALL: Indeed. So FRAGO 63 having been received by  
17 the battalion, what would have been done with the  
18 written copy of copy 63? Would it have made it into  
19 this key operations orders?

20 A. Yes, yes.

21 Q. And that would have been, at the time, effectively in  
22 mid to late May when it was received?

23 A. Absolutely, yes.

24 Q. You have been referred to paragraphs 106 and 107 of your  
25 statement. I don't think we need to go to them

1 directly, but with regards to your handover with  
2 Captain Elliott, leaving aside the handing over of the  
3 orders for one moment, in terms of handing over your  
4 role to him, is it fair to say that you explained to him  
5 and you handed over what your role itself involved?

6 A. Yes. I mean he was trained as an operations officer and  
7 so he already had an understanding in generic terms of  
8 what operations officers do. So I was involved in  
9 handing over, you know, the battlegroup situation and  
10 how we dealt with things at that time and on that  
11 operation.

12 Q. I think you told us that your role as operations officer  
13 didn't itself involve you in the details of prisoner  
14 handling.

15 A. Yes.

16 Q. Then going to the handing over of the key orders bundle,  
17 you say you handed over this key orders bundle --

18 A. Yes.

19 Q. -- to Captain Elliott. Can you just explain in  
20 practical terms how would that handover, you know,  
21 practically, take place?

22 A. Yes, I do remember getting the file and, even before  
23 they came -- before their advanced party arrived to  
24 start the handover -- I looked through them to  
25 refamiliarise myself with absolutely everything that was

1 in there. I do remember sitting down with  
2 Captain Elliott and actually going through, one by one,  
3 item by item, and discussing whether they were  
4 time-expired and therefore no longer relevant or whether  
5 they were relevant and giving them a copy of the order.

6 Q. Finally -- well, penultimately -- have you any reason to  
7 think now that FRAGO 63 would not have been included in  
8 the orders handed over?

9 A. No, not at all. I don't remember actually handing over  
10 that piece of paper, but I can't see how it would have  
11 been filtered out. I can't see how that could happen.

12 Q. Finally, was providing your statement to the Inquiry,  
13 I think in March of this year, the first time that you  
14 have been asked for your evidence regarding these  
15 events?

16 A. Yes.

17 MR DONMALL: I have no further questions.

18 THE CHAIRMAN: Thank you.

19 Further questions by MR HALLIDAY

20 MR HALLIDAY: Major Ord, I am just going to try to probe  
21 a little more the key orders file that was kept in the  
22 operations room.

23 A. Yes.

24 Q. You said it was kept to assist with the daily  
25 operations; is that right?

1 A. Yes, if I was operations officer manning the radio and  
2 the desk and I may have to refer to some items in it,  
3 yes.

4 Q. Does that mean that it only contains the orders for  
5 operations which were currently occurring?

6 A. No, no. I think I alluded a couple of times to there  
7 may be -- for example, if we conducted a battlegroup  
8 operation maybe a couple of weeks ago, our own FRAGO  
9 about that could be in there as well.

10 Q. Would that file contain, in effect, standing orders  
11 which were of ongoing relevance as well as FRAGOs which  
12 related to particular operations?

13 A. I don't remember seeing standing orders, so --

14 Q. I may not be using the phrase "standing orders" in its  
15 technical sense. What I'm referring to is FRAGOs which  
16 contained instructions of continuing relevance --

17 A. Yes, exactly.

18 Q. -- rather than referring to a specific operation.

19 A. Yes, exactly, definitely --

20 Q. Would the file have included such FRAGOs?

21 A. Absolutely. It contained such FRAGOs, yes.

22 Questions by THE CHAIRMAN

23 THE CHAIRMAN: Perhaps I can have one go about that. The  
24 key operations orders file, that presumably would, at  
25 any given time, contain the operations that were

1           actually in existence at the time -- orders for that --

2   A.   Yes, Sir.

3   THE CHAIRMAN:  -- but, in addition, those other orders not

4           concerned with the operations, but which were still

5           extant and ongoing?

6   A.   Absolutely, that's correct, Sir.

7   THE CHAIRMAN:  Once you got to the end of the particular

8           operation that you were dealing with, you would whip out

9           the ones that were finished with and put those in the

10          war diary; is that right?

11  A.   That's correct, Sir.  It may not happen immediately,

12          once --

13  THE CHAIRMAN:  That's the practice that should be adopted.

14  A.   That's right, Sir, leaving those which were extant still

15          in the file.

16  THE CHAIRMAN:  May I ask you one other question?

17  A.   Yes.

18  THE CHAIRMAN:  Initially the operations orders would almost

19          certainly all come to you, would they, from brigade --

20          sorry, not operations orders -- orders would come to you

21          from brigade or would they go to someone else?

22  A.   By and large, that's correct, Sir.  As brigade liaison

23          officer, because I was in the headquarters at least

24          twice a day, they would be handed over to me and then

25          I would then bring them back to battlegroup headquarters

1           and we would work out what to do with them.

2   THE CHAIRMAN:  Who would decide whether or not they have  
3           a specific relevance for one of the other branches, such  
4           as G2 or G5?

5   A.  Sir, I was trained to be capable of making that  
6           decision.  If something was -- often it could be  
7           addressed to -- if it was addressed to the G4, if it was  
8           clearly -- the substance was about G4 and the supply, it  
9           would be obvious that it would be going to them.  But  
10          generally I would make that decision and I would also  
11          let the commanding officer know about that FRAGO.

12  THE CHAIRMAN:  Would you then yourself, personally, do  
13          anything about seeing that whoever it was designed to  
14          reach actually had it?

15  A.  Actually had it?

16  THE CHAIRMAN:  Well, actually had notice of it.

17  A.  Absolutely, Sir, yes.  I would ensure that it got to the  
18          relevant person, yes.

19  THE CHAIRMAN:  I see.

20                 What about FRAGO 29?  Would you think that that had  
21          any relevance for the G2 branch?

22  A.  Sorry, sir, can I see 29 please?

23  MR HALLIDAY:  It may be FRAGO 63, Sir.

24  THE CHAIRMAN:  63, yes.  Sorry, 29 is the predecessor  
25          divisional one.  63, which you have been looking at,

1           would you think that that had any relevance to G2?

2    A.   Yes, I would, Sir.  I think what is difficult is that in  
3           receiving only one copy of that FRAGO, it -- I think it  
4           has relevance to G2.  I think it has relevance to G3 as  
5           well, to current operations.

6    THE CHAIRMAN:  Yes.  What would you do about disseminating  
7           it to those particular branches?  G3 would be you in any  
8           event.

9    A.   That's right, Sir.  G3 would be myself, the 2IC and the  
10           commanding officer.  The intelligence operations officer  
11           was in an office literally just down the corridor and so  
12           I would go and show it to him, he would write it down or  
13           someone would go and get him and he would become aware  
14           of it in that way as well.

15   THE CHAIRMAN:  Would you expect him to keep a record of it?  
16           When I say "keep a record", not a photocopy because you  
17           may not have had the facilities for that, but you would  
18           expect him to have some record of having received that?

19   A.   I find it quite difficult to answer, Sir --

20   THE CHAIRMAN:  If you can't answer it, don't do so.

21   A.   I wouldn't expect a definite record to be made that he  
22           had seen that.

23   THE CHAIRMAN:  No.  What I am aiming at is wondering whether  
24           or not the G2 input into it or requirement to see it  
25           would be passed on on a handover.  Do you think that

1 would happen?

2 A. Yes, I would, Sir, yes. I would say that that's --  
3 I have described how the handover of orders between  
4 myself and the incoming operations officer would support  
5 another level between the brigade headquarters and the  
6 incoming battlegroup. So, in the same way, by myself  
7 handing over that op order, I think that reinforces and  
8 is reinforced by the G2 cell discussing that in their  
9 handover as well.

10 THE CHAIRMAN: Yes, I follow.

11 All right, that is all the questions that the  
12 Inquiry have --

13 MR DONMALL: Sir, if I may, just one question arising.

14 THE CHAIRMAN: You are pressing your luck, Mr Donmall. One  
15 question.

16 Further questions by MR DONMALL

17 MR DONMALL: If it assists you, I think you said, Major,  
18 that you thought it was likely that it was read out at  
19 the O Group. If that was the case, would someone from  
20 G2 have been present at that time?

21 A. Yes. The daily O Group and -- which we set at various  
22 times through the day and we could also convene them on  
23 an ad hoc basis if we needed to, the participants there  
24 were the commanding officer, the 2IC, the ops officer,  
25 myself, as brigade liaison officer, the intelligence

1 officer, the company commanders, the regimental sergeant  
2 major, the quartermaster. So, yes, everyone there would  
3 have been informed of that.

4 THE CHAIRMAN: You can take it that I was aware of that,  
5 Mr Donmall.

6 MR DONMALL: I apologise, Sir.

7 THE CHAIRMAN: Yes.

8 MR HALLIDAY: Sir, that concludes business for today.

9 THE CHAIRMAN: Did you say there was something more you  
10 wanted to ask him, Mr Halliday?

11 MR HALLIDAY: Nothing more to ask.

12 THE CHAIRMAN: He can go, can't he?

13 MR HALLIDAY: He can go, but there is some more business.

14 THE CHAIRMAN: Thank you very much. Sorry a long wait for a  
15 comparatively short but important piece of evidence.

16 A. That is no problem at all, Sir. Thank you.

17 THE CHAIRMAN: I know we have reading of witnesses.

18 Summary of witness statements by MR HALLIDAY

19 MR HALLIDAY: Two witnesses have statements to be read into  
20 the transcript.

21 Summary of witness statement of CLARK FLINT

22 MR HALLIDAY: The first is Major Clark Flint. During  
23 Op Telic 2, Major Flint was a member of the Royal Army  
24 Medical Corps. His role in Iraq during Op Telic 2 was  
25 as SO2 medical ops and plans, responsible for medical

1 planning at operational level and the "blue light  
2 matrix", a system for ensuring the prompt treatment of  
3 injured soldiers and prisoners. His statement addresses  
4 in detail the training he has undertaken over his  
5 26 years in the armed forces.

6 He was asked by the Inquiry to describe his  
7 understanding of the duties owed by regimental medics in  
8 respect of the provision of medical care to persons  
9 detained by UK forces. He says he cannot recall from  
10 memory what these duties would have been, but says that  
11 each battlegroup should have had a written standard  
12 operating procedure which described the duties of  
13 regimental medics. The Inquiry has not seen any such  
14 SOP for 1 QLR.

15 Witness statement of CLARK FLINT

16

17

18

Witness Name: Clark Flint

19

Statement No: 1

20

Exhibits:

21

Dated: 13 February 2010

22

23

THE BAHA MOUSA PUBLIC INQUIRY

24

25

Witness Statement of Major Clark Flint

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I, Clark Flint, will say as follows:-

1. I make this statement in response to the Inquiry's Rule 9 Request dated 18 December 2009. I have read this Request, and I seek here to cover everything that it raises to the best of my ability and recollection.

2. I have been shown and have read copies of the following documents:

(a) Joint Warfare Publication 1-10 - Annex 3F - Instructions for the Administration of Prisoners of War Establishments (MOD013546);

(b) OP TELIC - 1(UK) Division Medical Directive - Prisoner of War Medical Care (MOD029072);

(c) Extracts from Witness Statement of Oliver Bartels dated 26 September 2009 (BMI04726 - BMI04730);

(d) Note by Capt D A Keilloh dated 6 September 2003 (HAL000001); and

(e) 1QLR RAP Medical Handover dated 13 October 2003 (HAL000005).

Career History

3. I have been a serving member of the Armed Forces for approximately 26 years during which time I have been involved on operational deployments to Iraq, Cyprus,

1 Bosnia and Afghanistan. I was not involved in prisoner  
2 handling on any of these occasions or at any stage  
3 during my career to date. I continue to serve as  
4 a member of the Armed Forces in Australia.

5 Initial Training in the Armed Forces

6 4. I initially joined the Armed Forces as a member  
7 of the Royal Electrical and Mechanical Engineers  
8 ("REME") which was different from the Infantry. Having  
9 spent six years in the REME, I commissioned into the  
10 Royal Army Pay Corps where I served on tours to Iraq,  
11 Cyprus and Bosnia. In 1997 I transferred to the Royal  
12 Army Medical Corps ("RAMC") and served in Afghanistan as  
13 well as on a second tour of Iraq (OP TELIC 2). In 2006  
14 I left the RAMC and joined the Australian Armed Forces.  
15 I do not recall receiving any training on prisoner  
16 handling at that stage of my career.

17 Pre Deployment Training

18 5. I received pre-deployment training for OP TELIC  
19 2 approximately four and a half months after returning  
20 from a tour to Afghanistan for which I also received  
21 pre-deployment training. For this reason, and as  
22 a result of the time that has elapsed since 2003, I  
23 cannot now be certain that my recollection of the  
24 training I received was specifically in preparation for  
25 my deployment to Iraq alone or a combination of the

1 training I received for Afghanistan and Iraq. Against  
2 this background I have sought to provide, as accurately  
3 as possible, my account of the pre-deployment training  
4 received for OP TELIC 2.

5 Conditioning and Shock of Capture

6 6. I have been asked by the Inquiry to provide an  
7 account of any training or guidance I have received on  
8 the practice or prohibition of establishing or  
9 maintaining the "shock of capture" or of the  
10 "conditioning" of prisoners of any category.

11 7. I am aware of the terms "shock of capture" and  
12 "conditioning" but I do not recall being trained on  
13 either during my time in the Armed Forces. I have also  
14 been asked to provide an account of my training and  
15 understanding on the practice or prohibition of the  
16 following five techniques:

17 (a) Deprivation of sight by hooding, blindfolding or  
18 blacked out goggles;

19 (b) Stress positions;

20 (c) Subjecting a prisoner to discomforting levels of  
21 noise;

22 (d) Provision of food or water to prisoners; and

23 (e) Permitting a prisoner to sleep.

24 8. Other than my generic training on the Laws of  
25 Armed Conflict (detailed below), I do not recall

1 receiving and have never provided training on these five  
2 techniques. During OP TELIC 2, I did not witness nor  
3 hear of any of these techniques being adopted on  
4 prisoners, nor do I remember any conversations about the  
5 appropriateness and/or legality of such practices.

6 Laws of Armed Conflict ("LOAC")

7 9. LOAC training is a mandatory training course run  
8 annually for every soldier. All RAMC officers receive  
9 LOAC training during their Entry Officer training on  
10 first entry into the Army. As part of the Officer  
11 development in the RAMC, I attended the LOAC officer  
12 course in Tidworth. To the best of my recollection, the  
13 LOAC training was delivered by way of a video which  
14 lasted approximately twenty minutes. The overall  
15 message that I took from the video was that prisoners  
16 were to be treated with respect in accordance with the  
17 Geneva Conventions and that you should treat them as you  
18 would expect to be treated yourself. I understood this  
19 to mean that prisoners should be fed and watered,  
20 allowed to rest and not be physically abused.

21 Medical training

22 10. Throughout my pre-deployment training (on the  
23 medical side), I was also taught that all prisoners were  
24 to be treated according to their injury and not their  
25 background (race, creed, colour etc). This was

1 reflected in our table-top exercises during which the HQ  
2 practiced table-top training for all  
3 contingencies - including the detention of prisoners.  
4 This, however, was only practiced at HQ level. The  
5 responsibility for training at RAP level was the  
6 responsibility of the CO and Brigade, with the Commander  
7 Medical acting as a technical advisor. I did not attend  
8 and am not aware of how training at RAP level was  
9 conducted in preparation for OP TELIC.

10 Conduct after capture ("CAC")

11 11. I have attended CAC training as part of my  
12 pre-deployment training but I cannot now be certain as  
13 to whether this was prior to my tour of Afghanistan or  
14 Iraq. To the best of my recollection, the CAC training  
15 took place in Tidworth and was a theory-based course on  
16 which someone (I think he was a qualified interrogator)  
17 spoke about what I could expect to be subjected to if  
18 captured by enemy soldiers. In light of the time that  
19 has elapsed since I received CAC training, I cannot now  
20 recall specifically being informed about the use of  
21 hooding, stress positions, subjection to noise, sleep  
22 deprivation or the deprivation of food or water as part  
23 of the course. I do not remember any specific details  
24 of what I was taught during CAC training.

25 12. I do not recall taking part in any practical

1 exercises as part of the CAC training and cannot  
2 remember being shown any practical demonstrations.  
3 Although I do not remember it being specifically  
4 mentioned on the course, I was clear in my mind that  
5 I was never to use the methods described on the course  
6 on others. It was purely an indication of what enemy  
7 soldiers might do to me if I was captured.

8 Other Training Courses

9 13. I have not received any training on Tactical  
10 Questioning or Interrogation during my time with the  
11 Armed Forces.

12 14. I did not provide or receive any additional  
13 training on prisoner handling (either in theatre or  
14 otherwise) other than what I have described above.

15 15. I did not attend any courses for subsequent  
16 promotion which involved training or instructions on  
17 prisoner handling, but I do recall attending a LOAC  
18 briefing session, which might be considered to be  
19 a specialist course. I cannot remember when I attended  
20 the brief but it lasted approximately two hours. To the  
21 best of my recollection, the brief was provided by an  
22 Iraqi who explained the language, religion, background  
23 and customs in Iraq, (for example a male should never  
24 treat an injured female).

25 16. I have been asked by the Inquiry to provide an

1 account as to whether I received training from the  
2 Intelligence Corps, the Royal Military Police ("RMP"),  
3 Military Corrective Training Centre ("MCTC") staff or  
4 Physical Training staff. I can recall receiving some  
5 training from the Intelligence Corps with regards to  
6 site locations and concerning the enemy (although  
7 nothing specific on prisoner handling) as well as  
8 physical training being conducted by physical training  
9 staff. I cannot however remember any training being  
10 conducted by the RMP or MCTC staff.

11 17. I confirm that this is the full extent to which  
12 I can recall the training I have received on prisoner  
13 handling and LOAC.

14 Orders and Practice in relation to the handling and  
15 treatment of detainees/internees during Op TELIC

16 18. I have been asked by the Inquiry to provide an  
17 account of any orders that I personally gave or received  
18 for OP TELIC 2 in respect of the handling and treatment  
19 of prisoners of any category.

20 19. It would be usual practice for any such orders  
21 to be disseminated from Division and Brigade to  
22 Battlegroups. I did not give and I do not recall  
23 receiving any orders relating to prisoner handling for  
24 the period of my deployment. I would not have expected  
25 to receive any such orders given that prisoner handling

1 was not my focal role in theatre on OP TELIC 2. My role  
2 is described below at paragraphs 24 to 27.

3 20. I have been asked by the Inquiry to indicate  
4 whether I gave or received any aide memoires in relation  
5 to LOAC or prisoner handling on OP TELIC 2. Although  
6 I have never given any, I remember receiving an aide  
7 memoire during my pre-deployment training on the Rules  
8 of Engagement ("RoE"). This was a card which stated in  
9 essence, that the minimum force necessary should be used  
10 at all times and you should only open fire if your life  
11 was being threatened.

12 21. I have been asked by the Inquiry to provide my  
13 understanding of the practice adopted by 19 Mech Bde  
14 concerning the matters referred to in paragraph 7 above  
15 (i.e. "shock of capture" and "conditioning") in Op TELIC  
16 2 before 14 - 16 September 2003. I am not aware of how  
17 the BG came to adopt these practices and I do not know  
18 the extent to which the chain of command was aware of  
19 these practices.

20 Handover from 1(UK) Div to 3(UK) Div

21 22. I have been asked to comment on the handover  
22 from 1(UK) Div to 3(UK) Div. I can only comment on the  
23 handover given to myself and the 3 (UK) Div EHO and  
24 would say that the handover given to the Medical Branch  
25 by HQ 1 Div Medical staff was very poor. It was

1 conducted by the 1 Div Environmental Health Officer,  
2 whose surname I think was "Fletcher" but I cannot be  
3 certain. I considered the handover to be poor because  
4 my direct counterpart at the time was not available to  
5 conduct it and I do not believe that Fletcher had any  
6 Operational knowledge. Fletcher therefore conducted the  
7 handover with an environmental health focus where as my  
8 role in theatre was Ops and Plans. My handover involved  
9 a short tour of all of the subordinate headquarters and  
10 key areas. I do remember that the Blue Light Matrix  
11 (explained at paragraph 25 below) was running  
12 efficiently and all of the current operational medical  
13 matters were in good order. The key issues at the time  
14 were the transition from war to peace and dealing with  
15 the many heat injuries of British personnel.

16 23. I do not recall any specific arrangements that  
17 were put in place during the handover to ensure that  
18 orders and guidance relevant to the provision of medical  
19 care to persons detained by the UK forces were handed  
20 over to 3 (UK) Div, nor do I recall any part of my  
21 handover covering the provision of medical care to  
22 prisoners. As mentioned above, I would not have  
23 expected the handover to cover these areas because they  
24 did not form part of my day-to-day role.

25 Rank and Role in September 2003

1           24. During the first two months of OP TELIC 2,  
2 I was posted as the SO2 Medical Ops and Plans at HQ 3  
3 (UK) Div at Bulford. I deployed to OP TELIC 2 in  
4 July 2003 until the beginning of September 2003. I was  
5 posted away from this HQ in early September 03 and  
6 handed my duties over to Maj Martin Bell RAMC.

7           25. My main duties were focused on ensuring that  
8 the medical planning conducted at an operational level  
9 met all of the doctrinal requirements and medical  
10 timelines. These doctrinal requirements and timelines  
11 applied both to the treatment of prisoners as well as  
12 British soldiers but I do not remember any applying  
13 solely to the treatment of prisoners. I was also  
14 responsible for the running of the Blue Light matrix  
15 which meant ensuring that the one hour limit within  
16 which a doctor or appropriately trained person had to  
17 treat a serious injury of a soldier or a prisoner  
18 (either by ambulance or helicopter) was achieved through  
19 the area of operations.

20           26. My main points of contact during my deployment  
21 were at the Divisional Brigade and Medical Regiment  
22 level. I had very little contact with RMOs, as these  
23 where the responsibility of the Brigade and Brigade  
24 Senior Medical Officer ("SMO"). I reported to Lt Col  
25 Martin Bricknell (SO1 Medical Ops and Plans) and

1 Col Ewan Carmichael - Commander Medical of the Division.

2 27. HQ 3(UK) Div was a highly trained HQ, which had  
3 recently returned from deployment in Afghanistan. The  
4 drills and Standard Operating Procedures ("SOPs") were  
5 current, as the RAMC doctrine had very recently been  
6 updated.

7 Duties Owed by Army Medical Officers and Regimental  
8 Medical Assistants

9 28. I have been asked by the Inquiry to provide an  
10 account of duties owed by Army Medical Officers ("AMOs")  
11 and Regimental Medical Assistants ("RMAs") in respect of  
12 the areas outlined below. I cannot now recall the  
13 duties owed from memory, however written SOPs were  
14 available in theatre during OP TELIC 2. They were  
15 generic documents which detailed the job descriptions  
16 and duties owed in respect of both AMOs and RMAs.

17 I have been asked by the Inquiry to clarify whether 1QLR  
18 would have had such an SOP. I expected every unit to  
19 have written SOPs in light of the requirement I describe  
20 below at paragraph 29, however I do not know the  
21 position in relation to 1QLR specifically. I would not  
22 have seen these SOPs at the time, I do not hold a copy  
23 of them in my possession and therefore I do not know the  
24 specific information contained therein.

25 29. The SOPs were self-standing documents produced

1 by Battalions and each Unit was required to have  
2 a written SOP for the RAP which gets updated every two  
3 years. I do not know where this requirement was set out  
4 or how it was disseminated, however I assume it was  
5 a Brigade requirement and communicated by Brigade to the  
6 Battalions as such. I am aware of this because in  
7 2000/2001, I was involved with Div HQ in informing the  
8 units to produce these SOPs. I believe that these SOPs  
9 were held by the units' training officer and therefore  
10 would be readily available to all those within the unit.

11 The provision of medical care to persons detained by  
12 UK forces

13 30. The only training I can recall receiving in  
14 relation to the provision of medical care to injured  
15 prisoners or enemy soldiers is what I have described  
16 above at paragraph 10 of this statement, namely that UK  
17 forces needed to have the necessary capacity and  
18 security arrangements in place before administering the  
19 treatment.

20 31. I am not aware of any injured prisoners or  
21 enemy soldiers being treated during OP TELIC 2 and  
22 I cannot recall any instances of treatment being  
23 administered to such persons at the time because I was  
24 physically stationed away from the prisoner detention  
25 facilities. I would expect that the Medical Officers on

1 the ground at BG level and the Bde SMO (whose name  
2 I cannot recall) would be more likely to know of  
3 instances where prisoners were being treated during OP  
4 TELIC 2. I do remember one occasion when Col Ewan  
5 Carmichael was approached by US soldiers who asked  
6 whether they could send over a group of injured  
7 prisoners for treatment. Col Carmichael refused due to  
8 a lack of capacity and for security reasons because the  
9 prisoners required twenty-four hour armed guard for the  
10 security of the camp and the security of the prisoners  
11 themselves. I recall one prisoner, for example, who had  
12 swallowed a razor blade and so required close  
13 observation and supervision at all times. This would  
14 have placed an enormous strain on the resources  
15 available.

16 Record-keeping in respect of such care

17 32. If medical care was being administered to such  
18 persons at the Regimental Aid Post ("RAP"), those  
19 providing the treatment were required to complete  
20 a Casualty Report. This report detailed whether the  
21 injured person was classified as a P1 (Surgery Required  
22 for Life Threatening Injuries), P2 (Surgery Required) or  
23 P3 (Walking Wounded).

24 33. Upon completion the report was sent to Div HQ  
25 where I would monitor the information to determine

1           whether additional medical facilities were required to  
2           meet capacity.

3           Certifying such persons as fit for detention

4           34. I am aware that certain medical checks needed  
5           to be carried out in order to certify someone as being  
6           fit for detention but due to the time that has elapsed  
7           since 2003, I cannot now remember the checks that were  
8           carried out. These would, however, also have been  
9           evidenced in the written SOPs and, I expect, available  
10          to the medical staff in theatre for the reasons outlined  
11          in paragraph 29 above. I do not know whether there was  
12          any duty to record such medical checks, nor where this  
13          duty was set out if it did exist.

14          Certifying such persons as fit for Tactical  
15          Questioning or for Interrogation

16          35. I am not aware of any duties owed by AMOs or  
17          RMAs in respect of certifying such persons as fit for  
18          Tactical Questioning or Interrogation, nor am I aware of  
19          whether the AMOs or RMAs actually carried out such  
20          certifications during OP TELIC 2.

21          Ensuring that such persons are held in sanitary  
22          facilities.

23          36. I remember that the written SOPs in theatre  
24          explained the sanitary conditions in which such persons  
25          should be held but I cannot now recall what these were.

1           Guidance and Advice on Medical Duties and  
2           Responsibilities Available

3           37. I have been asked by the Inquiry to provide an  
4           account of what guidance and/or advice was available to  
5           medical personnel in theatre during OP TELIC 2 regarding  
6           the proper medical attention to be given to prisoners  
7           and how this information could be accessed. In essence,  
8           the SOPs I have referred to formed the basis of the  
9           guidance.

10          38. In addition to the SOPs available in theatre,  
11          every doctor could contact an SMO based at Bde HQ if  
12          necessary who would act as a mentor to the doctor when  
13          required.

14          39. As far as I was aware there seemed to be  
15          sufficient guidance available because no concerns were  
16          ever raised with me at the time in relation to any lack  
17          of guidance or advice available.

18          JWP 1-10 - Annex 3F - Instructions for the  
19          Administration of Prisoners of War Establishments  
20          (MOD013546)

21          40. I do not recall having sight of this document  
22          previously however having read "Section VI - Medical  
23          Arrangements", I agree with its contents.

24          OP TELIC - 1(UK) Division Medical  
25          Directive - Prisoner of War Medical Care (MOD029072)

1           41. I would have seen this document before  
2           deploying on OP TELIC 2 and, having read it again now,  
3           I agree with its contents in relation to Prisoner of War  
4           Medical Care. As explained above at paragraph 31, I was  
5           not aware of any treatment afforded to prisoners during  
6           OP TELIC 2 and so I am unable to comment on whether the  
7           direction given by this document was followed in  
8           theatre.

9           Extracts from Witness Statement of Oliver Bartels  
10          dated 26 September 2009 (BMI04726 - BMI04730)

11          42. I have been asked by the Inquiry to provide  
12          a full account of any interaction I had with Oliver  
13          Bartels in respect of prisoner handling issues. I do  
14          not recall Oliver Bartels nor can I remember having any  
15          interaction with him during OP TELIC 2.

16          43. I have read BMI04726 - BMI04730. I have no  
17          reason to disagree with the account provided by  
18          Mr Bartels, however I cannot provide any further detail  
19          on this as I had no personal dealings with him or 1QLR.

20          Note by Capt D A Keilloh dated 6 September 2003  
21          (HAL000001) and 1QLR RAP Medical Handover dated 13  
22          October 2003 (HAL000005)

23          44. I have been asked by the Inquiry to provide  
24          a full account of any interaction I had with  
25          Capt Keilloh in respect of prisoner handling issues.

1 I do not recall Capt Keilloh nor can I remember having  
2 any interaction with him during OP TELIC 2.

3 45. I do not recall having seen HAL000001 or  
4 HAL000005 previously. I have now read these documents  
5 which relate to the medical facilities based at  
6 Battlegroup locations, in particular 1QLR. Given that  
7 I was stationed with 3 (UK) Div HQ, I had very minimal  
8 dealings with any Battlegroups including 1QLR. I have  
9 no reason to disagree with the content contained within  
10 these documents however I am not aware of whether these  
11 instructions were followed by 1QLR in theatre.

#### 12 Subsequent Experience

13 46. To the best of my knowledge, I had left theatre  
14 before the death of Baha Mousa and so I am not aware of  
15 what, if any, changes were implemented to the actual  
16 practices adopted in relation to the handling of  
17 prisoners after this time during OP TELIC 2. If such  
18 changes were implemented, I do not know whether 3 (UK)  
19 Div had a role in the consideration of these.

20 47. I do not recall receiving any training post OP  
21 TELIC 2 which differed to my pre-deployment training at  
22 the time in relation to prisoner handling issues.  
23 I have not been involved on any further operational  
24 deployments since Op TELIC 2, and so have not received  
25 pre-deployment training in this area after 2003.

1 Media

2 48. I have never given any reports or account of  
3 matters relevant to the Inquiry's terms of reference to  
4 the press or media, nor have I ever been approached by  
5 anyone in the press to discuss these events.

6 Statement of Truth

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

9 Signed: Clark Flint.

10 Dated: 13 February 2010.

11 Summary of witness statement of ANTHONY WILLMAN

12 MR HALLIDAY: The second witness is Anthony Willman. During  
13 Op Telic 2, Dr Willman was a major in the 3 Close  
14 Support Medical Regiment, providing primary care medical  
15 support to British forces and also providing supervisory  
16 support to approximately six other doctors. Dr Willman  
17 describes providing guidance and support to various  
18 doctors within the British force's area of operations.  
19 However, he tells the Inquiry that he was informed that  
20 he did not have to supervise the regimental medical  
21 officer at 1 QLR from either an educational or mentoring  
22 perspective and that the 1 QLR regimental medical  
23 officer would have been subject to a separate chain of  
24 command. Based on his past experience, Dr Willman says  
25 that 1 QLR regimental medical officer would have

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reported to the medical branch at division.

In addition to describing the chain of command structure in Iraq during Op Telic 2, his statement addresses the army medical training he has received. He says that he was unaware during Op Telic 2 of army medics having any involvement with civilian detainees and is therefore unable to comment on the duties owed by medics to civilian detainees during that tour.

Witness statement of ANTHONY WILLMAN

Witness Name: Dr Antony Sean Willman  
Statement No: 1  
Exhibits: ASW1 - ASW2  
Dated: 8 October 2009

THE BAHA MOUSA PUBLIC INQUIRY

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Witness Statement of Dr Antony Sean Willman

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1 I, Antony Sean Willman will say as follows:-

2 1. I make this statement in response to the  
3 Inquiry's Rule 9 Request dated 19 August 2009. I have  
4 read this Request, and I seek here to cover everything  
5 it raises to the best of my ability and recollection.  
6 I have also been shown and read copies MOD029072-R and  
7 MOD013546\_R.

8 2. I am currently employed as a locum GP, providing  
9 services for APHCS (Army Primary Health Care Service)  
10 and Wiltshire PCT. I will shortly be employed as  
11 a Civilian Medical Practitioner (CMP), in the post of  
12 Senior Medical Officer (SMO) Bulford Garrison to provide  
13 primary care for service men and women and their  
14 dependents. In addition, I am a GP trainer.

15 Career History

16 3. I first qualified as a Doctor in 1990, having  
17 undertaken my medical training at St Thomas' Hospital  
18 Medical School, London. I initially started surgical  
19 training but then decided to become a GP. I qualified  
20 as a GP in 2000 and have since practised as a GP. I am  
21 now a senior GP and GP trainer. I attach a summary of  
22 my Curriculum Vitae ("ASW1").

23 4. I first joined the Army in 1987 whilst at  
24 Medical School. Between 1992 and 1999, I undertook four  
25 operational tours of Northern Ireland. From December

1 2001 to May 2002, I served in Afghanistan. From early  
2 July to October 2003, I was deployed on Op TELIC 2. In  
3 2005 I was again deployed to Iraq, on Op TELIC 5. From  
4 February 2005 to June 2006, I served at Hohn, Germany  
5 as SMO. From June 2006 to October 2007, I served at  
6 Larkhill Camp, Wiltshire. On 1 August 2003, I was  
7 promoted from Major to Lieutenant Colonel, which rank  
8 I retained until I left the Army in October 2007.

#### 9 Military Training

10 5. From February to June 1992, I undertook five  
11 months Special to Arms training. First, I attended the  
12 Entry Officers' Course at Sandhurst. So far as  
13 I recall, there was a lecture on the Law of Armed  
14 Conflict (LOAC) and the Geneva Convention. Then I  
15 undertook four months or so of training at Keogh  
16 Barracks, Aldershot and then completed my training at  
17 the Royal Army Medical College at Millbank, London.  
18 There we examined specific scenarios of military medical  
19 practice.

20 6. Subsequently, prior to deployment to Afghanistan  
21 and Iraq respectively, I attended training on LOAC as  
22 part of pre-deployment training (PDT). Prior to  
23 deployment to Iraq in 2003, I attended PDT at Strensall  
24 Barracks near York. The training was of a generic  
25 nature but also included LOAC. Although the training

1 was generic for all ranks and trades, it was  
2 tour-specific. We were issued with cards outlining the  
3 Rules of Engagement which in Iraq, were different to  
4 those which had applied in Northern Ireland. Prior to  
5 deployment to Northern Ireland, I had received guidance  
6 and training regarding the use of lethal force and  
7 escalation, which was covered by UK law.

8 7. From my previous experience and training I was  
9 aware of the General Medical Council guidance, "Duties  
10 of a Doctor", that Good Medical Practice (GMP) required  
11 that good records are kept, being fundamental to the  
12 discharge of the duty of any doctor.

13 8. The EMIS (Egton Medical Information Systems)  
14 application is widely recognised in the UK as a system  
15 for medical record keeping. In 2003, before my  
16 deployment to Iraq, I received training on the  
17 applications on the laptop I was to use in the Medical  
18 Centre in Basra. Medical information was to be held on  
19 a secure database, EMIS. During that training  
20 I received instruction as to how to use EMIS on my  
21 laptop. In essence, medical records would be kept as  
22 they would in the UK. Thus the record would be  
23 a summary of the actual time spent with a patient, which  
24 would be recorded on the database with access restricted  
25 to medics. The salient points of the consultation with

1 the patient were recorded on EMIS. The information we  
2 recorded mirrored that which I obtained as a GP in  
3 practice in the UK. I did not receive specific training  
4 as to how to complete electronic medical records because  
5 I already knew how to do so. I received no additional  
6 specific training on the maintenance of records in  
7 respect of prisoners.

8 9. I never undertook any training or received  
9 guidance on any process or practice of assessing the  
10 fitness for questioning of prisoners of any category.

11 10. I never received any training or guidance on  
12 the practice or prohibition of the following:  
13 deprivation of sight by hooding; blindfolding or the use  
14 of blacked-out goggles; covering of the face; "stress  
15 positions"; subjecting prisoners to discomforting levels  
16 of noise; provision of food and water to prisoners; the  
17 use of force on prisoners; the use of plasti-cuffs; the  
18 maintenance of the "Shock of Capture"; the  
19 "conditioning" of prisoners.

20 11. I cannot now recall when I did so but I have  
21 become aware of these interrogation practices through  
22 general coverage in the media. I also observed some  
23 interrogation practices whilst doing medical cover for  
24 an exercise in Escape & Evasion in Chicksands. I cannot  
25 recall the exact dates of this exercise but it was

1           whilst I was stationed as a GP in Tidworth between 2001  
2           and 2004. It involved providing medical cover for  
3           soldiers training for certain roles. During this  
4           medical cover, I observed soldiers, who were training  
5           for escape & evasion, undergoing interrogation. They  
6           were exposed to bright light, sleep deprivation and they  
7           were stripped in order (I assume) to mimic what they  
8           might encounter if taken prisoner or hostage. My role  
9           was purely as an observer and to be on hand if there  
10          were any medical problems.

11           12. I have received ITDs. However I cannot now  
12          recall the full detail of them. I have attended medical  
13          courses for the purposes of Continuing Professional  
14          Development (CPD). I never attended promotion courses.

15           13. It is possible that prior to my deployment to  
16          Iraq in 2003 I attended training in relation to "Conduct  
17          after Capture", but I cannot remember doing so.

18           14. 3 Close Support Medical Regiment (CSMR) devised  
19          a programme of training which lasted a week or two weeks  
20          (PDT). I did not attend the whole of the training, and  
21          I cannot remember the detail of what I did attend,  
22          although it would have followed a standard format of  
23          PDT.

24           15. As part of the PDT I received a briefing from  
25          speakers who had been out to Iraq and had returned to

1 the UK (I cannot recall who delivered the session). In  
2 addition a culture brief was delivered, during which  
3 Arabic traditions were outlined. Again I cannot recall  
4 the specific detail. We were issued little cards with  
5 Arabic phrases such as "hello" and "thank you".

6 16. During the pre-deployment phase I attended  
7 a brief session delivered by the Intelligence Corps  
8 and/or Military Intelligence, at which we were informed  
9 which were enemy and which were friendly forces, as well  
10 as the distinction between Sunni and Shia Muslims.  
11 Also, a WO2 (or senior NCO) from the Royal Logistics  
12 Corps gave a lecture on road safety in which stressed  
13 the need to drive sensibly and lawfully. I received no  
14 training from staff from the Military Corrective  
15 Training Centre, or PT.

16 17. Whilst in theatre prior to 16 September 2003  
17 I attended study days which the Commander Medical (CM)  
18 convened. These were of a clinical nature, with a view  
19 to maintaining our CPD. The meetings took place at  
20 Shaibah Log Base (SLB) and the Airport (APOD). In  
21 addition, we organised amongst ourselves medical journal  
22 clubs so that we could maintain our medical know-how.

23 Rank and role during Op TELIC 2

24 18. I was deployed as a GP on Op Telic 2 as part of  
25 3 Close Support Medical Regiment to provide medical

1 support within the AOR. This involved myself & a junior  
2 colleague providing primary care support to British  
3 Forces (plus attached elements from other nations),  
4 emergency and occupational healthcare for Locally  
5 Employed Civilians and emergency healthcare for  
6 journalists, civilian contractors etc at Basra Palace  
7 where Brigade HQ was. I also provided supervisory  
8 support to about half a dozen other doctors within 3  
9 CSMR.

10 19. When I deployed to Iraq during Op TELIC 2,  
11 I had no remit in respect of prisoners. Prisoners were  
12 not kept at our location, Basra Palace. During Op TELIC  
13 2 I received no orders in respect of the handling and  
14 treatment of prisoners of any category, nor can I recall  
15 any mention being made of detainees in any briefings  
16 I attended. I was never asked to do a fit for detention  
17 medical or examine a detainee. I was never involved in  
18 any training operations or exercises relating to  
19 prisoner handling, including medicals to be provided to  
20 prisoners.

21 20. The Palace was not actually a Palace; rather it  
22 was a park in which there were very big and plush  
23 municipal buildings. The military complex was very  
24 large and contained the Brigade HQ and a helipad. In  
25 addition, RMPs, Royal Signals, Intelligence Corps, Royal

1 Engineers, Royal Logistic Corps (Chefs) Special Forces  
2 and a company of 1 QLR were based there. The Medical  
3 Centre was a GP setting for primary care, which was open  
4 to anyone, including Iraqi civilians in situations of  
5 emergency (as for example after a terrorist attack), who  
6 presented with medical problems.

7 21. My primary care practice at Basra Palace  
8 Medical Centre also involved dealing with emergencies on  
9 ground such as road traffic accidents and attacks. For  
10 example following the deaths of three RMPs, I undertook  
11 follow-up with troops alongside my CPN (Community  
12 Psychiatric Nurse). From my consultations, and  
13 anecdotally, I understood that feelings amongst the  
14 troops, who were very stretched on the ground, were  
15 running quite high. Also during August it suddenly  
16 became quite humid which resulted in an increase in  
17 soldiers presenting with heat injuries.

18 22. The only occasions on which I left camp were to  
19 visit other doctors or to attend clinical meetings or  
20 business at SLB.

21 23. It was a very busy time. On a weekly basis  
22 I reported to CM via a Medical Sitrep with numbers of  
23 patients seen, disease trends & various aspects of the  
24 medical cover at Basra.

25 24. I never heard of concerns in respect of the

1 medical treatment of detainees. None were raised in the  
2 'study days' that took place at either the Airport or  
3 Shaibah Log Base. The study days I attended were of  
4 a purely clinical nature or to promulgate policy.  
5 I cannot recall how many I attended but it was only  
6 a few, definitely less than 5. Other doctors from the  
7 Area of Responsibility (AOR) attended. I do not recall  
8 any policy or clinical discussion of the medical  
9 treatment of detainees at these meetings.

10 25. My Officer Commanding (my Medical Squadron)  
11 asked me to be in contact with doctors within the  
12 squadron and to check that they had all they needed; so  
13 I mentored informally six or seven Doctors in 3 CSMR.  
14 As part of doing so I paid visits to the following  
15 doctors: Major Carter, plus a colleague whose name  
16 I cannot remember at Al Amarah; and doctors at the port,  
17 SLG and Basra Airport (APOD the Air Point of Departure).  
18 Major Carter in particular was rather isolated, and  
19 I visited him to get a "heads up" on what was going on  
20 for him in Maysan province and to provide a bit of  
21 mutual support.

22 26. I could not formally mentor them because I did  
23 not have any formal qualifications or guidelines for  
24 supervising junior doctors on camp at that time, nor was  
25 I a GP trainer. I therefore had a quasi-managerial

1 role. In that capacity, for example, one of my roles  
2 was to check which doctors were to be on leave and made  
3 arrangements for leave relief.

4 27. For a number of reasons it was important to  
5 offer guidance and support to these doctors. Not all of  
6 them were GPs yet they were deployed as General Duties  
7 Medical Officers, meaning they were performing some  
8 aspects of the role of a GP. If they were an trainee  
9 GP, for example, they would not be considered to be an  
10 independent medical practitioner until they obtained  
11 registration to practice as a registered GP.  
12 I therefore provided them with primary care advice.  
13 Moreover, they were all working in an extremely  
14 difficult and, in the case of Major Carter and his  
15 colleague, hostile environment.

16 28. I was not told I needed to look after the RMO  
17 at 1 QLR from an educational or mentoring perspective.  
18 The 1 QLR RMO was subject to a completely separate chain  
19 of command to 3 CSMR. Based upon my experience as  
20 an RMO myself on three previous occasions, my  
21 understanding is that BG RMOs would report to the  
22 Medical Branch at Division (usually the SO2 - this may  
23 have been Major Barnie Flint at the time but I cannot be  
24 sure), as well as to their CO. I had no experience of  
25 reporting detainee issues previously or during Op

1 Telic 2 to Med Branch.

2 29. My role also involved providing advice to the  
3 chain of command about clinical governance and training  
4 issues, such as infrastructure problems, how many  
5 doctors were needed in the various locations, and any  
6 training / supervision needs they had. On Op TELIC 2  
7 I sent a weekly brief to my Officer Commanding (OC)  
8 discussing such issues. One of the infrastructure  
9 problems we had was getting air conditioning in the  
10 clinical treatment areas.

11 30. I returned to the UK on 19 October 2003.

12 Chain of Command

13 31. The 3 Close Support Medical Regiment provides  
14 close medical support to 3 (UK) Division. The CO of  
15 3 CSMR was Colonel Lane, a senior dental practitioner.  
16 It comprises of three medical squadrons:

17 (a) 12 Medical Squadron

18 (b) 16 Medical Squadron, and

19 (c) 24 Medical Squadron.

20 32. Each squadron is commanded by an OC, supported  
21 by a 2iC.

22 33. I was attached to 16 Squadron. This Squadron  
23 was based at Tidworth. I cannot recall the exact  
24 details but 16 Sqn was augmented by elements of the TA,  
25 one of whom was the OC. I cannot remember her surname

1 but her first name was Olivia.

2 34. Only 16 Sqn was deployed as part of 3 CSMR,  
3 with 3 UK Div on Op TELIC 2. The Squadron worked to  
4 a 'Blue Light Matrix', a term used to describe emergency  
5 medical cover throughout the AOR. The Squadron had  
6 troops in particular geographic areas, namely:

7 (i) Basra Palace (BP)

8 (ii) Shaibah log base (SLB) (where the HQ elements  
9 ended up & where the QM elements were)

10 (iii) Al Amarah

11 (iv) Um Qasr & the Al Faw peninsula; and

12 (v) The APOD (the Air Point of Departure). So far  
13 as I recall we only had a doctor there because the  
14 medical centre was run by the RAF.

15 35. The medical support I offered in my location at  
16 Basra Palace was offered for the location, to the troops  
17 stationed there, not for any one particular unit.

18 36. The Commander Medical (CM) 3 Div, Colonel  
19 Carmichael, was the Medical Adviser with responsibility  
20 for the overall policy on medical matters; he reported  
21 to GOC 3 Div. His Medical Branch was based at Basra  
22 Airport. His policy aims were to promote: force  
23 protection, environmental health, emergency care and  
24 delivery of the healthcare service to the troops.

25 37. As there was only one squadron, 16 Sqn, under

1 CO Lane's command in Iraq, it became clear that the  
2 command requirements were being met by the OC 16 Sqn, so  
3 the Command elements of 3 CSMR including CO Lane  
4 returned to the UK.

5 38. At Basra Palace, I was the GP with Capt Luke  
6 Ball my GDMO (General Duties Medical Officer) reporting  
7 to me. He was a TA doctor who was a SHO in surgery. My  
8 own reporting chain was to my OC.

9 Duties Owed during Op TELIC 2 by Army Medical  
10 Officers

11 39. I have been asked to comment on the duties owed  
12 during Op Telic 2 by Army Medical Officers in respect  
13 of:

14 (a) the provision of medical care to persons  
15 detained by UK forces, and in particular whether such  
16 persons should have received routine medical checks on  
17 entering and / or leaving detention by a particular  
18 unit;

19 (b) record-keeping in respect of such care;

20 (c) certifying such persons as fit for detention;

21 (d) certifying such persons as fit for tactical  
22 questioning or for interrogation; and

23 (e) ensuring that such persons are held in sanitary  
24 facilities.

25 40. Prior to and during my deployment on Op TELIC 2

1 I was not aware of Army Medical Officers' involvement  
2 with detainees in any way. I simply did not know at the  
3 time that the British Army were taking any prisoners or  
4 detainees. In particular, I did not know that detention  
5 was occurring at Battle Group locations. I provided  
6 some primary care for elements of 1 QLR based at Basra  
7 Palace, but otherwise I had nothing whatsoever to do  
8 with the Battle Groups.

9 41. I did not know that Army Medical Officers  
10 undertook medical examination of civilian detainees, nor  
11 of any role they had certifying detainees as fit for  
12 detention, tactical questioning or interrogation, nor of  
13 ensuring that they were held in sanitary facilities. As  
14 a result, I cannot comment on the specific duties owed  
15 by Army doctors in those contexts. My view however is  
16 that a doctor owes a prisoner exactly the same duty of  
17 care as any patient as described in Good Medical  
18 Practice. I would expect an Army doctor to respect GMP  
19 in whatever he or she does.

20 42. I did know however that the Army requires its  
21 doctors to perform Fit for Detention medicals upon  
22 British soldiers who are detained, because I had done  
23 this before Op Telic 2 in respect of soldiers undergoing  
24 courts martial. It was my understanding that RMAs or  
25 CMTs could not undertake this task. I was not aware of

1 any specific Army policies setting out RMA duties  
2 regarding the treatment or assessment of detainees.

3 Guidance and Advice on Medical Duties during Op  
4 TELIC 2

5 43. The Inquiry has referred me to two documents,  
6 Prisoner of War Medical Care (MOD029072\_R) and Annex 3F  
7 to JWP1-10 (MOD03546\_R). I have never seen either of  
8 these before. I received no such guidance in relation  
9 to Op TELIC 2. My automatic default position would have  
10 been to abide by the rules of Good Medical Practice  
11 (GMP).

12 44. In regard to any guidance I required, I had  
13 available to me one or two very experienced doctors at  
14 the Field Hospital at Shaibah Log Base. These were  
15 Consultants although I cannot remember their names. If  
16 I encountered clinical problems I raised them with these  
17 colleagues. Generally I drew on my professional  
18 experience, practical knowledge and judgment, so I only  
19 raised one or two queries with more senior colleagues by  
20 telephone.

21 45. As a junior doctor (GDMO), she or he is to be  
22 supervised by a Senior Practitioner (just as a GP  
23 registrar has a GP trainer). In Iraq in 2003 I was  
24 there for advice for six or seven junior doctors, as  
25 discussed above. However, I was not a named Mentor.

1           Mentoring of these junior doctors (GDMOs) is a recent  
2           phenomenon, introduced in the last 2 or 3 years.

3           46. I cannot comment on the extent to which there  
4           was guidance and advice available to medical personnel  
5           who were involved with prisoners of any category on the  
6           ground in operations. As already stated, I was not  
7           myself involved with detainees, and I was not aware of  
8           any specific guidance sought by, or given to, Medical  
9           Officers regarding the medical attention to be given to  
10          detainees.

11          47. I never went to Battle Group Main or had any  
12          cause to do so. I had very little to do with 1 QLR  
13          other than providing medical care to the 1 QLR Company  
14          stationed at the Palace and a few other elements  
15          attached to it (for instance, soldiers were on occasion  
16          injured in undertaking riot control). There was no  
17          mention of detainees. I was fully occupied with the  
18          delivery of a primary care service and mentoring other  
19          doctors. There was therefore no overlap between myself  
20          and the RMO at 1 QLR.

21          48. On a handful of occasions I saw the 1 QLR RMO,  
22          just to say "hello". I remember Dr Bartels, a General  
23          Duties Medical Officer (GDMO), (a specialist in  
24          training) visiting me to have a coffee at the Medical  
25          Centre at the Palace, when he drove over from BG Main.

1           Although I have no memory of meeting him, it is possible  
2           that I met Dr Bartels' successor once or twice. Neither  
3           of the 1 QLR RMOs ever contacted me to raise a concern  
4           in respect of the medical assessment or treatment of  
5           detainees.

6           Conversations as to prisoner handling

7           49. I was not aware of the practice of hooding and  
8           had no conversations with others in the Brigade or in 1  
9           QLR or any other Battle Group concerning this practice.  
10          I also had no conversations regarding stress positions,  
11          sleep deprivation, exposure to noise, restriction of  
12          diet, the shock of capture or conditioning.

13          Death of Baha Mousa

14          50. I cannot remember whether I learned about the  
15          death of a detainee while I was still in Iraq. It is  
16          possible that I did. My earliest memory now of being  
17          aware of the death of Baha Mousa was when I heard  
18          about it in the UK media in the last 18 months or so,  
19          because I remember thinking to myself that the incident  
20          had happened while I was in Iraq.

21          Training since 2003

22          51. In 2005, I deployed on Op TELIC 5, and was made  
23          aware of the Surgeon General's Policy Letter (SGPL,  
24          "ASW2") dated 6 January 2005, relating to the assessment  
25          of the health of prisoners.

1           52. So far as I recall, in 2006 I attended a series  
2 of lectures given by Forensic Medical Examiners and  
3 Police at Herford, Germany. The training confirmed  
4 that, as military medical practitioners, we had an  
5 independent role. Our function was to assess prisoners,  
6 usually soldiers, who were fit to be detained in a place  
7 of safety. As at that time I was based in Germany, UK  
8 military law applied to us.

9           53. We were instructed to make sure that we had no  
10 pressing concerns about the physical or psychological  
11 wellbeing of the soldiers we were to examine. It was  
12 incumbent upon us to check that the soldier was  
13 physically capable of being detained and of being  
14 marched to and from his or her cell to the court room.  
15 For example, if someone has a bad back, they cannot be  
16 marched at pace to and from their cells. I would  
17 therefore issue a light duties pro forma. If a soldier  
18 presented with psychiatric problems, then we might seek  
19 specialist psychiatric opinion.

20           54. Other than the above, I have received no  
21 training regarding the assessment of the health of  
22 prisoners.

23           Media

24           55. I have never given any account of matters  
25 relevant to the Inquiry's terms of reference to the

1 press or media.

2 Statement of Truth

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

5 Signed: Antony Sean Willman.

6 Dated: 8 October 2009.

7 THE CHAIRMAN: Thank you.

8 MR HALLIDAY: And that does conclude today's business, Sir.

9 THE CHAIRMAN: Thank you very much, Mr Halliday. Very well.

10 Well, Monday morning we have three witnesses?

11 MR HALLIDAY: We have Messrs Hasseldine, Warren and West on  
12 Monday, Sir.

13 THE CHAIRMAN: Very good. Thank you all very much.

14 10 o'clock on Monday.

15 (4.31 pm)

16 (The Inquiry adjourned until 10.00 am, Monday,

17 26 April 2010)

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