

Witness Name: NEIL LOGAN BROWN

Statement No: 2

Exhibits:

Dated: 3 Mar 2010.

THE BAHA MOUSA PUBLIC INQUIRY

Supplementary Witness Statement of NEIL LOGAN BROWN

I, NEIL LOGAN BROWN will say as follows: -

I make this statement in response to the Inquiry's Supplementary Rule 9 Request dated 14 January 2010. I have read this Request, and I seek here to cover everything it raises to the best of my ability and recollection.

MOD052186 - "Report on PW Handling During Op Telic"

1. I have no recollection of having seen the document at MOD052186 ("Report on PW Handling during OP TELIC"), and I did not have any involvement in its production. I do not know whether a further or final version was produced, and I do not know who the document was provided to.
2. The account at MOD052196 broadly accords with my understanding of the issue of blindfolding at the JFIT, although my recollection differs in a small number of respects.
3. As set out in paragraphs 53-56 of my statement to this Inquiry dated 11 November 2009 ("my original statement") and during my evidence to the Court Martial in 2006 (Day 60, 14/12/2006, 85/21) I recall that the issue of PWs being hooded at the JFIT arose following the visit of Gen Brims, accompanied by Lt Col Mercer, to the PW Camp and

JFIT. The procedures in place at the JFIT were the responsibility of the JFIT, which was under the command of HQ 1 Div. HQ 1 Div lawyers (I remember at one point this was Maj Frend) provided legal advice to the Divisional G2X staff and the JFIT. My recollection is that G2X at Division had oversight of the JFIT and staffed all procedural/doctrinal/training issues through J2X at the NCHQ and PJHQ.

4. As set out in paragraphs 53-56 of my original statement, I received an initial report from Lt Col Mercer who raised concerns about the use of hoods and in particular he described seeing hooded prisoners waiting outside the JFIT complex. In my immediate enquiries with legal and J2 staff it was indicated to me that hooding was having to be used to achieve segregation and security due to capacity problems at the JFIT. I deduced from this that its use at that time was inevitably for longer than would have been desired. I have no idea who has inserted the comment about staff going home or to what it refers. I had no knowledge of the staffing requirements for the JFIT, as they were and remained a 1 Div unit, and this was never raised to me as an issue or concern.
5. My view, which was agreed by colleagues at PJHQ and by J2X, was that hooding was permissible for strictly limited purposes, namely for security. Whilst I do not specifically remember discussing the issue of hooding with SO1 J2X, I am sure that he was involved at some level in the discussions and he did not put forward any contrary view. I set out my view in e-mails, which I have commented on in my original statement.
6. My advice was provided to my Commanders at NCHQ and to HQ 1 Div. I should stress that at no time were we advising that hooding should or must be used, simply that it was permissible in strictly limited circumstances.

7. I am aware that at the meeting with the [REDACTED] ICRC representatives, which was attended by S034 and Maj Davis from NCHQ, it was agreed that the security and restraint of PWs could be achieved by the use of blacked out goggles, which would achieve the limited legitimate military purposes. My recollection is that [REDACTED] had concerns about sight deprivation, but [REDACTED] was less troubled and was content with the proposal to use goggles.

8. In terms of guidance, I believe that GCIII Part 2 is quite clear as to the general protection of PWs. I also believe that all UK troops on Op Telic 1 were trained (during through career training and pre-deployment training) and received adequate guidance (e.g. LOAC Aide Memoire) in the key elements of GCIII, in particular the requirement for humane treatment of prisoners. Interrogation was carried out at the JFIT. At no time during my limited discussions with J2X staff did I gain the impression that they were unaware of the UK's obligations to treat prisoners humanely, and I am not aware of any UK doctrine or guidance or instruction which affords PWs (including those subject to interrogation) any less protection than that set out in GCIII.

MOD054362

9. I do not remember seeing this ministerial submission (MOD054362); given that I deployed in January/February 2003 I probably would not have seen it. However, the purpose of the submission was clearly to advise the Secretary of State of the plans in place to deal with PW, and the relationship with the US in terms of PW handling. The submission sets out the legal obligations which it is expected Commanders are fully conversant with.

10. I do not recall having any specific input into the production of this ministerial submission, although it appears that a note I prepared (at

MOD053131) was considered during the drafting of the submission. I cannot comment upon why interrogation is not specifically covered in the submission. However, I would point out that the section concerning "Legal Obligations" (MOD054363) covers the treatment of all PW, whether subject to interrogation or not.

11. MOD053130 appears to forward from PJHQ Legal (Lt Col Clapham) to MoD Legal, a copy of a summary of PW issues which I sent from theatre on 12 February 2003. I believe that my note (MOD053131) followed my visit to Kuwait and outlines key issues which I was addressing at that time. However, I do not recall that my note was prepared to inform the production of the ministerial submission.
12. I do not believe the email exchange dated 17 February 2003 (MOD053128) was concerned with the ministerial submission, although the issues raised may have been considered by those drafting the submission.

FURTHER DOCUMENTS REFERRED TO BY THE INQUIRY

13. I believe MOD053714 is the minutes of the meeting at PJHQ Northwood, which I refer to at paragraph 29 of my original statement. Having reviewed MOD053714 I note that it refers to a meeting on 20 January 2003 and on that basis the reference in my original statement to a meeting "in late 2002" is incorrect and should read "in early 2003".
14. I believe MOD053157 is an exchange between 1 Div and PJHQ Legal which sets out wide range of issues under discussion.
15. MOD053075 appears to be section 10 of the NCC Mission Directive, which I refer to at paragraph 33 of my original statement.

