

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

SUMMARY OF PROCEEDINGS: THURSDAY 29 MARCH 2010

Gavin Rhys Davies

- Qualified as a solicitor in 1997 and joined the Army in 1998. Currently Lt Col. In 2003 was SO2 Legal NCC in the rank of Major. Received basic training in LOAC. No specific training in prisoner handling but understood the requirements of Geneva Convention. Role in Iraq was to provide legal advice on all aspects of the war.
- There were concerns raised by the ICRC at the end of March but not before that date. No recollection of any problems with prisoner handling and, in particular, hooding. Within JFIT hooding was an accepted practice but never observed himself. Reasons for hooding were security of locations and to protect the identification of prisoners. Told that sometimes prisoners could be hooded for up to 24 hours but didn't consider this was excessive or inhumane.
- Attended meeting with the Red Cross and prior to that meeting wrote an email to record conversations and raise the issues discussed with SO2 about the status of prisoners being hooded. They were hooded while awaiting interview. He was told that stress positions were not to be used but it was permissible for detainees to be deprived of sleep. None of these techniques crossed the threshold that would make them inhumane. Did not consider it necessary to discuss these procedures more generally up the line.
- Attended the meeting with ICRC on behalf of Col Burrage. Aware that Col Mercer took a different position to the official line to be taken by NCC. Now know that Col Mercer was instructed to say nothing. The outcome of the meeting was that hooding was to be replaced by goggles from then on. Gave an undertaking to the Red Cross and reported back to NCC to that affect.

Neil Logan Brown

- This witness joined the Navy in 1986. Selected by RN for training as a Barrister and was called to the Bar in 1992. He is currently a Commodore. In 2003 he was SO1 Legal NCC (NCHQ). Prior to deployment to Iraq had received LOAC training. No instructions specifically on the use of hooding and stress positions. Understood that neither technique should be used during interrogation. Aware of the Heath directive and that hooding should not be used during questioning.
- Deployed to theatre in Iraq in February 2003. Legal adviser to UK NCC. Senior Legal Adviser in theatre. Before the end of March, contacted by Lt Col

Mercer about the hooding of prisoners. Meeting in early January part of a process to decide on the handling in preparation for receipt of PoWs. Aides memoires had been prepared by Lt Col Mercer in prisoner handling and LOAC.

- Two views about hooding. No circumstances in which hoods be used or limited uses for security and/or protection within the law. After discussions, we took the view that we should consult the ICRC. The party line was that in certain limited circumstances the use of hooding could be lawful.
- Considered that the use of hooding was humane in certain limited circumstances. Prisoners needing to be moved from place to place could be hooded for force protection and security reasons. Following discussions there was perhaps a need to refer the issue up the chain of command but this step was overtaken. by events.
- There was a legal disagreement as to whether there should or should not be a blanket ban on hooding. The witness did not think there was a need for a blanket ban but that discretion applied locally would be sufficient to meet the legal requirement.
- In the JFIT the use of hooding exceeded what would have been expected for resourcing reasons. With hindsight, after the issue of the blanket ban on hooding, it may be seen as clear now that there was a organisational failure in theatre.

SUMMARY OF PROCEEDINGS: TUESDAY 30 MARCH 2010

Ewan Robert Duncan

- This witness was commissioned into the Royal Marines in 1980 and later transferred to the Intelligence Corps. He deployed to Iraq in February – April 2003 as a Staff Officer with the National Contingent Command. He retired from the army in May 2009.
- He had received annual training in LOAC. He had also received Conduct after Capture training. He deployed to Qatar and Iraq believing that hooding was a standard operating procedure to deprive prisoners of sight for the security of friendly forces and to ensure the anonymity of prisoners for as long as may be required.
- No training specifically in stress positions or conditioning techniques but explained general understanding of what is meant by the term conditioning.
- In theatre he was responsible for intelligence matters and had some involvement with the JFIT. He visited the TIF but saw nothing to cause any concern. He attended a meeting prior to the ICRC visit and took part in a discussion about the media having access to prisoners in hoods. A compromise was agreed, whereby hoods were to be replaced with goggles. Subsequently it became clear that the UK doctrine on interrogation needed to be strengthened.

- A number of high level directives were discussed with the witness. He had no recollection of orders issued in theatre regarding hooding. He confirmed his view that the use of a hood for purposes of security was the most efficient method. Hooding should not be used as a means of coercion.
- In late January 2006 he became Commandant of Defence Intelligence & Security Centre at Chicksands. He had no recollection of any change in training that was put in place as a result of the death of Baha Mousa.

Rhoderick Patterson

- This witness is currently a WO2. He joined the army in 1988 and has spent the majority of his time in the army in military intelligence. In 2003 his understanding was that hooding of prisoners was acceptable for security reasons. That would include disorienting a prisoner and thus making it harder for them to escape. The use of stress positions was not permissible as it was contrary to the Geneva Convention. The witness had not heard of the Heath ruling.
- He had received conduct after capture training that included the use of stress positions. However, it was made clear that the techniques used in this training were not British policy. Pre-deployment training was limited and extremely brief; there was nothing on prisoner handling. Subsequent training he had received was much more detailed in this respect.
- In 2003 he was the Section Sgt Major for 21 Military Intelligence Section and his 2i/c was Staff Sgt Davies. His main role in Op TELIC 2 was the preparation of intelligence summaries. Sgt Davies was trained as a TQer and was often asked to assist as there was a serious shortage of TQers.
- The witness was aware of the introduction of the BGIRO. If they needed legal advice, they would go to Major Clifton. When he arrived in Iraq, he had a very brief handover from the outgoing Sgt Major. This did not cover any points of prisoner handling.
- There might have been one occasion when he saw hoods being used. This was at Basra Palace and involved 1QLR with four-five prisoners. They had been hooded for security purposes when in the back of the vehicles. The witness was with the TQer at the time, Sgt Porter, and witnessed the TQing.
- *Op Quintessential*: a copy of the FRAGO dated 7 September 2003 would have gone to Maj Robinson and would have probably crossed the witness's desk as well. It included "*Detainees are not to be conditioned*"; the witness could not explain why this was in the FRAGO.
- The witness had no involvement in the execution of Op Salerno. They had received some intelligence suggesting that insurgents were using hotels in Basra. There was also intelligence linking the Al Haitham hotel with the killing of the three members of the RMP. There was no mention of this in the Target Pack, however.
- *Intelligence Summary 197* was drafted by the witness. It covered the period 14-15 September 2003 and included a report of the detention of Baha Mousa and the other people detained with him. His statement was wrong in saying

that Sgt Davies had told him that his 'gut feeling' was that the detainees from the hotel were not insurgents but hotel workers.

- On one occasion Sgt Davies told the witness that some prisoners had been 'roughed up'. He had been involved in TQing these prisoners. The witness was now sure that this was not said at the time when Baha Mousa and others were detained at the hotel. With hindsight the witness thought he should have referred this up the chain of command.

SUMMARY OF PROCEEDINGS: WEDNESDAY 31 MARCH 2010

Andrew French

- Mr French joined the army in 1987 and left in September 2009 as a staff sergeant after 22 years' service.
- He served in Iraq in Op Telic 2 from June 2003 to November 2003, during which time he was an acting sergeant with the intelligence support section.
- He did not believe – from personal deduction, not from training – that hooding, blindfolding and stress positions were never acceptable.
- He received no advice or training on prisoner handling when he was receiving handover on arrival in Iraq.
- He recalled a report during his Iraq tour and prior to the raid on the hotel of "suspicious" activity at the Al Haitham hotel. The haul of weapons found at the hotel appeared to confirm that the hotel was a centre of activity of former regime loyalists.

Michael Porter

- Mr Porter joined the army in 1995 and is currently a warrant officer ,class 2 (sergeant major), based in Germany.
- He served in Iraq in Op Telic 2 from June 2003 to September 2003 as a sergeant in the Field Security team based at Basra Palace. He was a trained tactical questioner (TQer). He had no involvement with the Op Salerno detainees.
- During his training, he learned that the use of blindfolds on prisoners for security reasons was permissible during the transition of a prisoner to a secure area (such as a military base. He had no knowledge of the use of hoods or stress positions at BG Main.

Calvin Lee

- Mr Lee joined the army in 1981 as a private soldier. Since 1982 he has worked continuously in the intelligence and security field. He now holds the rank of major.

- During 2003 (and on 14 September 2003) he was the officer commanding, with the rank of captain, the Basra Field Security Section (BFSS) based at Basra Palace.
- At his “A1” training in 1985, he was taught about the significance of the “shock of capture”, though not how or whether shock of capture might be maintained. Stress positions and sleep deprivation were regarded as not permissible. Deprivation of sight was permissible but only for a short time and for security reasons during prisoner transition.

Lars Pedersen

- Mr Pedersen was a captain of the Danish army attached to 7 Armoured Brigade
- His written statement was summarised by counsel to the inquiry. Mr Pedersen had no recall of any facts that might be useful to the inquiry.

Carl Brooks

- Mr Brooks was a sergeant who was chief clerk of brigade G2 intelligence unit.
- His written statement was summarised by counsel to the inquiry. He had no recall of any facts that might be useful to the inquiry.

Shantha Dickenson

- Ms Dickenson was a lieutenant with 19 Mechanised Brigade.
- Her written statement was summarised by counsel to the inquiry. She had no recall of any facts that might be useful to the inquiry.