

Monday, 22 February 2010

1

2 (10.00 am)

3 THE CHAIRMAN: Good morning.

4 MR ELIAS: Good morning, Sir. Continuing with our

5 Black Watch witnesses, may I call Nicholas Channer,

6 please?

7 THE CHAIRMAN: Yes.

8 If you would be kind enough to stand for a moment,

9 then I will ask that the oath be administered to you.

10 NICHOLAS HUGH DERENZY CHANNER (sworn)

11 THE CHAIRMAN: Thank you very much. Do sit down. If

12 I could ask you, please, to speak into the microphone,

13 then you will be heard more easily, which is obviously

14 important.

15 Yes, Mr Elias.

16 Questions by MR ELIAS

17 MR ELIAS: Could you give the Inquiry your full name please?

18 A. It is Nicholas Hugh Derenzy Channer.

19 Q. Are you still in the army?

20 A. I am, sir.

21 Q. With what rank?

22 A. Lieutenant colonel.

23 Q. Colonel Channer, could I ask you, please, to look at

24 a file which should be to your right? I hope it has

25 a copy of your statement in it. If you go to the last

1 page, at our BMI01670, above the date of 16 June of last
2 year, do you find your signature?

3 A. Yes.

4 Q. When you signed that statement, were you attesting to
5 the Inquiry that the contents of it were true to the
6 best of your knowledge and belief?

7 A. Yes.

8 Q. Thank you. I am going to take you to certain parts of
9 the matters that you addressed in that statement -- not
10 to all of it -- but you will understand that the
11 Chairman and indeed the rest of us will have read that
12 statement and it forms part of your evidence to this
13 Inquiry.

14 Just dealing first of all and very briefly with your
15 army history, I think you joined the army, did you, in
16 1982?

17 A. Yes, I did, sir.

18 Q. You attended Sandhurst. You then went to
19 Oxford University for three years and were commissioned
20 as a officer in April 1986. You have served in Belize
21 in the first Gulf War --

22 A. Yes.

23 Q. -- as part of the prisoner of war guard force --

24 A. Yes.

25 Q. -- on Operation Granby, about which the Inquiry has

1 heard a little in recent weeks. You were a recruit
2 company commander in Edinburgh in 1993. You have been
3 based, for periods of time, at the MoD in London.
4 Between 1998 to 2000, were you based in Germany and, in
5 April 2002, more relevantly to this Inquiry, were you
6 posted as 2IC, second in command, of the First Battalion
7 the Black Watch --

8 A. Yes.

9 Q. -- then based at Fallingbostal in Germany. And in 2003,
10 with that battalion, you were deployed Kuwait and then
11 to Iraq on Op Telic 1?

12 A. Yes.

13 Q. So you were in Kuwait/Iraq, were you, from some time in
14 late February or early March 2003 -- I don't think you
15 can't give us the precise date, is that right?

16 A. No, but late February/early March, yes.

17 Q. And you left Iraq on 1 July 2003, so your statement
18 tells us.

19 A. Yes.

20 Q. And about that date you can be certain, can you?

21 A. Yes.

22 Q. Thank you. I don't want to know details of your current
23 post, but I think you are a staff officer now working in
24 Europe; is that right?

25 A. Yes.

1 Q. I want to ask you just a little, please, about your
2 training before deployment to Iraq for Op Telic 1. You
3 would, would you, in your army career, have received
4 training in relation to the Law of Armed Conflict --
5 A. Yes.
6 Q. -- which would have been something that you received
7 training on on an annual basis?
8 A. Yes, that's right.
9 Q. As I think you indicate in your statement, that training
10 rooted in you the necessity for prisoners to be treated
11 humanely?
12 A. Yes, that's absolutely correct.
13 Q. Did you receive training prior to deployment to Iraq on
14 this second occasion in prisoner-handling specifically?
15 A. Yes. There was an OPTAG mandated training package.
16 Q. That's as part of the pre-deployment training?
17 A. Yes.
18 Q. Now I think what the Inquiry may be interested in
19 hearing from you is not so much what training you may
20 have received over the years, but at the time of your
21 deployment to Kuwait and then to Iraq, as 2IC of this
22 battalion, what your understanding was about the rights
23 and wrongs of the use of various restraints and other
24 techniques. Can I take them in order, please?
25 On deployment to Iraq, what was your understanding

1 about the use of hooding for prisoners? Was it
2 something that could or could not be used?

3 A. My understanding was that it would have been permissible
4 to use hooding to deprive a prisoner of sight in very
5 specific and limited circumstances, where operational
6 security was at risk otherwise, but, otherwise, then it
7 would be unacceptable.

8 Q. The Inquiry doesn't want you to guess at this,
9 Colonel Channer, I think, but do you know where your
10 understanding that hooding was permissible in certain
11 circumstances came from?

12 A. I don't. It's something I think I had arrived at over
13 the length of my career.

14 Q. So it wasn't something that was specifically dealt with
15 in the pre-deployment training?

16 A. Not that I recall, no.

17 Q. In the light of your answer, may I ask you this? Given
18 the rooted position of humane treatment that you tell us
19 about, did you regard hooding as being humane?

20 A. Well, I think that it could depend how it was done. If
21 an individual was told, "I am now going to place a hood
22 on you in order to take you a short distance through
23 this secure area, hold my hand as we go, when we get to
24 the end we'll remove the hood or blindfold, you will be
25 able to sit down and we will then ask you a few

1 questions" -- I think that if it had been explained in
2 that way, perhaps that wouldn't be cruel or inhumane.
3 But clearly there are other ways that it could be done
4 which would be cruel or inhumane.

5 Q. Putting a bag on a prisoner's head and leaving it there
6 for hours on end, for example?

7 A. I think that would be cruel.

8 Q. Still dealing with the position of your deployment to
9 Iraq on this second occasion: stress positions -- you
10 know what might mean by "stress positions"?

11 A. Yes.

12 Q. What was your understanding as to whether they were or
13 were not permissible?

14 A. They were just definitely not permissible.

15 Q. Where did your understanding for that come from?

16 A. I think from my training over the years in the army, but
17 I was also aware of the Heath Government's prohibition
18 on the techniques, the conditioning techniques.

19 Q. I was to ask you about that. Can I come back to that in
20 just a moment or so? You say your "training over the
21 years". Had your training specifically told you that
22 stress positions were banned?

23 A. I believe so, yes.

24 Q. When had you learnt of the Heath rulings, as sometimes
25 we have called it?

1 A. I think it was a general understanding that I had
2 obtained over the years from the press. I would add,
3 though, that I have seen some documents from the army
4 command staff course, which I attended, which suggest
5 that my training there might have contributed to that
6 understanding.

7 Q. So probably both from your training and from your --
8 I call it "your general knowledge" and reading of the
9 press and so on -- you understood that stress positions
10 had been banned and had been banned by the Heath
11 Government?

12 A. Yes, sir.

13 Q. What about the use of any other conditioning techniques?
14 Again I think you will know what I mean by that.

15 A. Yes, the same would apply, Sir, that I understood that
16 they were prohibited for the reasons we have just
17 discussed.

18 Q. We are talking about sleep deprivation and matters of
19 that kind --

20 A. Yes.

21 Q. -- white noise and so on.

22 Again, I don't want you to guess, but can you
23 remember whether anything specifically was said about
24 the use or nonuse of conditioning techniques, stress
25 positions and the like in your pre-deployment training?

1 A. I cannot remember that being mentioned, no.

2 Q. Was there any doubt in your mind, on your deployment to
3 Iraq in 2003, that these things were prohibited?

4 A. There was not, no.

5 Q. You have received, in your career, conduct after capture
6 training?

7 A. Yes.

8 Q. Sometimes I think it is called "evasion", is it, or
9 something of that kind?

10 A. "Escape and evasion".

11 Q. "Escape and evasion". Had you been taught of what it
12 was suggested might happen to you as a captured soldier
13 in the hands of enemy forces?

14 A. Yes, and I think I described in my statement an exercise
15 I took part in.

16 Q. Yes. Was a clear distinction made to you in training
17 and in that exercise, for example, as to the fact that
18 although you were being told what might happen to you,
19 under no circumstances were these techniques to be used
20 on any enemy captured prisoners?

21 A. I can't remember being specifically told that, but I was
22 personally in no doubt about that.

23 Q. Still just dealing with the general heading of "training
24 before Iraq", the "shock of capture", did that mean
25 anything to you at that time?

1 A. Yes. I understood "shock of capture" to mean exactly as
2 it says: the intimidating effect an individual feels
3 shortly after he is captured. We were given to
4 understand that it was important to try and escape as
5 a prisoner as soon as possible.

6 Q. Did you receive any training at any time prior to Iraq
7 on what is sometimes called "maintaining the shock of
8 capture" so far as enemy forces who may be taken are
9 concerned?

10 A. No, sir.

11 Q. So no training in how that shock of capture may be
12 maintained or indeed extended?

13 A. Not as far as I remember, no, sir.

14 Q. Now, as you have told us, you were part of the prisoner
15 of war guard force in the first Gulf War. Just so that
16 the Inquiry may have a little information about that, if
17 you can remember, were you part of the planning for the
18 prisoner-handling in that operation?

19 A. Yes, I was the adjutant, and as it was our main role --
20 clearly a lot of officers in the battalion were involved
21 in that planning, but I certainly played a part in it.

22 Q. You say in your statement that you received, over
23 a three-week period in Saudi Arabia, training in the
24 Geneva Conventions and how they applied to prisoners of
25 war. You say that you remember that you planned and

1 discussed the processes that applied for the handling of
2 prisoners of war. In that operation, Colonel Channer,
3 do you recall, was hooding used on any prisoners who
4 were taken?

5 A. Definitely not to my knowledge, sir.

6 Q. Were any conditioning techniques, stress positions and
7 the like, used on prisoners in 1991?

8 A. No, not to my knowledge, sir.

9 Q. Again, I don't want you to guess if you don't remember,
10 but in that operation, when prisoners were taken, were
11 they, to your knowledge, routinely medically examined?
12 If you don't remember, please say so.

13 A. We provided medical care at the central camp that we
14 took the prisoners back to, but at least initially, out
15 in the desert, they would have had what medical care we
16 had available to us.

17 Q. I understand. So you are not aware, in other words, are
18 you, that there was any what I am calling "a routine
19 medical examination" of every prisoner taken, injured or
20 otherwise?

21 A. No. We were dealing with huge numbers of people.

22 Q. I understand. Finally this on pre-deployment training:
23 do you recall receiving any training in Kuwait from the
24 military provost staff about the use of hoods or any
25 other aspects of restraint?

1 A. I don't, no, sir.

2 Q. You tell the Inquiry in your statement that you do
3 recall, in that pre-deployment phase, receiving training
4 from Sergeant Gallacher.

5 A. I think in the statement I mentioned the provost
6 sergeant. I now realise, from reading the statements,
7 that it was Sergeant Gallacher, yes.

8 Q. I was going to say to you. You could not remember the
9 name in your statement, but that name now comes back to
10 you, does it?

11 A. It does, yes.

12 Q. Can you recall -- again, I am not asking you to guess at
13 all -- what it was that Sergeant Gallacher gave training
14 or instruction in?

15 A. I think it was broadly about prisoner of war handling,
16 but more than that, sir, I am afraid I can't, no.

17 Q. If he were passing on what he has now told this
18 Inquiry -- and you are no doubt aware of his evidence to
19 this Inquiry -- that, for example, hooding was
20 permissible, do you have any recollection of that?

21 A. I don't have any recollection of it, no. I think that
22 I have said in my statement elsewhere that I thought
23 that hooding might be permissible in the security
24 situation, so perhaps that might not have seemed
25 exceptional, but --

1 Q. I'm sorry.

2 A. -- but if he had suggested that hooding generally was to
3 be used, no, I would have remembered that.

4 Q. Or if he had suggested that the use of conditioning
5 techniques in certain circumstances was permissible, you
6 would perhaps have remembered that, would you?

7 A. Definitely, and I don't remember that.

8 Q. If he had said such a thing, what would you have done
9 about it?

10 A. I suppose it depends exactly what he had said, but
11 clearly that would have had to have been rectified and
12 people in the battlegroup would have had to be made to
13 have understood that it was wrong.

14 Q. You say -- I don't think it need be turned up -- at
15 paragraph 55 of your statement that you remember that
16 Major Fraser directed some classroom-based training for
17 junior commanders within 1 Black Watch which covered the
18 plans for prisoner of war handling. Do you remember the
19 nature of that training that Major Fraser directed?

20 A. I don't recall attending it. We discussed its make-up
21 and composition beforehand. But it was to address, with
22 junior commanders and upwards, the process of handling
23 what we expected to be large numbers of prisoners in
24 a conventional war setting.

25 Q. From your discussions with Major Fraser and no doubt

1 others in relation to the handling of prisoners of war,
2 did you understand that it was generally believed that
3 hooding could be used in certain circumstances such as
4 you have outlined?

5 A. I just don't remember any discussions about hooding. It
6 wasn't something that was up for discussion. We were
7 much more focused with this larger question of how we
8 were going to handle large numbers of military prisoners
9 of war.

10 Q. So then moving on, please, to your time in Iraq itself,
11 after the pre-deployment at Kuwait, the
12 prisoner-handling chain of command, what was that in
13 Iraq? Who was responsible directly for prisoners?

14 A. I worked in the battlegroup headquarters. In the
15 battlegroup headquarters, Major Fraser, the battlegroup
16 logistics officer, had direct responsibility for
17 managing the prisoner-handling chain.

18 Q. Can we look at paragraph 65 of your statement? Perhaps
19 this could be put up, please, at BMI01662. At the
20 bottom of page, you said in the previous paragraph that
21 the CO had ultimate responsibility and you were also
22 indirectly responsible as 2IC. But you go on to say
23 this:

24 "The regimental sergeant major ... would ordinarily
25 be responsible for running a POW holding area in

1 war-fighting operations."

2 Was he, as you understood it, in this operation, so
3 responsible?

4 A. I think so. I'm honestly not sure whether he did that
5 during the war-fighting phase.

6 Q. You do go on to say that he was part of the CO Rover
7 group and spent most of his time away from BG Main.
8 That's the RSM, yes?

9 A. Yes.

10 Q. "There was a provost sergeant and a provost corporal
11 ..."

12 You have now identified the sergeant as Gallacher.

13 "Again, they could ordinarily have a function [if we
14 go over the page] in running a POW holding area in
15 war-fighting operations. However, in Basra I recall
16 they also formed part of the crew of the CO ... Rover
17 group."

18 Of course there was not a BGIRO, as I think we
19 know --

20 A. Yes.

21 Q. -- at this time.

22 Did you know, Colonel Channer, at the time that the
23 prisoners were in fact being supervised, if you like, by
24 the provost sergeant with the chain through to the RSM?

25 A. Are we talking about in Basra now, sir?

1 Q. Yes.

2 A. I'm just not sure, sir. I think I say elsewhere in the
3 statement that I believe that there was a warrant
4 officer looking after the prisoners in Basra, but
5 I wasn't able to remember who that was.

6 Q. Did you have any responsibility in relation to oversight
7 of that chain of command, whoever was in command of
8 prisoners?

9 A. Not any direct responsibility, no, but clearly I had
10 a coordination function across all manner of activity in
11 the battlegroup at the top level.

12 Q. As you say at paragraph 70 of your statement -- could we
13 just look at that, please -- you were not personally
14 involved with prisoner of war handling. Towards the
15 foot of that paragraph, you say that you didn't see any
16 prisoners of war being hooded or blindfolded, you don't
17 remember any plasticuffs, you didn't witness anyone
18 being subjected to stress positions or any form of
19 conditioning. Did you never see a prisoner hooded?

20 A. I never saw a prisoner hooded, sir.

21 Q. Did you ever hear that prisoners were being hooded to be
22 brought back to camp?

23 A. I didn't, and I don't recall being involved in any
24 discussions about that, sir.

25 Q. Did you ever go to the TDF, the temporary detention

1 facility?

2 A. Sir, when -- I heard the mention of this phrase "TDF"
3 and I honestly don't even remember that phrase.

4 Q. You have now, no doubt, been made aware of the evidence
5 of Sergeant Gallacher and his evidence, in particular,
6 that in relation to, he thought, about ten high value
7 targets, as he called them, he, because he believed he
8 was instructed so to do, conditioned them by putting
9 them in stress positions and so on. If that were taking
10 place, were you aware of it?

11 A. I was not, sir, no.

12 Q. I'm asking the question -- I am not suggesting it,
13 Colonel Channer -- should you have been aware of it?

14 A. I don't believe I should have done, sir. I was several
15 removes from that level of activity.

16 Q. But it was never brought to your attention, was it, that
17 such was going on, if indeed it were?

18 A. It was not, sir, no.

19 Q. If there had been conditioning of that kind carried out
20 by Gallacher, for example, is that something that you
21 might have expected to have been brought up in the CO's
22 O Group meetings?

23 A. I have no idea, sir, but it never was.

24 Q. Do you know whether, on this occasion, when you were in
25 Iraq, detainees were medically examined on being brought

1 in?

2 A. I believe they were, sir.

3 Q. And where does that belief come from?

4 A. I don't remember specifics, other than an occasion when

5 the senior medical officer reported results of an

6 examination to me. But I believe that routine

7 examinations took place.

8 Q. We will come back to the incident that you talk about in

9 a minute or two. But why do you assume that routine

10 examinations took place, as opposed to examinations as

11 and when necessary?

12 A. I'm not able to point to any specifics, sir. I don't

13 know.

14 Q. Just a belief, was it?

15 A. Yes, sir.

16 Q. Because again you are probably aware of the evidence

17 from those who were operating on the ground, if you

18 like, that on Black Watch such routine medical

19 examinations appear not to have taken place. You

20 wouldn't contradict that, would you?

21 A. I don't know, sir.

22 Q. You say in your statement that you don't know what

23 records, if any, were kept from such medical

24 examinations anyway.

25 A. I don't, no, sir.

1 Q. Did you know anything about the time limits during which
2 a prisoner might be detained by Black Watch?

3 A. I don't recall the detail or hadn't done until I re-read
4 the FRAGOs prior to this Inquiry. But I do recall that
5 there were a series of FRAGOs relating to PW handling
6 and that some of the content of that refers to
7 alterations to timings for the holding and forwarding of
8 prisoners.

9 Q. Were those discussed or any of them at the CO's
10 O Group meetings?

11 A. I can't specifically recall, sir, but I think they must
12 have been.

13 Q. That's probably where they would be, isn't it?

14 A. It is, yes.

15 Q. Do you recall reductions in time during which it was
16 permissible to detain prisoners?

17 A. Yes, I recall that was the direction of travel, sir.

18 Q. Were you given any explanation that you recall or reason
19 why that shortening of time was being brought in?

20 A. I can't recall specifically, sir, but I think it was
21 part of the general direction to tighten up and improve
22 the whole process, and I recall that at some stage this
23 resulted in Military Police assistance being provided to
24 the battlegroup to help with that process.

25 Q. As something that would speed up the process, it was

1 thought?

2 A. Perhaps to speed it up, but also to aid the better
3 management of the process.

4 Q. Were you ever aware, during your time in Iraq, of any
5 order being given permitting -- specifically
6 permitting -- hooding?

7 A. No, sir.

8 Q. Were you ever aware of any order being given while you
9 were in Iraq prohibiting hooding?

10 A. I don't recall it at all, sir, but clearly I have now
11 re-read FRAGO 63 which, although it does not
12 specifically refer to hooding, does, I think, refer to
13 ...

14 Q. Faces being covered?

15 A. Thank you, yes.

16 Q. Can we look at that in its divisional manifestation,
17 FRAGO 152? Can we look, please, at MOD019147? I don't
18 think I need to ask you because the Inquiry has heard
19 much evidence as to how these things are cascaded down,
20 with, as it were, new FRAGOs coming through brigade and
21 down to battalion and so on, but we are looking here at
22 FRAGO 152. Perhaps we just should look at the bottom of
23 the previous page under the heading of "Minimum force",
24 paragraph 4. There is the reference to the handover to
25 the Military Police as quickly as possible.

1 "This should occur within six hours of detention."

2 Do you remember that specifically or was that
3 something that was only triggered when you read the
4 documents again?

5 A. I don't remember the specific timings, sir. As I say,
6 I have a general recollection about timings in FRAGOs,
7 but not that specifically, no, sir.

8 Q. "... this does not mean an unit can hold for up to six
9 hours but rather the delivery to the RMP should occur as
10 soon as possible."

11 Then it gives the reasons for the guidance, allowing
12 up to six hours to take account of those units that
13 might be in remote locations.

14 Towards the foot of page it talks about treating
15 detained persons "... with humanity and dignity at all
16 times. They should not be assaulted. They should be
17 provided with water in all cases and food if they are
18 detained for longer".

19 Then, over the page:

20 "If they need to be restrained then this should only
21 be effected where absolutely necessary and using the
22 minimum force required. Under no circumstances should
23 their faces be covered as this might impair breathing.
24 Medical assistance should also be close at hand at all
25 times."

1 That sentence, Colonel Channer, "Under no
2 circumstances should their faces be covered as this
3 might impair breathing", do you recall seeing a FRAGO
4 with that in it?

5 A. I don't remember it, sir, but I feel sure that we must
6 have received this FRAGO and that I would have been
7 party to its discussion and transmission in the
8 battlegroup O Group, and, indeed, I think I would have
9 read it beforehand, sir.

10 Q. This is from the division, but it --

11 A. I'm sorry --

12 Q. No, it cascades down, as I think we know. I don't take
13 you to each of them. You would have received from
14 brigade?

15 A. Yes.

16 Q. But you don't specifically recall seeing such an order,
17 that faces were not to be covered?

18 A. No.

19 Q. What does that mean to you, reading it now, "Under no
20 circumstances should their faces be covered as this
21 might impair breathing"?

22 A. Well, I believe that in this context it is now referring
23 to the so-called hooding.

24 Q. Is that how you think you would have read it at the
25 time, as a ban on hooding?

1 A. I just don't know, sir. I don't remember any discussion
2 about hooding. I wasn't aware of hooding beforehand.

3 Q. I think you might assist the chairman because perhaps
4 your interpretation, if you had been in the field and
5 had seen this, may be of assistance to us as the 2IC of
6 1~Black Watch. Do you read "Under no circumstances
7 should their faces be covered as this might impair
8 breathing" as meaning anything other than there is a ban
9 on hooding or does it mean something else?

10 A. No, it reads as a ban on hooding, sir.

11 Q. That's how you read it now and how you think you would
12 have read it at the time?

13 A. Yes.

14 Q. So perhaps if that is right, for the sake of clarity,
15 a FRAGO might simply have said that, might it, "Under no
16 circumstances should prisoners or detainees be hooded"?

17 A. I'm sorry, I'm not sure I quite get --

18 Q. If those words had been used, it would have meant
19 exactly the same to you, would it? "Under no
20 circumstances should detainees be hooded" would have
21 meant the same as what we there see on the screen to
22 you?

23 A. I'm sorry, I am being thick. I --

24 Q. It is my fault entirely. At the end of the day,
25 Colonel, it may not matter. The question has been asked

1 of a number of witnesses whether, if the intention of
2 that FRAGO was "There shall be no hooding", why it might
3 not have simply used those words, whether those words
4 would (a) have been clearer and (b) would have been to
5 exactly the same effect as what is actually written down
6 in the FRAGO.

7 A. I would agree with that, sir, and I can't help
8 commenting as well that it is sort of in a small print
9 as well. It is not exactly the headline of the FRAGO,
10 sir.

11 Q. Forgive me just going back for a moment. Do you say
12 that you don't actually -- you have seen the documents
13 now, of course, in preparing to come to give your
14 evidence and make your statement to this Inquiry -- but
15 do you say you don't recall actually learning of that
16 order at the time? It is dated 20 May, so that's when
17 it would have been cascaded down, as it were.

18 A. I'm sorry, this is the division order?

19 Q. Yes.

20 A. I don't, no, sir.

21 Q. And you don't recall any discussion at O Group about
22 that issue, a ban on hooding or covering the faces?

23 A. I don't, no, sir. But, as I say, I feel sure that this
24 order -- well, or the brigade order anyway would have
25 been the subject of discussion at a battlegroup O Group.

1 Q. But you simply have no recollection of it now?

2 A. No, sir.

3 Q. Thank you. You tell us that you didn't ever see
4 hooding. You have now seen that FRAGO. Do you have any
5 recollection now of their being a stop, as it were, put
6 to hooding, the practice of hooding, when you were in
7 Iraq?

8 A. I don't, no, sir.

9 Q. Just coming back to your understanding about the use of
10 hooding, can we look at paragraph 87 of your statement
11 to this Inquiry at BMI01669? You say in the third line:

12 "... I was not aware at any time of any FRAGO
13 authorising the hooding of prisoners. I believe that it
14 would have been permissible in limited circumstances to
15 blindfold a prisoner temporarily in order to prevent the
16 prisoner from gaining information ..." for what I might
17 call security reasons, to summarise what you say here.
18 That's right, isn't it?

19 A. Yes, sir.

20 Q. And you say a sandbag could be used for this purpose.
21 You have told us where you gained your understanding
22 from.

23 "I did not receive any specific training regarding
24 blindfolding or the use of sandbags. My judgment about
25 the permissibility of blindfolding prisoners for

1 security or operational safety is based on my
2 understanding of the law of armed conflict. Having said
3 that, I saw hundreds of prisoners on Operation Granby in
4 1991, and dozens of prisoners during Op Telic 1, and
5 I never saw one prisoner blindfolded or with a sandbag
6 over their head."

7 So you have never seen a sandbagged or hooded
8 prisoner, have you?

9 A. I have not, no, sir.

10 Q. Did you play any part in either the recce -- the 1 QLR
11 recce to Black Watch -- or the handover to Black Watch?

12 A. Yes, I did, yes.

13 Q. You are aware, are you, of evidence from some of those
14 on the QLR side who came out on the recce and indeed, at
15 the handover, that they did see prisoners sandbagged?

16 A. I am, yes.

17 Q. Are they wrong about that?

18 A. I don't know what they saw. I can only tell you what
19 I saw and knew about and I definitely did not see anyone
20 blindfolded or with a sandbag over their heads.

21 Q. You signed the Black Watch mounting order, didn't you,
22 for Op Telic?

23 A. Yes.

24 Q. Was it essentially, then, your document?

25 A. Yes, indeed. It clearly incorporated a certain amount

1 of direction from further up the chain of command, but
2 yes.

3 Q. Can we look at that, please, at BMI01672, in which you
4 say in the introduction what the purpose of the mounting
5 order is, "... to coordinate the preparation and
6 mounting of 1 Black Watch Battlegroup on Op Telic".

7 Do I understand the position correctly, you hadn't
8 yet been formally warned?

9 A. No, we have, at this stage, been warned. I think the
10 ministerial decision was delivered to us some time in
11 January, sir.

12 Q. So you have been warned by this stage?

13 A. Yes.

14 Q. Thank you. Can I take you then, please, just to
15 paragraph 25 at BMI01677, under the heading "Legal":

16 "The law of armed conflict is the body of law which
17 will apply to the operation unless and until such time
18 as the conflict ceases. The change from law of armed
19 conflict to the law applicable in other operations will
20 be promulgated through the chain of command. It is
21 mandatory for all personnel deploying on the operation
22 to have completed ITD(A)6."

23 That is the annual training package, isn't it?

24 "ITD(A)6 deals with the law of armed conflict (as
25 opposed to the body of law relevant to other

1 operations). Issue of JSP 381 (law of armed conflict
2 aide memoire) has been suspended, and is presently the
3 subject of review. Annex E contains law of armed
4 conflict prisoner and prisoner of war handling aides
5 memoire; the RAO is to reproduce these locally and issue
6 to all personnel during the M CCP process."

7 That is the movement control checkpoint process,
8 isn't it?

9 A. Yes.

10 Q. So if we go through, please, to BMI01686, you find there
11 the LOAC aide-memoire which is attach to the mounting
12 order; correct?

13 A. Yes.

14 Q. Over the page, at BMI01687, the prisoner of war handling
15 aide-memoire, which I think the Inquiry has seen now
16 a number of times before. Were those aides-memoires in
17 fact distributed as you had indicated they should be?

18 A. I believe they were, sir, and I think I recall being
19 issued my own as I went through the M CCP.

20 Q. During your time in Iraq, did you see or hear of any
21 ill-treatment of any detainee?

22 A. On one occasion, yes.

23 Q. Tell us about that one occasion.

24 A. The battlegroup senior medical officer reported to me
25 that he had examined a prisoner who had sustained

1 injuries which he believed to be consistent with an
2 assault. It was not at all clear to the doctor how he
3 might have received those injuries.

4 Q. Do you remember what the nature of the injuries was?

5 A. I don't, but, as I recall, a beating, I suppose --
6 assault-type injuries. More than that I can't say, sir.

7 Q. Was any investigation carried out, do you remember, in
8 the light of that complaint from the RMO?

9 A. It wasn't, no, sir.

10 Q. Did you communicate that to the CO?

11 A. I did, yes.

12 Q. His response to it, do you remember?

13 A. I don't remember the details of our discussion, but we
14 both clearly realised that this was a serious matter.
15 It was the first occasion, I believe, that we had had
16 any suggestion of ill-treatment of prisoners, although
17 clearly it wasn't clear that this individual had
18 sustained his injuries as a result of what UK troops
19 might have done --

20 Q. That could not be established, could it?

21 A. No, sir. But the CO took very quick action and at the
22 next battlegroup O Group spoke to all the sub-unit
23 commanders and, indeed, I believe, after that went out
24 to the sub-units to speak to them.

25 Q. To tell them what?

1 A. To tell them absolutely clearly that ill-treatment of
2 prisoners in any way was unacceptable.

3 Q. Do you recall a disclosure to the padre ever being
4 brought to your attention?

5 A. I don't, no, sir. I have read of that, but I don't
6 personally recall it.

7 Q. Could I, just moving on to a wholly separate topic,
8 please ask you to look at the witness statement to this
9 Inquiry of a soldier known to us as "S056". Please do
10 not use the name, but do you know the name of that
11 soldier to whom I refer?

12 A. I think so, sir, the officer commanding C Company.

13 Q. Yes, thank you. Please do not use his name, but
14 can I ask you to look at paragraph 16 of a statement he
15 has made to this Inquiry at BMI06123, in which he says
16 this under the heading "During the operation":

17 "I have no knowledge of ever seeing or receiving
18 directly ..."

19 And then he lists some of the FRAGOs, 56, 79 and so
20 on.

21 "It would have been impossible then for me or my
22 company to have received any such orders other than in
23 paper form. However it is my belief that what may have
24 been the content of fragmentary order 152 was read out
25 to the assembled orders group at battlegroup

1 headquarters, which I attended daily at 1700 hours ...
2 and the contents of which I would in turn have briefed
3 my company on at 1900 hours. It is my belief that this
4 was read out by the battlegroup chief of staff (second
5 in command, namely the then Major Nick Channer) either
6 word for word or almost verbatim as this was an unusual
7 thing to occur, and that it struck me as almost
8 impossible to meet the timelines contained therein ..."

9 That I think is the reference to the six hours.

10 "... which now, upon reading fragmentary order 152,
11 I now know to be that I was to have delivered any
12 prisoners to the RMP within 6 hours. If this order was
13 read out on or about 20 May ... then by then I would
14 have been rather cynical since many criminals that my
15 company had apprehended and handed to the RMP, or the
16 temporary holding facility, previously had simply been
17 let go."

18 If we go on to paragraph 20, just before I ask you
19 the question about this:

20 "The process for persons who were detained by my
21 company was as follows: a tent was set up in the
22 compound ... to which detainees would be brought.
23 Detainees were, during the initial stages of the
24 operation and possibly until the receipt of what I now
25 believe to be FRAGO 152, brought in with hoods to cover

1 their faces and on one occasion I recall this included
2 the use of a sandbag."

3 Do you have any recollection, Colonel Channer, of
4 reading out a FRAGO in the way that's described in that
5 statement?

6 A. I don't, I am afraid. It sounds very credible and
7 I would have been at the battlegroup O Group and could
8 have done it, but I just don't remember it, sir.

9 Q. It's not the position, Colonel Channer, that you did
10 witness either hooding or the use of techniques and you
11 don't tell this Inquiry about it because you know that
12 it's wrong?

13 A. It's definitely not that, sir, no.

14 Q. You simply never saw it?

15 A. I never saw it.

16 Q. And were never made aware of it?

17 A. I was not.

18 Q. And if hooding was going on, does it surprise you that
19 you didn't see it?

20 A. Yes -- yes and no. I can only think that it reflects my
21 work pattern and responsibilities, working in the
22 battlegroup headquarters, travelling to the brigade
23 headquarters and the staff work that I did which, to be
24 honest, took me away from the day-to-day -- the detailed
25 day-to-day running of the battlegroup.

1 MR ELIAS: Yes, thank you.

2 THE CHAIRMAN: If you would just wait there a moment,
3 please, Colonel, there will be other questions.

4 Yes, Ms Dobbin?

5 Questions by MS DOBBIN

6 MS DOBBIN: During Operation Granby, are you aware whether
7 or not any positions that might have been described as
8 "lesser conditioning positions" were used at all in
9 order to control prisoners of war?

10 A. Not at all, no.

11 Q. Thank you. Finally this: during the pre-deployment
12 training for Operation Telic 1, were you aware of any
13 lectures that concerned Operation Granby and what
14 happened to soldiers that were seized during that or
15 kidnapped?

16 A. I think we had a discussion period for officers in which
17 officers who had been on the first Gulf War shared their
18 experience of war in the desert. I was at that and
19 I think I could have answered questions about prisoner
20 of war handling on Op Granby.

21 Q. But specifically, do you recollect accounts being given
22 of actual things that happened to soldiers when they had
23 been seized by enemy forces?

24 A. No. No.

25 MS DOBBIN: Thank you.

1 A. Sorry.

2 THE CHAIRMAN: I am looking at everybody on the list and
3 nobody here, but Mr Garnham is here.

4 Questions by MR GARNHAM

5 MR GARNHAM: Thank you, Sir. Just two matters, please,
6 Colonel.

7 First, would you have expected any different
8 treatment for criminal detainees, as opposed to those
9 who were being interned, as to their handling?

10 A. I'm honestly not sure. I know that there were these two
11 categories --

12 Q. Would you have expected one category, for example, to be
13 hooded and the other not?

14 A. No, not at all.

15 Q. Secondly, this: can you give us some idea as to how much
16 of your time was spent -- I am sure this expression is
17 not accurate -- but "in the office", first of all, in
18 the war-fighting phase and then at Basra?

19 A. In the war-fighting phase, nonstop, all the time, very
20 much hands-on in control of the whole battlegroup. In
21 Basra, during the peace-keeping phase, a much more
22 office-based existence and perhaps 70 or more per cent
23 of the time in the office and the rest of the time
24 travelling out to the brigade headquarters or
25 occasionally to the sub-units.

1 Q. Thank you. In relation to the first of those two parts
2 of your answer, the war-fighting phase, presumably your
3 HQ was moving up behind the advancing line, so to speak?
4 A. That's right. We used to leapfrog forward in two
5 halves.
6 Q. What was your personal involvement in that? Where were
7 you physically as that was happening?
8 A. As the move was happening, I moved forward in my own
9 small step-up headquarters of about four vehicles.
10 Q. Did that work bring you into contact with prisoners who
11 had been taken by your regiment?
12 A. I recall driving through a vehicle checkpoint with the
13 step-up and seeing a group of what I took to be
14 prisoners under guard besides the vehicle checkpoint.
15 Q. Were they hooded?
16 A. No.
17 Q. Were they in stress positions?
18 A. No.
19 Q. That one instance aside, did you see prisoners being
20 taken by your battlegroup?
21 A. The other occasion was just after we had taken over from
22 the American marines, a group of prisoners from them --
23 one of them was severely injured and I was called
24 outside by Major Fraser to go over and assess the
25 situation. We were trying to get him appropriate

1 medical care and get him evacuated. It proved
2 impossible.

3 Q. On that occasion, did you see prisoners hooded?

4 A. No.

5 Q. Those are the only two occasions during the war-fighting
6 phase when you saw prisoners at all?

7 A. Yes.

8 MR GARNHAM: Thank you very much. Thank you, Sir.

9 Further questions by MR ELIAS

10 MR ELIAS: Colonel Channer, only this: you were just asked
11 questions about categories of prisoners and you said
12 there was no reason to distinguish as you understood it.

13 Is that correct?

14 A. In terms of hooding.

15 Q. Yes.

16 A. Yes, absolutely.

17 Q. Of course, there were other reasons to distinguish in
18 terms of the process and where they might end up, of
19 course, but in terms of treatment no reason to
20 distinguish.

21 Did you ever hear, in Iraq, of the phrase "high
22 value target"?

23 A. I didn't, no.

24 MR ELIAS: Thank you, Sir.

25 Questions by THE CHAIRMAN

1 THE CHAIRMAN: There is just one thing I want to ask you and
2 it is this: if it be right that Sergeant Gallacher was,
3 as he said, hooding in the TDF and putting prisoners in
4 stress positions for no longer than 30 minutes, who
5 would you have expected in the chain of command to have
6 known about that? Put another way, who ought to have
7 known about that in the chain of command?

8 A. I think that either someone from the intelligence cell,
9 sir, or the RSM or perhaps -- but I'm not sure --
10 Major Fraser.

11 THE CHAIRMAN: We shall be able to ask him in a moment.
12 Major Fraser, you say, perhaps?

13 A. Perhaps, sir.

14 MR GARNHAM: Sir, may I just ask one question arising out of
15 that?

16 Further questions by MR GARNHAM

17 MR GARNHAM: If you had seen that being done by
18 Sergeant Gallacher, what would you have done?

19 A. I think I would have stopped him, sir.

20 Q. Then and there?

21 A. Yes, I believe so, yes.

22 Q. That would have been it or would you have raised it
23 further?

24 A. I think that that would have certainly then involved
25 a discussion at the highest level of the battlegroup

1 THE CHAIRMAN: Yes, Mr Halliday.

2 MR HALLIDAY: Sir, Mr Fraser is the next witness.

3 THE CHAIRMAN: We have Mr Fraser. If you would remain
4 standing, please, I will ask that you take the oath.

5 ANTHONY JOHN MESTON FRASER (sworn)

6 THE CHAIRMAN: Thank you. Do sit down. May I ask, please,
7 that you speak into the microphone? If you don't, we
8 won't be able to hear you and the object is to hear your
9 evidence; all right?

10 A. Understood, sir.

11 THE CHAIRMAN: Thank you. Yes, Mr Halliday.

12 Questions by MR HALLIDAY

13 MR HALLIDAY: Thank you, Sir. Could you state your full
14 name, please, Mr Fraser?

15 A. Anthony John Meston Fraser.

16 Q. Can you see a red folder in front of you?

17 A. I can.

18 Q. Is your witness statement to the Inquiry inside it?

19 A. It is.

20 Q. Can you turn to the last page, please? Is that your
21 signature which appears on the final page?

22 A. Yes.

23 Q. By signing the statement, were you confirming that it
24 was true to the best of your knowledge and belief?

25 A. Yes.

1 Q. Thank you very much for providing the statement. The
2 chairman has already read it, Mr Fraser, so I don't need
3 to ask you about everything that you cover in this
4 statement. You joined the army in 1995, didn't you?
5 A. Yes, that's correct.
6 Q. And you left in November 2007?
7 A. Yes.
8 Q. During Op Telic 1, you were deployed with 1 Black Watch,
9 is that correct?
10 A. Correct.
11 Q. And at that time you were a major?
12 A. Yes.
13 Q. You returned from tour, you tell us in your statement,
14 on 30 May 2003. Is that correct?
15 A. Yes, that's correct.
16 Q. So that was before the end of 1 Black Watch's tour?
17 A. That's correct. I came back for the birth of my first
18 child.
19 Q. Does that mean that you came back before the handover in
20 June between 1 QLR and Black Watch?
21 A. Yes.
22 Q. What was your role or what were your roles during
23 Op Telic 1?
24 A. I was the company commander of Headquarter Company and
25 the battlegroup logistics officer. The roles, as you

1 will tell from the statement, shifted slightly between
2 the war-fighting phase and the peace-keeping phase.

3 Q. Just to clarify, which of those roles were you doing
4 during the war-fighting phase and which during the
5 peace-keeping phase?

6 A. "Battlegroup logistics officer" is more the appropriate
7 title for what I was doing within the war-fighting
8 manoeuvre phase. I reverted to my more normal role as
9 OC Headquarter Company with broader responsibilities
10 over the individual departments in Headquarter Company
11 when we went static in Basra, and the individuals who
12 were responsible for the logistic, medical and equipment
13 support functions took over a more direct role, as they
14 normally would in peace-time, once we went static in
15 Basra.

16 Q. In either role, did you have any particular
17 responsibility for prisoner-handling?

18 A. In both roles, I would have had a responsibility for
19 prisoner of war handling, specifically as battlegroup
20 logistics officer. It was one of the four key areas of
21 focus that were within that role. As OC Headquarter
22 Company, I also had a focus and interest on that role as
23 the provost staff amongst others, the intelligence
24 cell -- all those elements within Headquarter Company
25 who dealt with prisoners of war were under my command.

1 Q. Thank you. So, for example, would you generally be
2 aware when prisoners were in camp at BG Main?

3 A. Yes.

4 Q. And, in practice, would you visit detainees when they
5 were held at BG Main during the peace-keeping phase?

6 A. I would visit the detention centre on a regular basis,
7 often when there were prisoners in the detention
8 facility, but not necessarily every time there was
9 somebody in that facility.

10 Q. Could you tell us, please, who else in the battlegroup
11 was responsible for prisoner-handling and the welfare of
12 prisoners at BG Main?

13 A. In the static phase in Basra?

14 Q. Yes, please.

15 A. The initial responsibility for any prisoner of war would
16 lie with those soldiers who captured them on the ground
17 and the local commander in command of those troops.
18 Once they were brought back to battlegroup headquarters
19 location, they would be handed over to either -- well,
20 the provost staff, who were Sergeant Gallacher's team,
21 supported by Sergeant Slack, who was our physical
22 training instructor, but who had also been trained as
23 a tactical questioner and was the defence platoon
24 sergeant.

25 Q. Could you explain what the defence platoon is, please?

1 A. The defence platoon is a slightly motley bunch of
2 individuals from within Headquarter Company who can be
3 pulled together at any one time to provide a security
4 resource for the battlegroup headquarters location.

5 Q. Did the RSM have any role when it came to
6 prisoner-handling?

7 A. The provost staff, on a routine basis, would report to
8 the RSM and, through him, to the adjutant. The lines of
9 command and coordination in Headquarter Company can be
10 somewhat sketchy, depending on who you're dealing with.
11 Each department functions very effectively in its own
12 right in a way that a rifle platoon in a rifle company
13 doesn't necessarily. It forms part of a group. But all
14 of them come under the command of OC Headquarter
15 Company. That said, I wouldn't expect the commanding
16 officer or the 2IC who were clearly commanding
17 battlegroup headquarters to defer to my command.

18 Q. So if the provost sergeant reported to the RSM, does
19 that mean that the RSM had any responsibility for
20 prisoner-handling?

21 A. He was -- he would certainly have had a focus on it and
22 was involved in the prisoner of war handling chain.

23 Q. Does the same answer apply to the adjutant to whom you
24 said the RSM reported?

25 A. To some extent, but at one step further removed, and his

1 day-to-day staff role, supporting the commanding
2 officer, would have made it extremely difficult for him
3 to be further involved.

4 Q. Did the intelligence officer have any role in the
5 handling of prisoners?

6 A. He didn't have a role in terms of prisoner of war
7 handling. His role was in terms of identifying and
8 capturing information that could be of intelligence
9 interest.

10 Q. And might that be done through tactical questioning?

11 A. That could be done through tactical questioning.

12 Q. And would he have any responsibility for the conduct of
13 tactical questioning or for organising it?

14 A. My memory was that he was the officer in charge of
15 tactical questioning within the battlegroup.

16 Q. I would like to ask a few questions about your training
17 at Sandhurst in 1995. Did you receive any training at
18 Sandhurst on whether or not hoods could be used on
19 prisoners?

20 A. No.

21 Q. What about stress positions?

22 A. I don't remember.

23 Q. You don't remember whether it was said one way or the
24 other whether --

25 A. I do not remember any training on the use of stress

1 positions.

2 Q. Could you just explain, please, what you understand the
3 phrase "stress positions" to mean?

4 A. I would think of a stress position as a position of
5 discomfort within which it is easy to control the
6 movement of an individual.

7 Q. Where did you learn that definition? What's the basis
8 of your understanding?

9 A. I do not know if I would formally have been taught that.
10 It's perhaps an understanding that's developed over the
11 years. As I refer in my statement, I was -- you know,
12 I have been in a stress position.

13 Q. We will come to that in a moment.

14 A. Yes.

15 Q. Did you ever see hoods being used at Sandhurst during
16 exercises?

17 A. No.

18 Q. You do mention in your statement an escape and evasion
19 exercise.

20 A. Yes.

21 Q. You may have been alluding to that a moment ago. Could
22 you explain what happened during that exercise, please?

23 A. I recall being part of a group that were captured during
24 that escape and evasion exercise at night. We were
25 taken to a central facility -- I have no idea where it

1 was. It was dark and we were very disorientated -- and
2 there we were hooded and kept in stress positions for
3 a period of time.

4 Q. Were you subjected to any other kind of challenging or
5 unpleasant treatment during that exercise?

6 A. There was a lot of shouting.

7 Q. Can you recall who led that particular training
8 exercise?

9 A. No.

10 Q. Was it the normal Sandhurst trainers or someone from
11 outside Sandhurst?

12 A. I believe they were people external to the normal
13 Sandhurst training team involved in it, but I do not
14 know who they were.

15 Q. Could it have been conduct after capture specialists
16 from Chicksands?

17 A. I don't know.

18 Q. Before, during or after this exercise, was there any
19 discussion about the treatment to which you had been
20 subjected?

21 A. No.

22 Q. Were you told that the techniques to which you had been
23 subjected were prohibited or unlawful?

24 A. No.

25 Q. After the exercise, what understanding did you have as

1 to whether or not British soldiers could use these
2 techniques?

3 A. I would not have thought it appropriate for infantry
4 soldiers to be using those techniques under normal
5 circumstances.

6 Q. For what reason would you have thought it inappropriate?

7 A. I can't see a circumstance where it would be
8 particularly relevant to the conduct and operations of
9 an infantry company to be using those kind of
10 techniques.

11 Q. You said that you would have thought it was
12 inappropriate for normal infantry soldiers to be using
13 those techniques. Could anyone in the army, in your
14 opinion, have used those techniques legitimately in any
15 circumstances?

16 A. I don't know. The reason I draw a distinction is that
17 I'm unaware of the training that people may have had on
18 tactical questioning or conduct after capture or
19 anything like that and whether those kind of techniques
20 are deemed appropriate for those trained people.

21 Q. Prior to Op Telic, would your opinion have been that
22 hooding of prisoners was permissible in any
23 circumstances and for any reason?

24 A. Could you repeat the question, please?

25 Q. Prior to Op Telic, did you have any understanding as to

1 whether hooding might be permissible in any
2 circumstances?

3 A. I don't believe it would ever have crossed my mind.

4 Q. If someone had asked you before that tour whether
5 hooding was permissible, what would your answer have
6 been?

7 A. I don't know.

8 Q. In your general army experience prior to Op Telic, apart
9 from this escape and evasion exercise at Sandhurst, did
10 you ever encounter the hooding of prisoners?

11 A. No.

12 Q. I would like to move forward to pre-deployment training
13 for Op Telic 1, which took place in Germany. Did you
14 have any particular role in organising or delivering
15 pre-deployment training on prisoner handling?

16 A. I had some responsibility for organising the training
17 both in barracks and in the field.

18 Q. Did that training take place at Fallingbostal in
19 Germany?

20 A. The in-barracks training took place at Fallingbostal.
21 It was a series of round-robin stands that all companies
22 were put through.

23 Q. You tell us in your statement that this training took
24 place in February 2003. Is that correct?

25 A. That's correct.

1 Q. As well as these round-robin stands, were there any
2 lectures at Fallingbostal on prisoner-handling?

3 A. I don't know for sure. A lecture may have formed one of
4 the stands on that round robin.

5 Q. Do you recall --

6 A. In fact, there was a lecture to commanders, I believe,
7 from company commander level down to about platoon
8 sergeant level. I do recall that and I think I refer
9 to it in the statement.

10 Q. When you say that there was a lecture to commanders from
11 company commander level down to platoon sergeant level,
12 are you describing the audience for the lecture or the
13 people delivering it?

14 A. Yes, that was the audience.

15 Q. Can you remember who delivered the lecture?

16 A. I remember that lecture insofar as I remember
17 introducing it. I don't remember anything else
18 about it.

19 Q. You don't recall, do you, a lecture on prisoner-handling
20 being delivered by Sergeant Gallacher --

21 A. No.

22 Q. -- the provost sergeant?

23 Do you recall an OPTAG lecture on prisoner-handling
24 being delivered by a warrant officer from the
25 Royal Artillery?

1 A. No.

2 Q. Do you recall that lecture or any lecture at
3 Fallingbostal addressing the subject of hooding of
4 prisoners?

5 A. I don't, no.

6 Q. Do you recall any of the lectures at Fallingbostal
7 addressing the subject of stress positions and whether
8 or not they could be used on prisoners?

9 A. No. If I can add some colour to that. Neither would
10 have been, for us, relevant issues in that the challenge
11 we were focused on was very much one of the context of
12 manoeuvre warfare, where we were anticipating crossing
13 the line of departure into Iraq and having the challenge
14 of dealing with hundreds or thousands of prisoners of
15 war with a relatively small number of people. Our focus
16 was much more on the logistics of how we were going to
17 manage that and manage that correctly than on a scenario
18 of individual detainees.

19 Q. Did the training in any way address the physical
20 handling of prisoners?

21 A. The training did address appropriate ways for -- or the
22 correct ways -- that prisoners were to be treated in
23 terms of what kit and equipment should be left with
24 them, what should be taken from them and how they should
25 be tagged.

1 Q. You don't recall any reference at Fallingbostal to
2 screaming gauntlets or soldiers lining up and shoving
3 a prisoner along the line at speed whilst shouting at
4 them?

5 A. Absolutely not. I have never heard of that before
6 reading that in this evidence bundle.

7 Q. Before you arrived in Iraq, did you and the units spend
8 some time in Kuwait?

9 A. We did.

10 Q. Was any further training on prisoner-handling received
11 in Kuwait by 1 Black Watch?

12 A. We incorporated some prisoner of war serials within the
13 final manoeuvre exercise in Kuwait, as we had done in
14 Germany, which essentially entailed live individuals
15 being captured, as the companies went through their
16 training, and they were required to process and
17 coordinate the movement of those individuals back
18 through the logistic chain.

19 Q. Can you recall whether hoods were used during those
20 exercises?

21 A. No.

22 Q. You can't recall one way or the other or they weren't
23 used?

24 A. I can't recall, but I can say with certainty that they
25 would not have been used.

1 Q. How can you say that with certainty?

2 A. Because there would have been no relevance to using
3 hoods.

4 Q. What do you mean by "no relevance to using hoods"?

5 A. The only reason why we would have used a hood or
6 a blindfold or deprived anyone of sight would be for
7 tactical or security reasons, so, for example, once we
8 were static in our location in Basra, to ensure that the
9 layout of that facility was not known to somebody who
10 you had taken as a prisoner. In the context of
11 manoeuvre warfare, moving around open ground, I can see
12 no circumstance where it would be relevant to hood
13 somebody.

14 Q. Because you are not inside a British Army camp, so there
15 is no reason to deprive the prisoner of the opportunity
16 to see the layout?

17 A. Correct. I can't see what you would be trying to
18 prevent them from seeing.

19 Q. Can you recall whether 1 Black Watch received any
20 training in Kuwait from the military provost staff on
21 prisoner-handling?

22 A. I don't remember any.

23 Q. You don't recall any mention in training in Kuwait of
24 a prohibition on hooding, do you?

25 A. No.

1 Q. I would like to move on to the peace-keeping phase of
2 the operation. Were prisoners at BG Main deprived of
3 their sight during that phase of the operation?

4 A. Yes.

5 Q. How was that done?

6 A. I don't remember every way in which it might have been
7 done. I remember that it was done and I do specifically
8 remember a shemag -- which, for those who may not be
9 aware, is a sort of Arab head-dress in a square -- being
10 used as a blindfold on occasions.

11 Q. Were prisoners ever hooded with sandbags?

12 A. I don't remember. The point which I draw in my
13 statement there is that my -- I have images in my memory
14 of prisoners with sandbags but, having seen so much of
15 that on the television, I can't separate what is reality
16 in my own memory from that television image.

17 Q. It might be said that the sight of Iraqi civilians in
18 sandbags at a camp commanded by you would be quite
19 striking and quite memorable. You are saying, really,
20 are you, that you can't distinguish your own memory from
21 what you have seen on television?

22 A. I am.

23 Q. What was the purpose of depriving prisoners of their
24 sight?

25 A. There were two reasons. One I have already alluded to

1 was to ensure that the kind of people who we were
2 arresting -- and I think it's important to remember that
3 the kind of people we were arresting were either people
4 who had been shooting at you or were suspected
5 criminals -- but those kind of people weren't familiar
6 with the layout of the inside of our camp location in
7 a way that they could subsequently use in attack. The
8 second reason was to protect local Iraqi civilians who
9 were working with us and who it would not have been
10 appropriate, again, for those kind of people to be able
11 to identify them.

12 Q. Your intelligence officer, Captain Mike Williamson, says
13 that prisoners were principally hooded in order to
14 maintain security, but he says that they were also
15 hooded to preserve the shock of capture. Were you aware
16 of that?

17 A. No. That would not be the reason that I would expect to
18 see somebody hooded.

19 Q. As OC HQ Company, should you have been aware that
20 hooding was being used to preserve the shock of capture,
21 if indeed that was the case?

22 A. I was aware that deprivation of sight was being used.
23 I can't speak for what motivation was going on in
24 people's minds.

25 Q. If people were motivated by preservation of the shock of

1 capture, should you have known about that?

2 A. That's a very hard question to answer -- unless somebody

3 had discussed it with me or it had been something that

4 was raised during training, that there would have been

5 no way for me to know what's going on in their minds.

6 Q. Do you recall an occasion when a prisoner died whilst

7 being held at Charlie Company's camp?

8 A. I do.

9 Q. Was there no discussion after that prisoner's death that

10 the deceased had been hooded at some point prior to his

11 death?

12 A. I don't remember.

13 Q. Do you recall whether at any point there was an order,

14 either oral or written, which authorised the hooding of

15 prisoners?

16 A. I don't recall an order authorising the use of hooding,

17 no.

18 Q. Since you're not sure now whether or not hooding took

19 place, does it follow that you cannot recall whether

20 there was a point during the tour at which hooding

21 ceased?

22 A. Could you repeat that question, please?

23 Q. I will put it more shortly. Do you recall any point

24 during the tour when hooding ceased?

25 A. No. As far as I'm aware, we continued to deprive people

1 of sight where it was necessary to do so.

2 Q. There is some evidence that the general officer
3 commanding 1 Division, General Brims, issued an oral
4 order banning hooding in about early April 2003 and that
5 this oral order should have been passed down to
6 battlegroups. Did you ever become aware of such an
7 order?

8 A. No.

9 Q. Are you sure about that?

10 A. Certain.

11 Q. It couldn't just be a loss of memory on your part?

12 A. I am not aware of that order being communicated.

13 Q. Do you recall ever learning of an order from division or
14 brigade which prohibited the covering of prisoners'
15 faces lest this impair breathing?

16 A. I have seen the FRAGO in the bundle of evidence.
17 I don't -- before seeing that, I didn't specifically
18 recall an order like that.

19 Q. In this case, could it be that you did see the FRAGO
20 during the tour but have simply now forgotten it --

21 A. I do not remember seeing it.

22 Q. So you can't be sure whether you have forgotten the
23 FRAGO or whether you never saw it in the first place?

24 A. The FRAGO also refers to the importance of graffiti
25 appearing on walls around the city. I do remember that,

1 although not necessarily in connection with a written
2 order, but I do not remember receiving an order which
3 banned the use of hooding or covering of faces.

4 Q. It might help if we display FRAGO 63 as it was on
5 screen. It's MOD031014. If we look in the top left
6 corner, we can see it's a 7 Armoured Brigade FRAGO
7 issued on 21 May 2003. It is numbered FRAGO 63. In the
8 first paragraph, it reads:

9 "Detention of civilians. A number of civilians have
10 died in coalition forces custody and human rights
11 organisations are actively investigating alleged abuses.
12 At annex A is a comprehensive guide to the detention of
13 civilians which is to be briefed actually those likely
14 to be in a position of contact with civilians under
15 detention at any stage in the chain."

16 Should you have received this order?

17 A. That order should definitely have come to the
18 battlegroup headquarters and from there it should have
19 been communicated on to me and company commanders, yes.

20 Q. It goes on to say, doesn't it, "Battlegroups and
21 sub-units are to adhere to this policy"?

22 A. Correct.

23 Q. Could we look at the right-hand column, please? We can
24 see there, listed under the "Action" subheading, is in
25 fact 1 Black Watch.

1 A. Correct.

2 Q. Could we move ahead to MOD031017, please? This is in
3 fact part of annex A to the order. In paragraph 5, the
4 order says the following -- it is about five or six
5 lines down:

6 "Under no circumstances should their [that is
7 detainees] faces be covered as this might impair
8 breathing."

9 Do you see that?

10 A. I do see that, yes.

11 Q. You can't remember ever seeing that during the tour?

12 A. No. As I say, I do not recall receiving this order.
13 I have no doubt that if we had received it, we would
14 have acted on it.

15 It may be worth --

16 THE CHAIRMAN: Sorry, you both started to speak at the same
17 time. What were you going to add?

18 A. Thank you, Sir. It may be worth qualifying that the
19 context there is that somebody's face should not be
20 covered in such a way as to impair breathing. It would
21 be inappropriate, whatever way we were covering
22 somebody's face to deprive them of sight, to be
23 impairing their breathing, and I believe that if anybody
24 had seen that going on, however it was being done, with
25 a sandbag or anything else, they would have stepped in

1 to prevent it. So I don't necessarily -- although in
2 the context of the focus that there now is on hooding,
3 I would not necessarily read that with reference solely
4 to sandbags, but indeed any mechanism with which you
5 were using to cover somebody's eyes, you should ensure
6 that they are not being prevented from breathing.

7 MR HALLIDAY: : Reading that now, does the prohibition on
8 covering prisoners' faces mean to you that there should
9 be no hooding with sandbags?

10 A. It means to me that if you have to cover somebody's face
11 to restrict their vision, you need to ensure they can
12 breathe properly.

13 Q. If you had seen this order in theatre, would you have
14 read it as a ban on hooding of prisoners with sandbags?

15 A. That is a difficult question to answer, as I sort of
16 explained the context which I would have read it in.
17 Any way I saw -- that I would have seen somebody with
18 their face covered, if I had thought it was impairing
19 breathing, I would have thought it was inappropriate.
20 There are ways that you could put a sandbag over
21 somebody's head in ways that would not necessarily
22 impair breathing; for example, you could roll it up.
23 But I would not per se see that as a complete ban on
24 using a sandbag.

25 Q. If you had seen someone with a sandbag over their entire

1 head, without the sandbag rolled up, would you have
2 suspected that their breathing was impaired?

3 A. If I had believed someone's breathing was impaired,
4 I would have stepped in to prevent that situation.

5 Q. You can't say whether you would have concluded that the
6 mere placing of a sandbag over someone's head would have
7 impaired breathing?

8 A. No. From my own experience that we referred to earlier
9 of having had a sandbag over my head, my breathing was
10 not impaired.

11 Q. Now you did visit the detention centre at BG Main quite
12 regularly during the tour, didn't you?

13 A. That is correct.

14 Q. And you saw prisoners in there quite frequently?

15 A. Correct.

16 Q. Did you ever see prisoners in the detention centre in
17 stress positions?

18 A. No.

19 Q. Did you ever become in any way aware that stress
20 positions were being used on prisoners?

21 A. No.

22 Q. In a witness statement he has provided to the Inquiry,
23 your CO, Lieutenant Colonel Riddell-Webster, has said
24 that he was told by the padre at some point that an
25 unnamed soldier had been seen placing a prisoner in

1 a stress position. Colonel Riddell-Webster says that he
2 then briefed all of the JNCOs and above that stress
3 positions were not to be used. Do you recall receiving
4 that briefing from him?

5 A. I don't, no.

6 Q. Do you recall anything being said during the tour about
7 stress positions and whether they should or should not
8 be used?

9 A. No.

10 Q. The provost sergeant, Sergeant Gallacher, has told the
11 Inquiry that he regularly placed high value detainees in
12 stress positions inside the detention centre. Are you
13 unaware that he was doing this, then?

14 A. I was unaware. I never saw that.

15 Q. If he was indeed doing this, should you have been aware
16 of it?

17 A. I would say that in an organisation of approximately 200
18 to 250 people, as headquarter company was, deployed on
19 Telic 1, it is virtually impossible to know what
20 everybody is doing all of the time. I would have
21 expected Sergeant Gallacher, as every other trusted
22 member of my chain of command, to operate in accordance
23 with his training and with the principles that
24 I espoused as the company commander.

25 Q. If he was doing something as significant as placing

1 prisoners in stress positions, shouldn't you, as someone
2 with responsibility for the welfare of prisoners, have
3 known about it?

4 A. Had I been aware of it, I would have wanted to
5 understand why he was doing it. Perhaps it's relevant
6 to refer back to the training that we referred to before
7 around tactical questioning. I did not do that training
8 myself and wasn't aware of the content of it, although
9 I had requested to do it because I thought that would
10 have been useful.

11 There are certainly -- presumably there are
12 techniques that are taught on that course, which is why
13 there is a course, around procedures relevant to
14 tactical questioning. If he had been doing something
15 like that, I would have presumed, but wanted to know,
16 whether it was linked to that training and that
17 practice.

18 Q. I understand. So you would have queried it. You may
19 not have stopped him immediately before querying what he
20 was doing?

21 A. I would have wanted to know exactly why he was doing it
22 and on what grounds.

23 MR HALLIDAY: Sir, is that a convenient moment?

24 THE CHAIRMAN: Yes. We are having a somewhat fragmented
25 morning this morning. We are going to break off. We

1 normally have a ten-minute break and we will have
2 a ten-minute break now. If you would please not talk to
3 anybody about your evidence during the course of your
4 break and be ready to start promptly in ten minutes'
5 time, please. Thank you.

6 (11.33 am)

7 (A short break)

8 (11.42 am)

9 THE CHAIRMAN: Yes, Mr Halliday.

10 MR HALLIDAY: Thank you, Sir.

11 Mr Fraser, can you recall whether detainees held at
12 BG Main were checked by a medic?

13 A. I do recall that, yes.

14 Q. And that did happen, did it?

15 A. Yes.

16 Q. Did that happen as a matter of routine every time
17 a detainee came in or would it only happen if some
18 particular complaint arose?

19 A. No, I believe that as a matter of routine, every
20 detainee was checked by either the RMO, Captain Guthrie,
21 or the SMO, Colonel Beaton.

22 Q. How were you aware of that?

23 A. I'm not sure how I'm aware of it. I -- both
24 departments, the medical centre and the detention
25 centre, came under my command. That's my understanding

1 of what happened.

2 Q. Sergeant Gallacher has told the Inquiry that medical
3 checks were conducted only if a medical complaint arose.
4 So far as you are aware, he was wrong about that, was
5 he?

6 A. Yes, I don't believe that's accurate.

7 Q. Now you kept a diary whilst you were in Iraq, didn't
8 you?

9 A. I used a diary for administrative reasons largely.

10 Q. I understand. You exhibited parts of that diary to your
11 witness statement --

12 A. Correct.

13 Q. -- for which the Inquiry is very grateful. Can we have
14 BMI06936 on the screen, please?

15 Can we focus on the bottom third of the page,
16 please. You see an arrow on the left-hand side there,
17 Mr Fraser?

18 A. Yes.

19 Q. Just above that, there's a black rectangle. Do you see
20 that?

21 A. Yes.

22 Q. The black rectangle is what we call a "redaction". It
23 refers, doesn't it, to an external organisation?

24 A. Yes.

25 Q. Can you please read the text which appears after the

1 black rectangle?

2 A. I'm struggling to read that off, which is no good

3 comment on my own handwriting --

4 Q. You're not the only one.

5 A. I believe it was typed out within the statement.

6 Q. It was.

7 A. Can we refer to that?

8 Q. It might help, in that case, if we turn up paragraph 75

9 of your witness statement --

10 THE CHAIRMAN: I am glad someone else cannot read his own

11 handwriting.

12 A. I do apologise, Sir.

13 THE CHAIRMAN: It's all right.

14 MR HALLIDAY: Can we turn over the page to the second half

15 of the paragraph. You quote the extract of your diary

16 here. So far as you are aware, this is an accurate

17 quotation from the diary, is it?

18 A. Yes, that is correct.

19 Q. Constructed with the benefit of the serious time that

20 was needed to decipher the handwriting?

21 A. Absolutely.

22 Q. According to paragraph 75, the diary extract reads as

23 follows:

24 "[External organisation] -- treatment of suspects

25 and prisoners. Same treatment that we could expect

1 ourselves. Brutality after capture, especially during
2 questioning. Bedding (ie roll mats or beds for EPWS
3 [enemy prisoners of war]). Allegations of soldiers
4 burning money on a search of someone's house. Spotlight
5 and sensitivity are too strong. Remember we've replaced
6 a foul regime, therefore brutality on our part is not
7 acceptable beyond real MINIMUM FORCE."

8 What's the meaning of the sentence, "Brutality after
9 capture, especially during questioning"?

10 A. The meaning of that is that that sort of conduct would
11 be absolutely unacceptable. The context to this diary
12 note is that it comes from one of the commanding
13 officer's conferences. The generation of it would have
14 come from -- initially from one of the meetings that
15 I had with that external organisation -- one of the
16 regular meetings -- in which we discussed the treatment
17 of prisoners who were interned in our detention facility
18 and in which they came in to inspect those conditions
19 themselves. After one of those visits, concerns were
20 raised generically around concerns that soldiers had not
21 treated Iraqis appropriately, although not with specific
22 reference to the Black Watch.

23 The latter two sentences dictate the context within
24 which the rest of it should be understood and in which
25 the analysis that would have been done, based on that

1 meeting with the external organisation, was conducted.
2 We were very clear about the importance of how we were
3 perceived, both from the context of the Iraqi people,
4 that we did not want to be seen as replacing something
5 bad with something worse, and also we were aware that,
6 from a sheer practical perspective, with the spotlight
7 and sensitivity, that what we were doing was very high
8 profile and that, irrespective of whether you regarded
9 something as humane or inhumane in terms of someone's
10 treatment, it would have been plain foolish, with the
11 spotlight that was on us, to allow that kind of incident
12 to occur.

13 The point that was made at the CO's O Group was
14 precisely that, that that kind of brutal conduct which
15 the external organisation had referred to was entirely
16 inappropriate. We should do everything we could to make
17 sure that that was not the case within our own chain of
18 command, and, also, that comforts were -- the
19 appropriate comforts were made, hence the reference to
20 bedding.

21 Q. Did the external organisation allege that some soldiers
22 had been engaged in brutality after capture, especially
23 during questioning?

24 A. They -- no, they reported that there had been
25 allegations from the local community of brutality after

1 capture by soldiers, but none of those were specific to
2 the Black Watch.

3 Q. Was there any investigation into those allegations?

4 A. I don't know.

5 Q. You didn't initiate any investigation into them?

6 A. I did not. There was one allegation which I think --
7 yes, is referred to there, where there was an allegation
8 of soldiers burning money in someone's house. I believe
9 that was investigated by the RMP or SIB, but I am not
10 certain.

11 Q. That's something quite separate, isn't it, from alleged
12 brutality after capture, that of burning money --

13 A. I wasn't made aware of specific instances that could
14 have been investigated.

15 Q. Did you understand at all whether these allegations
16 related to the Black Watch or to other units?

17 A. I did not believe they were made with reference to us.
18 I had a very strong relationship with that external
19 organisation and regular meetings at which there was
20 ample opportunity for us to discuss that kind of issue
21 and no specific issue was ever raised. That
22 organisation also inspected the detention facility with
23 me when we had people in there and raised no concerns.

24 Q. You told us already that you left Basra before the
25 handover to 1 QLR took place. That's right, isn't it?

1 A. That's correct.

2 Q. Did someone take over from you as OC of HQ Company when
3 you left?

4 A. I handed over to my second in command, Captain Travis
5 Vincent.

6 Q. What nationality was Captain Vincent?

7 A. He is Australian.

8 Q. Despite your absence during the handover, can you tell
9 us whether FRAGO 63 -- the FRAGO we looked at earlier --
10 should have been passed on to 1 QLR during the handover?

11 A. I do not know if specific FRAGOs were referred to during
12 the handover or, if so, by who.

13 Q. Never mind for the moment whether they were or were not
14 referred to. Should it have been passed on or described
15 during that handover?

16 A. If you're asking whether a ban on covering people's
17 faces should have been passed on, it would have been
18 appropriate for any unit handing over to another unit to
19 make them aware correctly of the context of the
20 operational theatre they are operating in. If we had
21 perceived that as a significant change in direction,
22 then I would expect it to have been something that was
23 highlighted. But I don't know if people would have
24 specifically referred to documents or otherwise.

25 Q. Should a physical copy of the order have been handed

1 over to 1 QLR?

2 A. I don't know. That would have been something that would
3 have been done by the battalion headquarters, if at all.

4 Q. Is it something that the battalion headquarters should
5 have done?

6 A. I don't know. I don't know what's normal in that
7 process. I've never done a handover between battalion
8 headquarters.

9 Q. FRAGO 63 was a brigade level order which originated from
10 a division level order. So far as you are aware, did
11 that mean in any way that 1 Black Watch was absolved
12 from responsibility for handing over the order or is it
13 something you just can't help us with?

14 A. No, could you repeat that question?

15 Q. Of course. FRAGO 63 was a brigade level order. It
16 originated from a division level order. Does the fact
17 that the order originated higher up the chain of command
18 than 1 Black Watch mean that 1 Black Watch was not
19 responsible for handing the order over to 1 QLR?

20 A. Not at all. As I say, I would expect any outgoing unit
21 to provide an accurate context for operation to an
22 incoming unit. So you would provide what you thought
23 were appropriate and relevant points from your own
24 operational context for them to operate within.

25 MR HALLIDAY: Thank you.

1 THE CHAIRMAN: Yes, now you are going to be asked one or two
2 questions by other barristers, starting with
3 Ms Hetherington.

4 Questions by MS HETHERINGTON

5 MS HETHERINGTON: Thank you, Sir.

6 Mr Fraser, just dealing firstly with your
7 pre-deployment training for Iraq, which you have covered
8 in some detail, I just wanted to ask: do you remember
9 receiving any conduct after capture training or training
10 of that type in the pre-deployment phase?

11 A. No.

12 Q. You don't remember any discussion of the experience of
13 the soldiers in the first Gulf War, for example?

14 A. No.

15 Q. How much of the pre-deployment training did you attend?
16 Were there any parts of it that you were unable to
17 attend because of your other duties?

18 A. Not that I can recall. The OPTAG training package was
19 mandatory. Everybody attended all of it. In-barracks
20 training was conducted largely at company level, but
21 with some elements provided by the battalion
22 headquarters structure, and one example was what we
23 referred to earlier with the prisoner of war handling
24 round robin.

25 Q. So that being done at company level, you would be around

1 but not necessarily there at every single
2 presentation --

3 A. We were providing that training for the companies to go
4 through.

5 Q. I understand. Just dealing with the practices in Basra,
6 as part of your role, did you have any job in connection
7 with sending on documentation relating to prisoners to
8 the TIF or was that someone else's role?

9 A. I believe that was battalion headquarters' role. I did
10 not have a role in forwarding that documentation.

11 Q. So you wouldn't have physically seen the various
12 documents?

13 A. No.

14 Q. I understand. Thank you.

15 Just on a point of clarification, if we could have
16 BMI06926, which is your statement, and paragraph 122.
17 There you are explaining another note from your diary,
18 the note which reads "Enemy prisoner of war/detainee
19 procedures -- make sure interview done with arresting
20 soldier and RMP". You suggest this may have meant that,
21 from that date, interviews with prisoners of war or
22 detainees were to be conducted in the presence of the
23 arresting soldier and the RMP. I just wondered whether
24 your note could also be read as saying that an interview
25 should be done with the arresting soldier to find out

1 the circumstances of the arrest and whether that may be
2 an interpretation of your diary note or whether you
3 clearly recall that this was in fact the one meaning?
4 A. No, the context is in the presence of the arresting
5 soldier and the RMP.
6 Q. So your memory is sure about that?
7 A. Yes.
8 Q. Thank you. Just again on the process of handling
9 detainees in Basra, can we have MOD017101? This is
10 a FRAGO from brigade dated 30 May, so I appreciate right
11 at the end of your tour. I just wanted to ask your
12 understanding of one element of it. If we could turn to
13 the next page and have the first half of that left-hand
14 side highlighted, you can see there's a heading
15 "International law". Then the last sentence of that
16 heading says:
17 "Under no circumstances may a suspect be
18 interrogated until he has been processed by the TIF."
19 Firstly, do you remember seeing this whilst you were
20 in Basra?
21 A. No, I would not have seen this. I was on my way back
22 through -- down to Kuwait.
23 Q. If I can ask you a hypothetical question then. Had you
24 seen this, what impact, if any, would it have had on how
25 you were dealing with prisoners in Basra?

1 A. I don't believe that would have had any impact because
2 we weren't involved in interrogation in any way. There
3 was limited tactical questioning done by the
4 battlegroup, but there's a heavy distinction between
5 tactical questioning and interrogation.

6 Q. Thank you.

7 Just touching on a few of the problems that were
8 experienced in detainee handling whilst you were in
9 Basra, you mention in your statement that you recall the
10 incident that Major Channer also recalls, when an Irish
11 Guards company brought in a detainee who had injuries
12 consistent with an assault.

13 A. That is correct.

14 Q. Did you also have any awareness, whilst you were in
15 Basra, of an allegation that a civilian had been drowned
16 by an Irish Guards company in Basra?

17 A. No.

18 Q. And no rumours or allegations about drowning whatsoever?

19 A. I do recall an incident linked to the engineer regiment
20 where it was alleged that somebody was pushed into the
21 Sha'at al Arab.

22 Q. Thank you. You also discussed in your statement -- you
23 say that you were aware of one death in the custody of
24 Charlie Company of 1 Black Watch.

25 A. That is correct.

1 Q. Was it just one death that you were aware of? You
2 weren't ever aware of a second one that followed about
3 a week later?

4 A. I have seen a reference to a second one in the evidence
5 bundle, but I don't recall that.

6 Q. Just lastly on the topic of stress positions, you said
7 in your evidence -- and I am paraphrasing, so correct me
8 if I do that incorrectly -- that whilst you would have
9 thought that stress positions were inappropriate for
10 normal infantry companies, you couldn't say whether they
11 were for trained personnel as you didn't know what they
12 had been trained in. Is that right?

13 A. That's correct. I'm not sure what the conduct -- what
14 the content of the tactical questioning training was and
15 whether that would have made it relevant or acceptable
16 in some circumstances.

17 Q. Do you think that the use of stress positions on
18 detainees is humane or inhumane?

19 A. I don't think that the use of a stress position per se
20 is inhumane. I believe it would depend on the type of
21 position and the length of time that somebody was kept
22 within it and whether or not it was causing undue pain.
23 If you step over the boundary into causing a significant
24 level of pain to somebody, then that becomes inhumane.

25 Q. So would it follow that as to what you think the trained

1 interrogators might be able to do, where would the limit
2 lie on what you thought --

3 THE CHAIRMAN: Are you talking about interrogators or
4 tactical questioners?

5 MS HETHERINGTON: Sorry, anybody who had specialist
6 training, where you said, "They might able to use stress
7 positions, I don't know, I haven't had the training", up
8 to what limit would you have thought that they might be
9 able to use stress positions?

10 THE CHAIRMAN: I'm not sure really that the answer to that
11 question is going to help me. It is full of so many
12 different suppositions that it isn't really --

13 MS HETHERINGTON: I understand, Sir. It was a very poor
14 question and I am happy not to pursue it.

15 Thank you, Sir.

16 THE CHAIRMAN: Yes, Ms Dobbin?

17 Questions by MS DOBBIN

18 MS DOBBIN: You said in your witness statement that you
19 researched lessons learned from Operation Granby as part
20 of your pre-deployment preparation; is that correct?

21 A. That is correct.

22 Q. As part of that research, I just wondered, did that
23 include anything about the use of techniques to control
24 large numbers of prisoners of war, like using position
25 of discomfort?

1 A. No. It did cover discussions around mechanisms of
2 controlling the movement of large groups in terms of how
3 you might corral them and prevent people from escaping,
4 as in how you might build an enclosure or use an
5 existing enclosure, but in terms of how you might
6 control the movement of individuals, no.

7 Q. So again that research was largely logistical then, as
8 opposed to anything else?

9 A. Correct.

10 MS DOBBIN: Thank you. That is all, Sir.

11 THE CHAIRMAN: Mr Greatorex?

12 Questions by MR GREATOREX

13 MR GREATOREX: Thank you, Sir.

14 Just two questions, please, Mr Fraser. You were
15 asked about the FRAGO which referred to the prohibition
16 on covering prisoners' faces in case it impairs their
17 breathing and you said you had seen it in the documents
18 but you didn't recall it at the time? Is that right?

19 A. That is correct.

20 Q. Could I just ask you to take a look at BMI06123, please?

21 This is part of the statement of witness S056. Do you
22 know who witness S056 is? Please do not say his name.

23 A. Yes.

24 THE CHAIRMAN: Before you were here, he said he did know who
25 he was.

1 MR GREATOREX: I am grateful, Sir. I'm sorry, has this
2 paragraph been put to this witness?

3 THE CHAIRMAN: Yes.

4 MR HALLIDAY: The paragraph itself has not been put, Sir,
5 but I believe that the question which is coming has been
6 put.

7 THE CHAIRMAN: If you look back at the transcript, you will
8 see he was asked questions about what he said. I am not
9 anxious to go through it all over again, Mr Greatorex.
10 Forgive me for saying so, but had you been here at the
11 start, you would have heard it all and known whether it
12 was relevant to what you want to ask or not.

13 MR GREATOREX: Sir, I had checked the transcript when I came
14 in. The only thing I wanted to put to this witness is
15 this witness says he has a recollection of it being read
16 out by Major Channer and whether he had any
17 recollection --

18 THE CHAIRMAN: I rather suspect he was asked that very
19 question and he did not remember it. Am I right about
20 that?

21 A. I don't recall that being read out.

22 MR GREATOREX: I am grateful. Finally, in relation to the
23 handover, you said that an outgoing unit should provide
24 an accurate context to the unit coming in. Could I just
25 ask you to look at BMI03416, in terms of -- if we just

1 highlight, on that top paragraph, the last two sentences
2 which begin:

3 "I do not recall discussing ... because the
4 procedures for prisoner-handling and treatment was
5 handed over by the appropriate staff to their opposite
6 numbers (namely the RSM, provost sergeant and provost
7 staff)."

8 Would you agree with that in terms of the specific
9 responsibility for handing over the context that you
10 said there was a general responsibility to do?

11 A. Yes.

12 MR GREATOREX: Thank you.

13 THE CHAIRMAN: Mr Evans?

14 Questions by MR EVANS

15 MR EVANS: Thank you, Sir. Three short matters, if I may,
16 Mr Fraser.

17 You were asked about your relationship with an
18 external organisation and you described that as
19 a "strong relationship". Can you tell the Inquiry,
20 please, how frequently that organisation visited
21 Black Watch and the TDF with you?

22 A. Once we had gone static in Basra, we had regular
23 meetings with that external organisation, probably
24 weekly.

25 Q. Did that organisation visit the TDF on more than one

1 occasion?

2 A. They did. They came in with me and -- both when there
3 were detainees present and not present. We didn't know
4 when they were coming, so there was no -- you had no
5 opportunity to know that they were coming as to who
6 would do that.

7 Q. Yes, I follow. Thank you.

8 There was a reference within your diary note to the
9 provision of bedding. Do you know whether, in fact,
10 bedding was provided to detainees as a result of that
11 discussion?

12 A. Bedding absolutely was provided once that point had been
13 raised. We went to considerable lengths to obtain
14 additional roll mats to make sure that some were
15 available within the detention centre. I recall that
16 simply because it was extremely difficult obtaining any
17 surplus equipment in Iraq at that time.

18 Q. Finally this: the tempo of work in the peace-keeping
19 phase in Iraq, can you tell us from your personal
20 experience what the tempo of your own work was?

21 A. Yes. It was an exceptionally busy period. In addition
22 to my normal duties as OC Headquarter Company, involving
23 supervision of all the different departments which
24 I oversaw, we were also running daily operations, surge
25 operations, in support of the companies, surveillance

1 operations, because, unusually for HQ Company, we were
2 the only group of people who were able to generate
3 surplus troops to conduct mobile operations. The others
4 were so tied into static tasks. So I personally
5 commanded the vast majority of those operations and was
6 out on the ground most days.

7 Q. You were out on the ground most days, did you say?

8 A. Correct. I would say that four to five hours' sleep
9 a night was probably the norm in that kind of rhythm.

10 MR EVANS: Thank you very much. Thank you, Sir.

11 THE CHAIRMAN: Mr Halliday?

12 MR HALLIDAY: No more questions, thank you, Sir.

13 Questions by THE CHAIRMAN

14 THE CHAIRMAN: Can I just ask you about the answer you gave
15 to Mr Halliday about the handover? I know you weren't
16 there for the handover to 1 QLR. Have you carried out
17 a handover to another regiment or battalion before?

18 A. I have done handovers at sub-unit level, for example, in
19 Northern Ireland, handing over 1 patrol base or area of
20 operations to another incoming unit.

21 THE CHAIRMAN: Am I right about this: there does not seem to
22 be any specific protocol -- if I use that phrase -- for
23 handover between different commanders of units or
24 sub-units; is that right or wrong?

25 A. I am not aware of one, sir.

1 THE CHAIRMAN: I imagine that a handover is to some extent
2 a slightly informal operation, with you taking the
3 person around and telling them what is what; is that
4 right?

5 A. There is basically a very formal, almost ceremonial,
6 aspect and an informal aspect, the formal side being
7 literally a flag-lowering and -raising ceremony --

8 Q. Hauling down your flag and then putting up theirs?

9 A. And then a more informal part of days of briefings of
10 what is currently ongoing and what the situation is in
11 that area of responsibility.

12 THE CHAIRMAN: You said -- I am paraphrasing. I may not
13 have got it correctly -- that you would not expect to
14 tell your opposite number something unless it was --
15 "a significant change of direction" I think was the
16 words you used.

17 A. With reference to that particular FRAGO --

18 THE CHAIRMAN: Yes.

19 A. -- had we interpreted that as -- and I don't recall that
20 FRAGO, so I can't say whether we did or not -- had we
21 interpreted that as a significant change in direction,
22 I think it is something that we would have passed on.

23 THE CHAIRMAN: I get the impression that even though you
24 didn't know about it, you do not recognise it as
25 a significant change of direction from what you

1 understood was going on?

2 A. I don't, sir, because I don't think it was appropriate
3 at any time for anyone to have their face covered in
4 a way that impaired their breathing, irrespective of how
5 it was done.

6 THE CHAIRMAN: That is understand it. So even, had you been
7 there, that is not something that you would have thought
8 it necessary to draw to the attention of your opposite
9 number?

10 A. I would not have done so, Sir. That's what I would
11 expect is normal conduct, to ensure that people's
12 welfare is looked after.

13 THE CHAIRMAN: That is rather what I thought you were
14 explaining. That's all the questions that the Inquiry
15 has for you. Thank you very much for coming to give
16 your evidence. You are now free to go. I am grateful
17 to you.

18 MR ELIAS: Sir, I regret we have a further hiatus.
19 Brigadier Riddell-Webster was due to be here at 12.15,
20 as I understand, and he will be ready to give his
21 evidence, if you will agree, at 12.30. I think he will
22 be a witness of about the same length as the previous
23 two.

24 THE CHAIRMAN: Well, we are, I think, ahead of time, so
25 I don't think there's a problem about that.

1 MR ELIAS: Part of the time might be filled by Mr Halliday
2 dealing with the one read witness for today.

3 THE CHAIRMAN: Nobody else need be here while he is dealing
4 with the one read witness for today. I will listen to
5 him and anybody else who wants to can listen to him and
6 we will get that done now, Mr Halliday.

7 Summary of witness statement of ANGUS PHILP

8 MR HALLIDAY: Major Angus Philp served with 1 Black Watch on
9 Op Telic 1. He was then a captain and he was the
10 battlegroup's adjutant. He says that he does not recall
11 any specific pre-deployment training on
12 prisoner-handling prior to Op Telic 1. He says that as
13 adjutant he had nothing to do with prisoners during the
14 tour. He says that the regimental police were
15 responsible for prisoner-handling and that they reported
16 the RSM, who reported to the CO.

17 He says that medical examinations were conducted on
18 all prisoners and that prisoners were generally held for
19 the minimum amount of time necessary to enable onward
20 transfer, but that occasionally prisoners would stay
21 overnight until transport was arranged. He was aware
22 that hooding was taking place during the tour, but
23 recalls that there was a change of policy at some point
24 which prevented the use of sandbags to cover
25 a prisoners' face. He does not recall the

1 circumstances, cause or timing of this change. In
2 particular he does not recall seeing FRAGO 63 before,
3 but says that he would almost certainly have seen it
4 around the time that it was issued.

5 He says that he never saw prisoners in stress
6 positions. He says he does not know what handover
7 occurred between 1 Black Watch and 1 QLR in relation to
8 prisoner handling as he was not involved in that aspect
9 of operations. However, he thinks that responsibility
10 for handing over orders would have lain with the ops
11 officer or the battalion 2IC.

12 Witness statement of ANGUS PHILP

13

14

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Witness Name: MAJOR ANGUS
PHILP

16

17

Statement No: One
Exhibits: None

18

Dated: 19 August 2009

19

20

21

THE BAHA MOUSA PUBLIC INQUIRY

22

23

Witness Statement of Major Angus Philp

24

25

1 I, MAJOR ANGUS PHILP will say as follows: -

2 1. I make this statement in response to the
3 Inquiry's Rule 9 Request dated 5 May 2009. I have read
4 this Request, and I seek here to cover everything it
5 raises to the best of my ability and recollection.

6 2. I have also been shown and have read copies of
7 the following documents; FRAGOs 56, 79, 91, 152, 163 and
8 29.

9 Career

10 3. I went to Sandhurst in May 1996 and was
11 commissioned in April 1997 into 1st Battalion The Black
12 Watch ("1BW"), which was later part of 7th Armoured
13 Brigade ("7 Armd Bde") for Op TELIC 1 in 2003.

14 4. I served mainly with the Battalion for the first
15 few years including as a Platoon Commander. I also
16 spent three months in Northern Ireland with 1st
17 Battalion The Green Howards. In 2001 I did
18 reconnaissance with 1BW in Kosovo. In 2002 I went to
19 the Army Junior Division ("AJD") (Staff College) to
20 conduct staff training as a Captain.

21 5. I rejoined 1BW in September 2002 as Adjutant in
22 the rank of Captain.

23 Training on Law of Armed Conflict

24 6. I have never had any direct involvement in my
25 army career in anything to do with prisoner handling or

1 questioning. I have never been trained in arrest or
2 restraint techniques and I have never done any courses
3 on prisoner handling. I have never been trained in or
4 taught about hooding, conditioning or stress positions.

5 7. As part of my annual training, I have had
6 lessons on the law of armed conflict. This consisted of
7 theory, for example, of the concept of just war and the
8 principles of proportionality and military necessity,
9 and also a very old-fashioned video. There was also
10 information on practicalities, for example, identifying
11 the internationally recognised symbols of the Red Cross,
12 culturally and religiously significant symbols. We
13 learned about the Geneva Convention and the various
14 protocols. We also learned about specific rules of
15 warfare, for example that medics should only hold
16 weapons in self-defence, that padres should not be
17 targeted and that ammunition should not be modified, and
18 so on.

19 8. I do not remember if I have ever been trained on
20 the use of blacked-out goggles or blindfolding, or
21 whether you are allowed to cover a prisoner's face.
22 I have never been trained on the use of stress
23 positions, white noise or the use of plasti-cuffs.

24 9. I understand 'conditioning' to be the immediate
25 securing of prisoners after capture. This is my own

1 understanding of the term, I do not know where it comes
2 from. I do not think that I have heard the word
3 'conditioning' used in training.

4 10. I learned about the immediate securing of
5 prisoners in annual training: it is very basic
6 information, for example that you must remove weapons,
7 check to see if the prisoner is injured and requires
8 medical attention, and separate the officers from the
9 other ranks. All soldiers are taught this in annual
10 training.

11 11. I do not recall receiving any training on the
12 'shock of capture'. My own understanding of 'shock of
13 capture' is that it refers to the feelings experienced
14 by prisoners immediately after capture, which can be
15 numerous, such as disorientation, fear, confusion,
16 relief (at being alive). I understand 'maintaining the
17 shock of capture' to refer to methods used in prisoner
18 handling to sustain these emotions, thereby making
19 prisoners less likely to want to fight or escape, and
20 possibly making them more liable to answer questions.
21 This understanding comes from general military
22 experience and education, rather than formal training.
23 I am not aware of any specific methods of shock of
24 capture.

25 12. I have never done a specific 'Conduct after

1 Capture' course and I do not recall receiving any
2 special training apart from what was covered in our
3 annual training. I have never had any training by the
4 Intelligence Corps or by military intelligence.
5 I believe that the RMP usually give a lecture during
6 OPTAG on pre-deployment training regarding the Rules of
7 Engagement, although this is very basic. I have never
8 received any training on tactical questioning or
9 interrogation.

10 13. Since Op TELIC 1, I have had annual training
11 and received pre-deployment training before operational
12 tours on prisoner handling, conduct after capture and
13 detainee handling. I believe that this training is now
14 better quality than it was previously. The old video
15 has been updated to include religious and cultural
16 symbols and footage from Iraq to make it more modern and
17 relevant and the conduct after capture training now
18 allows you to give out information in a graduated form
19 if it is necessary to save life.

20 Pre-deployment for Op TELIC 1

21 14. When I had been away on the AJD, the Battalion
22 had been in Canada on exercise. When I rejoined the
23 Battalion in September 2002 I was settling into my new
24 posting as the Battalion Adjutant.

25 15. Around that time we thought that we would be

1 drawn into Operation FRESCO to help cover the fire
2 strikes. However, in Autumn 2002 the Battalion was
3 stood down. We found out that 7 Armd Bde may be
4 involved in the forthcoming war.

5 16. We knew at the end of 2002 that if the UK were
6 to commit troops to a war in 2003, it was likely that
7 7 Armd Bde would be involved. The reason for this was
8 that 7 Armd Bde had just finished its training year and
9 so it was the High Readiness Bde for 2003. This was
10 normal procedure as part of the Formation Readiness
11 Cycle where Bdes rotate through a three year cycle of
12 Training, High Readiness and Other Tasks.

13 17. At that stage I was planning how we would man
14 a full Battle Group if we deployed to Kuwait. My job
15 was to identify the key capabilities and skills that we
16 were missing. It was a process by which we were
17 gradually building up our strength and capabilities.
18 I think it was an ongoing process which started around
19 October 2002 and was revised and refined up to December.

20 18. Just before we went on Christmas leave in 2002,
21 everyone in the Battalion was talking about whether an
22 invasion of Iraq was likely. The Battalion
23 Headquarters, in particular, the Commanding Officer
24 ("CO"), Bn 2IC and Ops Officer, were trying to make
25 contingency plans and organise a training package for

1 early 2003 so that if the Battalion was called upon, it
2 would be up to date on all its training.

3 19. I received a telephone call from the CO, Lt Col
4 Riddell-Webster, at the end of 2002 between Christmas
5 and New Year telling me to return to Germany immediately
6 in case the Battalion started to receive orders.

7 20. In January 2003 we commenced our short notice
8 training period. From recollection this involved range
9 work with weapons and also packing kit and vehicles. In
10 early to mid January the Battalion received its orders
11 that it would be deployed on Op Telic 1.

12 21. Once the vehicles and kit had left for Kuwait,
13 the Battalion was limited in what it could do in terms
14 of training. The Battalion continued to do low level
15 pre-deployment training, for example on the ranges for
16 small arms firing and the crews of the armoured vehicles
17 practiced firing the larger weapons systems. A long
18 weekend of pre-deployment leave for the Battalion was
19 also organised.

20 22. During the period of actual deployment, my job
21 in Germany was to manage the deployment of soldiers from
22 Germany to Kuwait. Other staff officers were planning
23 the invasion and the immediate aftermath but I was more
24 focused on controlling the flow of deployment and was
25 therefore one of the last members of the Battalion to

1 leave Germany for Kuwait.

2 23. I do not remember doing any specific training
3 on dealing with prisoners, although I have some
4 recollection that a certain number of people went back
5 to the UK to do a course on detainee handling and
6 perhaps on Tactical Questioning, although I cannot
7 remember who did this or exactly when it was. I do
8 recall though that we were obliged to send a certain
9 number of people on these courses. In response to the
10 Inquiry's question, I think that the course was run at
11 Chicksands but I do not know anything further about it.

12 24. I was deployed to Kuwait from Germany at the
13 very end of February 2003. The Battalion remained in
14 Kuwait for about three weeks before the invasion of Iraq
15 commenced. I think that most people arrived in Kuwait
16 by the end of February or the beginning of March
17 (although some such as the Territorial Army and
18 reservists were still arriving in March).

19 25. All our vehicles and equipment were shipped
20 over and we received them in March. During that month
21 in the HQ we were planning in conjunction with the
22 US Marines. The plan was that the US Marines would
23 invade 24 hours before us and 1 (UK) Armoured Division
24 would relieve them in the Basra area.

25 26. During that period in Kuwait, the Companies

1 were doing as much low-level training as they could; for
2 example, ranges were created in the deserts so they
3 could do live firing exercises.

4 27. Most of the Battalion's work during this period
5 was 'G4' work, i.e. trying to sort out kit, supplies,
6 rations and ammunition. It took time to distribute all
7 these things to Battle Group level and it involved
8 a massive effort to distribute everything to the lower
9 levels of the army. 7 Armd Bde also conducted
10 rehearsals during this period. The pre-invasion period
11 spent in Kuwait was generally a very busy period.

12 28. I do not remember the Battalion receiving any
13 training specifically relating to prisoners of war.
14 No one quite knew what the situation in Iraq would be
15 like, but we were aware that there may be large numbers
16 of prisoners. It is normal practice to include
17 provision for Prisoner of War handling in Op Orders so
18 I would expect that within 1 Division and 7Armd Bde this
19 was done, but given the lapse of time, I do not have any
20 specific recollection of what was in the Op Orders.

21 29. As far as I am aware, there were no
22 theatre-specific Rules of Engagement. By that I mean
23 that it was a war-fighting operation and so it was
24 conducted under the standard Law of Armed Conflict. As
25 long as we could positively identify an enemy combatant,

1 then we could engage with them and we were not further
2 constrained, other than the requirement to abide by the
3 Law of Armed Conflict and the rules regarding collateral
4 damage, proportionality and minimum force.

5 Invasion of Iraq

6 30. There were three British Brigades primarily
7 involved in combat operations; 16 Air Assault Brigade
8 went from the West into the desert to secure the
9 oilfields; 3 Commando Brigade secured the Al Far
10 peninsula; and 7 Armd Bde was to relieve the US Marines
11 in the Basra region.

12 31. 7 Armd Bde which was comprised of four Battle
13 Groups: 1BW; 1st Battalion, The Royal Regiment of
14 Fusiliers; 2nd Royal Tank Regiment and the Royal Scots
15 Dragoon Guards.

16 32. 1st Battalion, The Royal Regiment of Fusiliers
17 secured the crossing from Kuwait into Iraq and 1BW
18 pushed straight through to the area of Az Zubayr, which
19 is West of Basra, as a forward unit.

20 33. 1BW led the push by 7 Armd Bde into Basra on
21 6 April 2003. We set up bases in several locations in
22 Basra, with the main one being for BG HQ and D Coy in
23 the old Ba'ath Party HQ.

24 Rank and Day-to-Day Role during Op TELIC 1

25 34. My rank was Captain. My role as Adjutant on

1 Op TELIC 1 had two parts to it:

2 35. First, in Kuwait and during the invasion, my
3 role was essentially to run BG Main and to control the
4 battle along with the other key staff officers, for
5 example the Operations and Intelligence officers.
6 Together, we organised the movement of the Battle Group
7 and managed the movement of Battalion assets in the
8 battle space (the area of operations). By contrast, the
9 Operations Officer was heavily involved in planning the
10 future operations with the Battalion Second in Command
11 (2IC) and reporting to Bde HQ on the Bde net.
12 Therefore I had more of a role in controlling the
13 current battle.

14 36. Second, when we got to Basra, we established
15 a permanent HQ in the Ba'ath Party HQ where we had
16 a permanent Ops room. I then took a backseat in the
17 running of the day to day operations as the Ops officer
18 took on that role. This is because by that time, the
19 operations were more routine and the Battalion was more
20 settled. I reverted back to my role as the principal
21 staff officer for the CO and performed largely G1
22 functions, namely manning, discipline, reports, postings
23 and the war diary (or operational record).

24 37. In BG Main in Basra, my office was the outer
25 office to the CO's. This would be the same in any camp

1 where the Adjutant almost always has the adjoining
2 office to the CO and to a certain extent is the
3 gatekeeper to the CO. I was also responsible for
4 recording a daily summary of events which I would submit
5 on a monthly basis to the 2IC so that he could compile
6 the war diary. The daily summary was just one annex of
7 many to the war diary.

8 38. I reported directly to the CO. An Adjutant's
9 role is slightly anomalous in that as a Captain he is
10 junior in rank to the 2IC and all the Majors who command
11 Companies, yet he sits in a privileged position as the
12 most senior of the Captains and the only one who is
13 granted 'field officer status' (which is a generic term
14 for all officers of the rank of Major and above). Part
15 of the role of an Adjutant is to set the standard for
16 discipline and dress. The status that goes with the
17 position is slightly higher than the rank dictates.

18 39. Although I did not directly command anyone, as
19 Adjutant I formed a triumvirate with the CO and the
20 Regimental Sergeant Major (RSM). I also worked closely
21 with particular people, who worked to me for certain
22 things. For example, the RSM looks at discipline and
23 standards of dress, behaviour, etc, the Staff Support
24 Assistant is involved with the disciplinary process and
25 the Chief Clerk is responsible for some of the

1 administration.

2 Roles of Chain of Command Regarding Prisoners

3 40. I have been asked what the roles were of the
4 following people in relation to the proper treatment of
5 those detained by my Battle Group.

6 41. The Commanding Officer is ultimately
7 responsible for any prisoners detained under his Chain
8 of Command.

9 42. The Second in Command was Major Nick Chancer.
10 As far as I recall, he did not have any role at all
11 regarding prisoners.

12 43. As Adjutant, I had nothing to do with POWs.

13 44. The Regimental Sergeant Major (RSM) was in
14 charge of the Provost Staff. He supervised the
15 Regimental Provost Staff. The Provost Sergeant had
16 responsibility for prisoners in the BG HQ. He was
17 assisted by other Provost Staff (Regimental Police).
18 The Provost Staff were responsible for the prisoners in
19 terms of handling, management and supervision.

20 45. I am not aware of who the TQers were. As far
21 as I am aware, there was not much TQing going on in
22 BG HQ.

23 46. I do not think that the ISTAR officer had any
24 involvement with prisoners. The post of Battle Group
25 Internment Review Officer (BGIRO) is not one that is

1 familiar to me and I do not know if there was such
2 a post within 1BW.

3 Detention and Treatment of Prisoners

4 47. I have some memory of the way that the
5 Battalion operated during TELIC 1 with regards to the
6 detention and treatment of prisoners, but it is only
7 limited because I had no direct involvement in that side
8 of things.

9 48. If the Companies detained anyone whom they
10 believed had been involved in criminal activity or was
11 a threat, that person would be brought into BG HQ. The
12 Regimental Police would take charge and the relevant
13 information about their capture would be passed to them.
14 A medical examination was then carried out by the
15 Medical Officer and then the prisoner was transferred as
16 soon as possible to the prisoner facility in Umm Qasr.

17 49. We were obliged to pass prisoners on as soon as
18 possible as we were only allowed to hold them in BG HQ
19 for a short period of time. They were generally only
20 held for the minimum amount of time necessary to enable
21 transfer to the facility. I think that occasionally
22 prisoners would stay overnight until transport was
23 arranged. I am not sure what the time limit was but we
24 did not have enough manpower or the right facilities in
25 Camp to hold prisoners for any length of time.

1 50. The Regimental Police (or Regimental Provost
2 staff) were responsible for the prisoners in terms of
3 handling, management and supervision. They were under
4 the command of the Provost Sergeant and he reported to
5 the RSM who reported to the CO. I cannot remember how
6 directly involved the RSM was. The RSM could report to
7 me as well, but I do not recall him ever coming to me
8 about prisoners.

9 FRAGOs

10 51. The Operation Order (Op O) is the main Order
11 which sets out the intent of an operation and its
12 detail. Subsequently, if updates or amendments are
13 needed, then these are issued in the form of a FRAGO.
14 This means the FRAGOs always exist in relation to an
15 Op O and not independently.

16 52. FRAGOs cascade down the army Chain of Command.
17 As a Battalion, 1BW would not receive FRAGOs directly
18 from Division. Division would issue FRAGOs to Brigade
19 which in turn would issue its own FRAGOs (if required)
20 to the Battle Groups. 1BW would therefore receive its
21 FRAGOs from 7 Armd Bde. These would either be given
22 verbally, via radio, in hardcopy or by email (although
23 I do not recall when we had email during Op TELIC).
24 Once we had occupied the Ba'ath Party HQ, the Battalion
25 usually received the FRAGOs via data transfer over the

1 radio, or in hardcopy from Brigade HQ. There would
2 often be 'mail runs' between Brigade HQ and BG Main.

3 53. It is possible that if the Brigade had produced
4 a FRAGO on a topic, with specific legal advice, the
5 Battalion would have produced its own cover sheet and
6 just passed it on, rather than compiling a whole new
7 FRAGO on the same point.

8 54. The administrative staff would receive FRAGOs
9 at BG Main and then they would be dealt with either by
10 the 2IC or the Ops Officer. The FRAGO would be filed
11 with its reference number and then it would be
12 distributed within the Battalion to whoever was on the
13 list or needed to see it (whether for action or for
14 information only).

15 55. Usually the Battle Group would have to give
16 specific directions to the Companies or other elements
17 of the Battle Group. This was done by extracting the
18 relevant information from the Brigade order and then
19 turning it into tasks to give the sub-units in the
20 Battle Group.

21 56. Although I had little to do with the day to day
22 operations, many of the FRAGOs received by the Battalion
23 would be copied to me in my role as Adjutant for
24 information, even if I was not expected to take any
25 action. I would therefore have a general awareness of

1 what the Battalion was doing and the orders it was
2 receiving. I would also have a general awareness of
3 what the Battalion was doing through briefs at the daily
4 Orders (or 'O') Group.

5 57. I am unable now to recall any FRAGOs that were
6 directed at me in my role as Adjutant.

7 58. I have been asked if I remember any specific
8 FRAGOs concerned with hooding or prisoner handling.
9 I have been specifically asked about 1 UK Div FRAGOs 56,
10 79, 91, 152, 163 and 29, which have been shown to me.
11 I do not remember them specifically and as they were all
12 Divisional FRAGOs, I would not have seen them.

13 59. I do not remember any specific FRAGOs on
14 prisoner handling or the internment process. There may
15 have been FRAGOs on these topics (and I expect that
16 there were) but I do not now specifically recall them.
17 I would not have had a particular interest in them as
18 I had nothing to do with those processes. In response
19 to the Inquiry's question, I do not recall receiving any
20 aide-memoires or similar written reminders in relation
21 to the Law of Armed Conflict or the handling of
22 prisoners of any category.

23 60. If there was a change of policy regarding
24 detention during the tour, it would have come down to us
25 as an order from Brigade HQ. I do not recall if we

1 issued any FRAGOs specifically on detention.

2 Handling of prisoners by 1BW

3 61. I am not aware of any FRAGO which authorised
4 the hooding of Iraqi prisoners of any category. I am
5 fairly sure that no guidance or specific order
6 prohibiting the use of hooding or covering a prisoner's
7 face was ever issued before deployment. I do recall
8 however that there was a change of policy at some point
9 which prevented the use of sandbags to cover
10 a prisoner's face, but I do not recall when, how or why
11 the policy changed, or how I became aware of it.

12 62. 1BW would not have received 1 (UK) Div FRAGO
13 152 as it was a Divisional FRAGO. I think that there
14 was direction that we should not use sandbags to cover
15 a prisoner's face. I cannot remember any details of
16 this. I seem to remember at some stage that sandbags
17 should not be used to completely cover somebody's head,
18 but we could still prevent them from seeing, i.e. by
19 covering their eyes only. I have been asked by the
20 Inquiry whether I was aware of FRAGO 63 (MOD031014).
21 I was almost certainly aware of it at the time but I do
22 not now recall seeing it.

23 63. My understanding was that prisoners were to be
24 treated in line with the training that had been given in
25 the relevant courses, which would have been received by

1 the Regimental Police and those concerned with the
2 handling of prisoners.

3 64. I do not recall there being any allegations of
4 mistreatment of prisoners during our time in Basra.

5 65. I do not remember seeing detainees at BG Main
6 although I was aware that we had prisoners there
7 occasionally. I do not recall ever seeing prisoners
8 being hooded. I was aware that they were hooded if
9 deemed necessary when captured. As far as I am aware,
10 prisoners were not kept hooded once they had reached the
11 detention facility at BG Main HQ. As far as I recall,
12 I was aware of this from speaking to the Provost staff.

13 66. I never witnessed any stress positions, sleep
14 deprivation or use of noise being used.

15 BGIRO

16 67. The post of Battle Group Internment Review
17 Officer (BGIRO) is not one that is familiar to me and I
18 do not know if there was such a post within 1BW. It is
19 not a staff officer position in its own right. I have
20 been shown 1 (UK) Div FRAGO 29 but I do not specifically
21 remember it.

22 Tactical Questioning

23 68. The purpose of TQing is to gain low level
24 intelligence before specialist agencies get involved, if
25 a prisoner is assessed to be significant. By low level

1 intelligence, I mean information that may be of
2 immediate use at a low tactical level - i.e. BG or
3 Company level - as opposed to intelligence of
4 operational significance for the wider campaign.

5 69. I know that some people in the Battle Group
6 were trained as Tactical Questioners, but I do not
7 remember who.

8 70. I do not know for certain if TQing actually
9 took place at 1BW, but I know that we did take prisoners
10 and that we had trained TQers. I therefore assumed that
11 TQing took place, but I cannot say for certain. If
12 TQing did take place in 1BW, it is my understanding that
13 any intelligence would be passed to the Intelligence
14 Cell which would be the normal course of events. I do
15 not know who the Tactical Questioners reported to.

16 Handover to 1 Queen's Lancashire Regiment ("1QLR")

17 71. There was an advance party of key people from
18 the incoming BG HQ before the handover. I am not sure
19 exactly who formed that advance party, but it would
20 probably have been the CO, 2IC, Adjutant, Ops officer,
21 Intelligence officer, RSM and some of the
22 Non-Commissioned Officers. It was a staggered process.
23 I met the Adjutant of 1QLR. I do not now recall exactly
24 what we discussed. However, by that time, most of my
25 job was 'normal' Adjutant work and so was inward-looking

1 in terms of the Battalion's work and so was not focused
2 on the external environment in Basra. The new Adjutant
3 would therefore have known all the standard issues about
4 postings and reports, so there would not have been much
5 information specific to the operation or to Basra that
6 I would need to pass on. It is possible that I briefed
7 him on some things that were specifically relevant, such
8 as dealings I had with Brigade HQ, but I cannot now
9 recall what these might have been. I do not know about
10 what handover there may have been in relation to
11 prisoner handling, as I was not directly involved in
12 that aspect of operations. In response to the Inquiry's
13 question, as to who would have been involved in handing
14 over orders relating to prisoner handling, I would think
15 that it would be the Ops Officer or the Battalion 2IC as
16 they dealt with the production and distribution of
17 orders. However I do not now remember.

18 72. I do not recall passing on any FRAGOs myself,
19 although others such as the Ops Officer or 2IC may have
20 done.

21 Media

22 73. I have never given an account of matters
23 relevant to the Inquiry's terms of reference to the
24 press or media.

25 Statement of Truth

1 I believe that the facts stated in this witness
2 statement are true.

3 Signed: Angus Philp.

4 Dated: 19 August 2009.

5 THE CHAIRMAN: Thank you very much, Mr Halliday. 12.30.
6 (12.12 pm)

7 (A short break)

8 (12.30 pm)

9 MR ELIAS: Sir, I call Brigadier Riddell-Webster, please.

10 THE CHAIRMAN: May I ask you to stand up, please, Brigadier,
11 while the oath is administered to you?

12 MICHAEL LAWRENCE RIDDELL-WEBSTER (sworn)

13 THE CHAIRMAN: Thank you. Please sit down.

14 May I ask you, please, to speak into the microphone
15 otherwise it is very difficult to hear what you have to
16 say.

17 A. Yes, Sir.

18 THE CHAIRMAN: Thank you.

19 Questions by MR ELIAS

20 MR ELIAS: Could you give the Inquiry your full name,
21 please?

22 A. My name is Brigadier Michael Lawrence Riddell-Webster.

23 Q. Would you look, please, at a folder which I hope is to
24 your right, which should contain a copy of your
25 statement. If you go to the last page of it, at our

1 BMI03416, do you find your signature above the date of
2 3 August of last year?

3 A. Yes, I do.

4 Q. When you signed that statement, Brigadier, were you
5 attesting that the contents of it were true to the best
6 of your knowledge and belief?

7 A. That is correct.

8 Q. I am not going to ask you about everything that is in
9 that statement. We have all read it. I am going to
10 take you, rather, to certain parts of matters that you
11 cover there.

12 May I deal first of all very briefly with your army
13 career. You joined the army in 1982?

14 A. Yes.

15 Q. You tell us in your statement that you have served in
16 Northern Ireland, in Bosnia, in Kosovo and in Iraq in
17 2003.

18 A. Yes.

19 Q. In Iraq in 2003, during Op Telic 1, you were, were you,
20 a lieutenant colonel and the commanding officer of the
21 First Battalion Black Watch Battlegroup?

22 A. Yes.

23 Q. You are still in the army, currently serving as
24 a brigadier in a role which you set out in paragraph 4
25 of your statement to this Inquiry?

1 A. Yes.

2 Q. I want to ask you just a little, please, about your
3 understanding of certain aspects of prisoner-handling at
4 the time that you deployed to Iraq and I want to put
5 certain specific matters to you, assuming that it is
6 from your training -- either immediate pre-deployment
7 training or indeed training before that in the army --
8 that you will have come to whatever view you have about
9 the matters I am now going to put to you.

10 You had, of course, received LOAC training --

11 A. Yes.

12 Q. -- which taught you, amongst other things, to treat
13 prisoners humanely?

14 A. That's right.

15 Q. When you deployed to Iraq, what was your understanding
16 about the use of hoods on prisoners?

17 A. That when we took prisoners, we were to hood them.

18 Q. You were to hood them?

19 A. We were to hood them.

20 Q. Where had that understanding -- or was it more than
21 that -- come from?

22 A. It came from not a specific order, but just from the
23 training that we did prior to deployment.

24 Q. So you mean the immediate pre-deployment training?

25 A. I do, yes.

1 Q. What did you learn about the use of hoods in particular
2 in that training? In what circumstances, for example,
3 might they be used?

4 A. That we would be able to hood people as we took them
5 prisoner.

6 Q. So was it, then, your understanding that hoods would be
7 used, if you like, as an SOP with every prisoner who was
8 taken?

9 A. Initially yes.

10 THE CHAIRMAN: By "initially", do you mean when they were
11 immediately captured or do you mean initially during
12 your tour?

13 A. Initially during my tour.

14 MR ELIAS: I was to ask you about that. Was there
15 a distinction drawn in your training between the
16 war-fighting phase and the peace-keeping phase?

17 A. Not in the training, but clearly the circumstances
18 changed.

19 Q. We were told, I think by the last witness this morning,
20 that the focus on training -- perhaps not surprisingly
21 in regard to prisoner-handling -- was on the taking of
22 prisoners of war.

23 A. That's correct.

24 Q. Is that correct?

25 A. Yes.

1 Q. At that time, in pre-deployment training, therefore, was
2 any consideration that you can remember given to
3 detaining civilians in the peace-keeping phase?

4 A. I don't remember.

5 Q. But your recollection, then, is prisoners of war --
6 that's what you were being trained about -- could and
7 should be hooded?

8 A. Correct, yes.

9 Q. Hooded at the point of capture; is that what you say?

10 A. Yes.

11 Q. And hooded for a particular period of time or a series
12 of events or what?

13 A. No, more until they were got back to whatever location
14 they were going to be held in.

15 Q. Can you remember who gave you the training that passed
16 this information that hoods could be used?

17 A. I don't. I mean, I remember that we did it at
18 Sennelager in January, but I don't remember who actually
19 gave the training.

20 Q. To your knowledge, Brigadier -- and don't guess if you
21 don't know the answer -- was that instruction, as it
22 were, passed through all the ranks?

23 A. It was done in the form of a large central presentation
24 or maybe two.

25 Q. What, so far as you know, the whole of Black Watch would

1 have been given that same message?

2 A. Yes.

3 Q. Was that a message that, as far as you can recall, you

4 had ever been given before, that hooding could be used

5 for prisoners?

6 A. I don't recall specifically being told that before.

7 Q. Did you give any consideration, when given that message

8 in pre-deployment training, that hooding might be in

9 itself inhumane and therefore contrary to your LOAC

10 training?

11 A. Not in the circumstances that we thought we might be

12 taking them in, no.

13 Q. Sorry, your just dropped your voice a little.

14 A. Sorry, not in the circumstances that I thought that we

15 would be taking them.

16 Q. What exactly does that mean?

17 A. It means that if you are engaged in war fighting and you

18 are taking prisoners of war, I don't think it is

19 inhumane -- or I didn't think it was inhumane -- at that

20 stage to hood them.

21 Q. I take it that nothing specifically was said about that

22 aspect of the matter -- humane or inhumane -- in this

23 training, was it?

24 A. I don't recall.

25 Q. Just jumping ahead a little -- we will come back to the

1 detail if we may -- during your time in Iraq, war
2 fighting or peace keeping, was that instruction that
3 prisoners should be hooded at the point of capture ever
4 changed to your knowledge?

5 A. Well, we had this order later on in May that said it
6 should be, yes.

7 Q. That said what?

8 A. It said that the hooding should cease.

9 Q. I will come back to that, if I may. That was the first
10 time, then, was it, that you were aware of any change in
11 that order --

12 A. Yes.

13 Q. -- that at some time in May -- we will look at it in due
14 course -- hooding should cease?

15 A. That's correct, yes.

16 Q. Still dealing with the pre-Iraq situation, at that
17 stage, on deployment to Iraq, did you know whether
18 stress positions were approved or otherwise for use on
19 prisoners?

20 A. I did. I knew they were not approved.

21 Q. Where did that understanding come from, Brigadier?

22 A. I think 20 years' experience. I don't recall a specific
23 instance.

24 Q. You are aware now, are you, of what has sometimes been
25 referred to in this Inquiry as the "Heath ruling" or the

1 "Heath statement" to the House of Commons?

2 A. I am now.

3 Q. Were you aware of that, do you remember, in 2003, before
4 your deployment to Iraq?

5 A. No, I was not aware of it.

6 Q. So to your recollection, what, that statement had never
7 been brought to your attention?

8 A. I don't think it had ever been brought to my attention.

9 Q. So from all your training, you understood that stress
10 positions were, if I put it in shorthand, off the menu,
11 could not be used in any circumstances?

12 A. Yes.

13 Q. What about other conditioning techniques, as sometimes
14 they are called, deprivation of sleep, use of white
15 noise and matters of that kind, what was your --

16 A. My understanding was that they should not be used.

17 Q. Again, born of 20 years, as you say?

18 A. Yes.

19 Q. In your pre-deployment training for this operation, for
20 Op Telic, were you given any specific instruction or
21 training as to the non-use of stress positions or
22 conditioning techniques?

23 A. We had this training at Sennelager, the exact content of
24 which I am afraid I don't remember, but I am sure that
25 it would have been given to us that we should not have

1 been using these sorts of positions.

2 Q. You don't recall it, but you think it's --

3 A. I think it's unlikely -- well, I am utterly sure that we

4 would have been told we should not be doing it.

5 Q. Do you understand something by the term "the shock of

6 capture"?

7 A. Yes.

8 Q. A state a prisoner might be in immediately upon being

9 captured --

10 A. Yes.

11 Q. -- putting it in the nutshell.

12 A. Yes.

13 Q. Were you given any training in relation to exploiting

14 the shock of capture or using it?

15 A. No.

16 Q. Do you recall any reference to the shock of capture in

17 the training that you did have for Iraq?

18 A. Not specifically in that training, no.

19 Q. Again, sticking specifically with that training, was

20 there any training that you recall in what is sometimes

21 called "conduct after capture", in escape and evasion

22 techniques?

23 A. There was training in how we should get people moving

24 from wherever they were captured back down or up the

25 chain of command to wherever they were going.

1 Q. That's in relation to prisoners that you may take?

2 A. Yes.

3 Q. Was there any training for you as to what might befall
4 you if you were captured?

5 A. Oh I see. No.

6 Q. You don't recall being given information as to what
7 techniques might be practised upon you if taken
8 prisoner?

9 A. No, I don't remember that.

10 Q. All right. Turning then to the operation in Iraq, if
11 I may -- moving away from training -- did you set the
12 chain of command for responsibility for detainees when
13 in Iraq?

14 A. Within 1 BW, yes.

15 Q. Yes. What was it? What was the chain of command for
16 those who were -- first of all, let's start at the
17 bottom, if you like. Who was responsible hour by hour,
18 minute by minute, for the welfare of detainees?

19 A. Well, it would have been the regimental provost staff.

20 Q. And to whom -- we have heard from Sergeant Gallacher,
21 the provost sergeant -- would he have been answerable?

22 A. The regimental sergeant major.

23 Q. Throughout your period in Iraq, whether in the
24 war-fighting or the peace-keeping phase, if I may call
25 them that, did that change in any way?

1 A. In essence, no.

2 Q. It's suggested in evidence that the RSM would frequently
3 be part of your Rover group.

4 A. Once we got into the peace-keeping phase, that is
5 exactly right and he spent an enormous amount of time
6 with me out and about around Basra.

7 Q. But that did not, did it, alter his responsibility for
8 oversight, if you like, for the provost staff?

9 A. No. It made it more difficult for him to exercise, but
10 it didn't change it.

11 Q. Did you consider, Brigadier, that using the RSM in the
12 way that you did -- and I don't criticise it for one
13 moment -- that that in any way, if you like, weakened
14 the supervision of the provost staff?

15 A. Well, it certainly made it more difficult for the RSM to
16 exercise that supervision, but Sergeant Gallacher is the
17 senior NCO.

18 Q. So although the RSM would be less frequently, if you
19 like, on the ground, he retained the responsibility and
20 you were confident he could exercise it; is that the
21 position?

22 A. Yes.

23 Q. Apart from the RSM, who else at senior level, if you
24 like, had responsibility for detainees?

25 A. Well, in strict terms, if we had been in barracks, the

1 RSM would have reported to the adjutant who in turn
2 would have reported to me. On operations it's possible
3 that the RSM might have reported to the ops officer and
4 then to me.

5 Q. Would that have applied during the war-fighting phase or
6 during the peace-keeping phase also?

7 A. A bit of both.

8 Q. When you say "it's possible", just so the Inquiry
9 understands this, are you saying that there was or is
10 some uncertainty about where or how the chain may
11 operate?

12 A. No. It's just that the emphasis changes as the state of
13 operations change. So once we were in Basra, the ops
14 officer would have been manning the operations room most
15 of the time and it is possible that prisoners may have
16 appeared in the battalion headquarters and he would have
17 been asked what to do with them. So probably not
18 directly responsible, but he would certainly have had
19 potentially some, you know, say in where they should go.

20 Q. So he may, as it were, from time to time, have been
21 inserted into the chain, but it didn't essentially alter
22 the line from the provost sergeant through to the RSM?

23 A. No, because they are senior to -- so I mean the normal
24 and, I suppose, continuing formal chain is provost
25 sergeant, RSM, adjutant, me.

1 Q. I think you will be aware that in due time in Iraq the
2 post of BGIRO was created.

3 A. Yes, I'm aware, yes.

4 Q. That appears to have come into operation after your
5 time; would that be right?

6 A. Yes, I certainly didn't have one.

7 Q. You had no part in any discussions that may have been
8 leading up to the creation of that role?

9 A. Not that I recall.

10 Q. So you can't help us as to why it may have been done?

11 A. I can speculate.

12 Q. I am not sure that the Chairman will want you to
13 speculate. You weren't part of any discussion --

14 A. No.

15 Q. -- or any planning for the creation of that role?

16 A. No.

17 THE CHAIRMAN: I don't want you to speculate. At some stage
18 I would quite like to know whether you would have
19 thought it was a good idea or a bad idea, but we can go
20 into that later.

21 MR ELIAS: All right. So that's the essential chain of
22 command. You were aware, of course, of prisoners being
23 taken from time to time and being brought back to
24 camp --

25 A. Yes.

1 Q. -- in both phases of the operation?

2 A. Yes.

3 Q. Did you see detainees -- focusing now particularly on
4 what I will call the peace-keeping phase of the
5 operation -- hooded from time to time?

6 A. I did.

7 Q. Where would you see them?

8 A. Occasionally in my battlegroup headquarters.

9 Q. Did you visit the TDF, the temporary detention facility,
10 within the --

11 A. That was within my battlegroup -- well, I didn't --
12 I never visited the big TDF down in Um Qasr or anything
13 in brigade headquarters.

14 Q. No, no, your own.

15 A. Indeed my companies' I saw, yes.

16 Q. And would you visit to see detainees there from time to
17 time?

18 A. No, I would -- no, I never visited prisoners personally.
19 I visited to check what was going on.

20 Q. Did you actually see detainees within the facility?

21 A. Once or twice, yes.

22 Q. Were they ever hooded within the facility?

23 A. Not that I remember.

24 Q. So the hooding that you saw, was that the bringing of
25 prisoners into the camp?

1 A. Yes.

2 Q. Did you see any hooding when prisoners were moved, as
3 perhaps they had to be from time to time, for example
4 for tactical questioning, around camp?

5 A. No, and they weren't moved around camp other than to go
6 in and out of it.

7 Q. Did you ever see stress conditions used --

8 A. No.

9 Q. -- on prisoners taken by the Black Watch --

10 A. No.

11 Q. -- or indeed any other conditioning techniques?

12 A. No.

13 Q. You are aware, are you, of the evidence of
14 Sergeant Gallacher?

15 A. Sergeant Gallacher, yes.

16 Q. Yes. Can I take you, please, just to remind you, to his
17 statement to this Inquiry, although he said as much in
18 evidence too. It is at BMI06884, paragraph 41, please,
19 where he says this:

20 "I believe that I put or ordered prisoners to be put
21 into stress positions on approximately ten occasions."

22 If that happened, you weren't aware of it, were you?

23 A. I was not aware of it, no.

24 Q. If it did happen on ten occasions that he put prisoners
25 into stress positions, indeed, as we shall see in

1 a moment, conditioning them for tactical questioning, is
2 that something you should have known about?

3 A. Probably.

4 Q. How would you have expected to have learnt of it?

5 A. Through the chain of command.

6 Q. By the RSM?

7 A. And then -- yes, and/or me visiting and seeing it
8 happening.

9 Q. Apart from yourself, who else ought to have known
10 about it, Brigadier, if it were happening?

11 A. The RSM and the adjutant.

12 Q. Does the term "high value target" mean anything to you?

13 A. Yes.

14 Q. And it would have done in Iraq, would it?

15 A. Oh yes.

16 Q. A category of detainee?

17 A. Yes, on someone who probably we launched a specific
18 operation to go and try to capture, as opposed to those
19 that we caught just looting.

20 Q. To generalise, if I may, then, or put it in shorthand,
21 if you like, a terrorist rather than a criminal --

22 A. Yes.

23 Q. -- suspect at least?

24 A. Yes.

25 Q. Was that a term that was used in Iraq in 2003?

1 A. Which term? Sorry.

2 Q. "High value target".

3 A. I am sure it was. I don't remember specific instances
4 of it.

5 Q. Was there ever any instruction that a high value
6 target -- forgive me, I should have asked you this: the
7 Inquiry has heard that that is a term that would only
8 have been applied in the peace-keeping period of the
9 operation -- was that right?

10 A. Yes.

11 Q. -- because we are talking about civilians who are
12 terrorists and not, as it were, enemy fighters.

13 A. I am not sure what the difference between a terrorist
14 and an enemy fighter is, but they would have been people
15 who we would, from some specific intelligence, have been
16 going after.

17 Q. I follow. Was there ever any instruction that the high
18 value target could be treated any differently from any
19 other detainee in terms of the way he might be
20 physically restrained or treated?

21 A. Not until the order in May.

22 Q. What effect did that have on high value targets?

23 A. Well, that said we should stop hooding.

24 Q. The stop hooding was across the board, wasn't it --

25 A. Yes.

1 Q. -- as you understood it?

2 A. Yes.

3 Q. So is the consequence, if you like, of that answer that
4 high value targets were not to be treated any
5 differently throughout the period?

6 A. That was my understanding.

7 Q. Sergeant Gallacher goes on, if we can go back to
8 paragraph 41, to his ten occasions where he says these
9 were high value targets -- do you follow -- in his
10 evidence:

11 "On every occasion this would have been as the
12 result of an order and because of a perception that the
13 prisoner had important information. I don't believe
14 that the expression 'stress position' was ever used in
15 relation to such an order. Rather, I would be told to
16 get a particular prisoner ready for questioning, which
17 I took as a signal to use conditioning techniques such
18 as stress positions."

19 He goes on to say that he based this on his
20 experiences from PHTQ courses and he would receive his
21 instructions from Colour Sergeant Penman, rather more
22 than Captain Williamson. He says that the word
23 "conditioning" might have been used, which you will have
24 seen.

25 He goes on, then, to say that he would sometimes put

1 prisoners into the stress positions or sometimes would
2 order the guards -- that might be soldiers -- who were
3 doing the guard duty to do it.

4 "I would not require prisoners to adopt stress
5 positions for longer than half an hour or so."

6 In the next paragraph he gives an example of
7 a prisoner who was conditioned and why.

8 I think, perhaps, Brigadier, you will have read
9 that.

10 A. Yes.

11 Q. Thank you. You were never aware of this going on?

12 A. No, I was not.

13 Q. Was there ever any discussion at any of your O Group
14 meetings of prisoner-handling or prisoner treatment?

15 A. Certainly, when we got orders -- and the May order is
16 the example -- that would have been passed down at my
17 O Group in the evening.

18 Q. Was conditioning ever referred to in any
19 O Group meeting?

20 A. I don't recall, but there's no reason why it should have
21 been because it was banned.

22 Q. The same would apply to use the stress positions as
23 being part of conditioning, would it?

24 A. Absolutely, yes.

25 Q. So if it were going on and you knew nothing about it, in

1 the terms in which Sergeant Gallacher sets it out in
2 that statement, who is at fault in the chain of command?

3 A. Well, ultimately it's my responsibility, but quite
4 clearly the orders had not got down to
5 Sergeant Gallacher clearly enough.

6 Q. If you feel you can't answer this question, Brigadier,
7 of course you will say so, but is it conceivable, do you
8 think, that Sergeant Gallacher could have been carrying
9 out conditioning in the way that he here describes in
10 his statement, but that it need not have been known to
11 anyone else save himself?

12 A. It's entirely conceivable, yes.

13 Q. Do you know the extent to which Sergeant Gallacher,
14 can I put it this way, was a hands-on provost sergeant?

15 A. Do you mean in barracks normally or on those operations?

16 Q. In Iraq, with detainees.

17 A. He was a, I thought, thoroughly reliable, upstanding,
18 senior NCO who did his job perfectly correctly. I don't
19 believe he was, as you put it, hands-on.

20 Q. By "hands-on", I didn't mean anything derogatory at all.

21 A. No, but I mean, in barracks he would have behaved
22 entirely properly in my view.

23 Q. Plainly my question may not have been clear. Let me
24 just put it again then. I was really asking you
25 whether, from your knowledge of him, if you can say so,

1 Sergeant Gallacher would, most if not all of the time,
2 have been the man who was actually physically
3 responsible for the detainees who were there -- that's
4 really what I meant by "hands-on" -- rather than
5 delegating to someone else; do you follow?

6 A. Yes. I mean he had a very small team so he almost
7 certainly would have been involved -- particularly if
8 they were a high value target -- in the barracks.

9 THE CHAIRMAN: Well, he told us he was heavily involved with
10 everybody who came in. He took a very careful eye on
11 them. You would expect that, would you?

12 A. Yes.

13 MR ELIAS: And he told us particularly in relation to high
14 value targets.

15 A. Well, I would absolutely expect that. He's the chap in
16 charge.

17 THE CHAIRMAN: Any time you want to break off, Mr Elias.

18 MR ELIAS: I am going to move on to something else. That
19 would be convenient, Sir.

20 THE CHAIRMAN: All right. We have a break now for lunch for
21 an hour, Brigadier.

22 May I ask you, please, not to speak about your
23 evidence to anybody else in the interval and would you
24 please be back, if you would be kind enough, and ready
25 to start at 2 o'clock?

1 A. Yes, Sir.

2 THE CHAIRMAN: Thank you very much.

3 (1.00 pm)

4 (The short adjournment)

5 (2.00 pm)

6 THE CHAIRMAN: Mr Elias.

7 MR ELIAS: Thank you, Sir.

8 Brigadier, moving on, if I may then, still dealing

9 with the handling of detainees, did you understand that

10 there was any particular maximum period over which

11 Black Watch could hold detainees once arrested?

12 A. No, not initially. But when we got the later order,

13 there then was a stipulated period.

14 Q. Is that when it came down, as you understood it, to the

15 six-hour period?

16 A. Yes.

17 Q. But prior to that, there was no specific maximum, was

18 there?

19 A. Not that I remember, no.

20 Q. Again, I don't want you to guess or estimate, but do you

21 have any idea of how long prisoners, if there were such

22 a thing, on average were kept by Black Watch? Are we

23 talking of hours or days?

24 A. No, I think it was governed, as much as anything else,

25 by the administrative difficulties of moving them to

1 somewhere else.

2 Q. Were you aware of prisoners being held for days on
3 occasions?

4 A. Not for days. They may have been held overnight.

5 Q. Do you know what the system was in relation to any
6 medical examination that was given to detainees, in what
7 circumstances it would be given?

8 A. I had forgotten, but having read the testaments
9 subsequently, I understand that they were inspected by
10 my doctor when they appeared.

11 Q. Well the evidence that the Inquiry has heard has been --
12 from those on the ground, actually handling them, if you
13 like -- that there was not a routine medical
14 examination, but rather, if there were a particular
15 reason for a detainee to be presented to the RMO or to
16 his staff, that would be done. Do you know either way?

17 A. I can't confirm either way, no.

18 Q. Were you aware of any ill-treatment of detainees by any
19 member of the Black Watch?

20 A. Other than the one incident that I put in my statement
21 about the padre coming to talk to me, I was not aware of
22 any others, no.

23 Q. I want to ask you just a little about that, the padre
24 coming to talk to you. That was a disclosure to the
25 padre?

1 A. Correct.

2 Q. In the way that you dealt it subsequently -- you outline
3 it in your statement and I am not going to take you
4 to it in detail -- but you spoke to, what, the battalion
5 or most members of it?

6 A. No, I went round all the different company locations,
7 speaking to the non-commissioned officers and the
8 officers at those.

9 Q. And what did you tell them?

10 A. I told them that I had heard an allegation that
11 prisoners were being mistreated and that it was to stop.

12 Q. Did you tell them the nature of the mistreatment?

13 A. I didn't get into the detail of what the mistreatment
14 was.

15 Q. Had you been told what the nature of the mistreatment
16 was by the padre?

17 A. I had been told by the padre that people were being made
18 to kneel and some people were standing on their ankles.

19 Q. So possibly, anyway, the use of stress positions of some
20 sort or another?

21 A. That was the implication, yes.

22 Q. May I preface my next question by saying this: I am not
23 going to ask you to give any name, even if you know it,
24 but did the padre give you any name?

25 A. No, and I specifically didn't pursue it.

1 Q. I understand. But you were led to understand that it
2 did involve, what, a Black Watch soldier or soldiers?
3 A. Yes, and I knew which company too.
4 THE CHAIRMAN: Was it soldiers or soldier? A single soldier
5 or soldiers?
6 A. No, no -- no, Sir. I knew which company the soldier who
7 had made the complaint came from.
8 THE CHAIRMAN: Sorry, I didn't make myself clear.
9 I appreciate you realised it came from one company, but
10 was it just one soldier or several soldiers?
11 A. I'm not sure.
12 MR ELIAS: Which was the company to which you understood it
13 applied?
14 A. C Company.
15 Q. So you dealt with that by speaking to the units who
16 might be handling prisoners thereafter?
17 A. Yes.
18 Q. Did you instigate any inquiry?
19 A. No.
20 Q. Because ...?
21 A. Because I felt that I had nipped it in the bud and that
22 we had dealt with the issue.
23 Q. On the same topic, Brigadier, do you recall -- you may
24 have read of it now -- any other occasion when then
25 Major Channer, your 2IC, brought to your attention

1 possible assault on a detainee?

2 A. I don't recall it. Having read his statement, I think
3 he has the padre incident and something else mixed up.

4 Q. I understand, because you say it was after the padre
5 incident that you would have spoken to the troops, as it
6 were?

7 A. My recollection is absolutely that I -- that's exactly
8 when I organised it.

9 Q. But you have no recollection of Major Channer bringing
10 to your attention some possible suspected assault --
11 I think would be a fair way of putting it --

12 A. No.

13 Q. -- which had been brought to his attention by the RMO?
14 That doesn't ring any bells with you?

15 A. I fear it doesn't, no.

16 Q. Did you participate in the handover to 1 QLR?

17 A. I did.

18 Q. The handover to Colonel Mendonca?

19 A. Yes.

20 Q. Forgive me if the terminology is inapt, but would it be
21 correct to say that your handover to Colonel Mendonca
22 was, if you like, at an executive level?

23 A. Yes.

24 Q. So were matters such as the details of
25 prisoner-handling, hooding and that sort of thing

1 discussed between you and Colonel Mendonca?

2 A. Not that I recall and I don't think we would have done.

3 Q. Would you have expected the detail -- important though

4 it may be -- of those matters to have been handed over,

5 as it were, at the appropriate level where it was being

6 dealt with?

7 A. Yes, I would.

8 Q. Can you throw any light on the question -- because the

9 Inquiry has heard some evidence varying on the issue --

10 of the handover of then existing FRAGOs or orders that

11 you, Black Watch, might have received, for example, from

12 brigade. How would those matters have been handed over?

13 A. I'm quite sure that both the adjutant and the ops

14 officer would have taken their opposite numbers through

15 them.

16 Q. That again would be their responsibility, would it?

17 A. Yes.

18 Q. And again not matters that you would yourself have taken

19 with Colonel Mendonca?

20 A. Not in the detail. Clearly I would have been dealing

21 with what was going on in the situation and the current

22 policy attached to it.

23 Q. Do you recall the recce that was carried out some time

24 before the handover by members of 1 QLR?

25 A. Yes, I do.

1 Q. You are aware, are you, Brigadier of the fact that some
2 of those who participated in the recce and then were
3 part of the handover -- some of those say that they saw
4 hoods being used on prisoners at the time both of the
5 recce and of the handover.

6 A. I'm aware of the evidence now, yes.

7 Q. But you weren't aware of it, were you, that is to say
8 hooding, at that time?

9 A. No, no, I wasn't.

10 Q. So, what is the position? Do you say that at the time
11 of the handover there would not have been hooding at
12 Black Watch?

13 A. There certainly should not have been.

14 Q. There should not have been, but you can't say there
15 would not have been?

16 A. No.

17 Q. May we have a look then, please, at FRAGO 63? You will
18 find it at MOD031014. I think you will have seen this
19 before; is that right?

20 A. Yes.

21 Q. Do you actually remember seeing it at the time?

22 A. I don't, no, but I'm quite sure we passed it down in the
23 O Group in the evening.

24 Q. So it would have been at the O Group and discussed at
25 the O Group, would it?

1 A. Yes, absolutely.

2 Q. And who would, if anyone, have presented a FRAGO of this
3 kind?

4 A. Either the ops officer or the adjutant, and I would have
5 added emphasis.

6 Q. If we go on, please, to MOD031017. Can we go on
7 paragraph 5? Thank you.

8 I am sure you will have seen this before,
9 Brigadier -- forgive me for taking it shortly --
10 referring to the unit holding a detained person and
11 so on "... should be treated with humanity and dignity
12 ... should not be assaulted ... provided with water in
13 all cases and food if they are detained for longer".
14 Presumably all of that would have been -- I put it in
15 shorthand -- no change from before.

16 A. That's correct, yes.

17 Q. Then this:

18 "If they need to be restrained then this had should
19 only be effected where absolutely necessary and using
20 the minimum force required."

21 That too would have been stating the position as
22 before, would it?

23 A. Yes.

24 Q. "Under no circumstances should their faces be covered as
25 this might impair breathing."

1 Just taking that sentence if we may: do you recall
2 a FRAGO with those words or words similar coming through
3 and being discussed at O Group?

4 A. I don't, but, you know, if the order is there, I am sure
5 we did discuss it.

6 Q. What is your understanding -- either what was your
7 understanding then or, if you don't recall, what is your
8 understanding now of those words, "Under no
9 circumstances should their faces be covered as this
10 might impair breathing"?

11 A. It would have meant that we should have stopped hooding.

12 Q. It has been suggested to this Inquiry that perhaps it
13 has -- I don't know -- a wider or a narrower meaning,
14 but a different meaning; that is to say that even if one
15 was using a cloth to cover the eyes, for example, that
16 care should be taken not to cover the nose or the mouth
17 or in any other way impair breathing. Is that how you
18 read it or would have read it?

19 A. It's not how I would have read it. I mean, that's too
20 complicated for soldiers. It would have been: no
21 hooding.

22 Q. If that is right, that it means no hooding, you would
23 say, would you, that there is no reason why paragraph 5
24 could not have read -- and perhaps should have read --
25 "Under no circumstances are prisoners to be hooded"?

1 A. It would have been much easier to implement.

2 Q. And it would have meant the same?

3 A. Yes.

4 Q. And there would have been no lack of clarity about it
5 which there may be over these words?

6 A. Yes.

7 Q. So I understand that you say that you don't specifically
8 recall receiving the FRAGO, but you say you would have
9 done, it would have been handed down, it would have been
10 discussed at your O Group meeting. You attended brigade
11 O Group as well?

12 A. I certainly did, yes.

13 Q. Was this or would it have been discussed at brigade?

14 A. I am sure it would have been. I don't remember doing
15 so.

16 Q. When you say that the effect of this order, that is no
17 hooding, would then have been cascaded down within your
18 battalion, how would that have been done?

19 A. I had an Orders Group every evening at 5 o'clock and it
20 would have been passed on at that meeting.

21 Q. To the company commanders?

22 A. To the company commanders and heads of all the
23 departments that attended that meeting.

24 Q. And would you have expected them to pass it on
25 appropriately down the chain?

1 A. Absolutely.

2 Q. If we go back to the first page of that, please, at
3 MOD031014, I think we can see at the top the date of
4 21 May, so this was now getting to the end of the time
5 that you were there, of course. Having regard to that,
6 Brigadier, is that your recollection of when, if I can
7 call it this, the ban on hooding, as you understood it
8 anyway, came in?

9 A. Well, I remember there being something towards the end
10 of the tour, yes, but I can't remember exactly when.

11 Q. I understand that. But this date, then, would fit in
12 with your recollection of the ban coming in, as it were,
13 late on in your time?

14 A. Broadly.

15 Q. Do you remember any other order which in any way, shape
16 or form banned hooding during your time in Iraq?

17 A. No.

18 Q. You don't recall receiving any verbal order to that
19 effect?

20 A. I don't, but if I had done, I would have done it --
21 I would have got those at the brigade O Group.

22 Q. So any verbal order would have come at the brigade and
23 it would then have depended upon you to carry it
24 forward?

25 A. Yes, and it would normally have been followed by

1 something like this FRAGO.

2 Q. I ask you this only because of some other evidence that
3 the Inquiry has received: were you ever aware, in Iraq,
4 of receiving any order that you could -- were permitted
5 to -- hood?

6 A. No. I don't think we ever got a positive order ever
7 that we could.

8 Q. Now you say that this FRAGO would have been discussed at
9 brigade, at an O Group meeting which you in all
10 probability would have attended, and it would have been
11 discussed at your own O Group.

12 A. Yes, it wouldn't have been discussed at the brigade
13 O Group. It probably wouldn't have been written by
14 then. But it would certainly have been discussed at my
15 own battlegroup O Group.

16 Q. Do you recall at any brigade O Group meetings the
17 questions of prisoner-handling -- be they hooding or
18 anything else -- being discussed as issues when you were
19 in Iraq?

20 A. I remember plenty of discussions about what we should do
21 with people once they had been detained.

22 Q. At what level?

23 A. At the brigade level.

24 Q. Forgive me, that was the discussions at brigade level,
25 I understand -- but what you should do with prisoners at

1 what point?

2 A. It wasn't so much about how we handled them. It was the
3 efficacy of capturing them at all.

4 Q. And no doubt, resulting from what the Inquiry heard this
5 morning from other witnesses, the numbers of prisoners
6 who might be taken in the war-fighting phase. These
7 were issues that were discussed, were they?

8 A. Yes, I was thinking more about looters after we had got
9 into Basra.

10 Q. I follow. The handing over of criminals and things of
11 that kind?

12 A. Yes.

13 Q. You don't remember at brigade issues such as hooding or
14 the use of stress positions or the physical treatment,
15 if you like, of detainees being discussed?

16 A. No.

17 Q. Black Watch had deaths in custody of detainees.

18 A. Sorry, Black Watch ...?

19 Q. Black Watch had deaths in custody of detainees.

20 A. Yes.

21 Q. We have heard a little of the detail of that and I don't
22 want to trouble you with that, but save to ask you this:
23 do you recall whether any death or deaths in custody
24 with the Black Watch raised any issues touching on the
25 fact that the detainee in question had been hooded?

1 A. I know that they were all investigated there and then.
2 I do remember that. I don't remember whether or not we
3 got into whether or not hooding was part of it or not,
4 but I'm sure we probably did.

5 Q. And the investigation would have been carried out by the
6 RMP, would it?

7 A. Yes.

8 Q. But you have no specific recollection of hooding
9 impacting, as it were, or arising from any of those
10 investigations or deaths?

11 A. No, but I'm quite sure that we would have thought about
12 the possible effect of hooding.

13 Q. A separate matter, Brigadier, if I may. Would you look
14 please with me at BMI06917 and paragraph 75, Mr Fraser's
15 statement to this Inquiry. He gave evidence this
16 morning. At paragraph 75 on the page now on the screen,
17 you see reference to an extract from his diary. The
18 note of the diary reads -- and there is then blacked out
19 what is a reference to what I'm going to call an
20 "external agency", do you follow? I would rather that
21 we don't use the name that you may know. It is followed
22 by this:

23 "... treatment of suspects and prisoners. Same
24 treatment that we could expect ourselves. Brutality
25 after capture, especially during questioning."

1 Then there's a reference to bedding:

2 "Brutality after capture, especially during
3 questioning."

4 And at the foot of that quote:

5 "Remember we've replaced a foul regime, therefore
6 brutality on our part is not acceptable beyond real
7 MINIMUM FORCE."

8 Do you recall, Brigadier, again without referring,
9 please, to the agency in question, any discussion at
10 your O Group meetings of matters that were raised by an
11 external agency of the kind that are set out there?

12 A. I remember them visiting us and I remember them coming
13 and reporting to me, but my impression was that they
14 thought that we were doing things in an appropriate
15 manner and I am quite sure I passed that on at the
16 O Group.

17 Q. You would have passed that on --

18 A. I would certainly have passed that on.

19 Q. If we take that down, please. Can you help with this at
20 MOD030388? I am anxious -- I am looking at 16,
21 Brigadier -- not to take up time if this is not
22 pertinent to the matters that this Inquiry is looking
23 at. But can you help with lessons learnt, it seems,
24 from the experience in Iraq? Included at 16 -- and you
25 see who the initiator is said to be -- the following

1 lesson identified:

2 "The battlegroup did not manage the handling of
3 prisoners of war on transition to phase 4 well.
4 Procedures for prisoner of war handling in combat were
5 well established, and were initially still applicable in
6 the transition as the battlegroup was engaged in
7 continuing contacts with an enemy. However, as
8 transition progressed, there was an increasing
9 requirement to source HUMINT from all prisoners of war
10 and detainees. In addition, the distinction between
11 these two categories became blurred."

12 May I preface my question by saying I don't want to
13 go into any issues of HUMINT or any detail of it, but
14 where it is said here, as a lesson identified, "The
15 battlegroup did not manage the handling of prisoners of
16 war on transition to phase 4 well", do you understand
17 what the problem was?

18 A. Yes, I do.

19 Q. And was it related to the handling of prisoners?

20 A. No. It was largely related to a lack of facilities,
21 a lack of anywhere to put people, a lack of anywhere to
22 send people and those sorts of issues.

23 Q. So a lack of a prison effectively?

24 A. A lack of a prison, a lack of a police service, a lack
25 of a guard service, a lack of a judiciary.

1 MR ELIAS: Thank you.

2 THE CHAIRMAN: Would the phrase "lack of resources" apply
3 to it or not?

4 A. Well, certainly I had a limited number of people, Sir,
5 but it -- the issue was more about what did you do with
6 these people because there was no -- there was no civil
7 resource, there were no prisons, there was no police
8 service, there was no way of referring them to other
9 people, so there was -- and no judges available to come
10 and try them in any way, shape or form.

11 THE CHAIRMAN: Earlier today I heard evidence that you were
12 expecting quite a large number of people. Is that
13 right? Did you get a large number of people coming in
14 the war-fighting phase?

15 A. Not during the war-fighting phase, no.

16 THE CHAIRMAN: Subsequently?

17 A. Well subsequently we then got -- we could have captured
18 dozens of looters all round Basra and largely we just
19 didn't bother because it wasn't worth it because we
20 couldn't do anything with them.

21 THE CHAIRMAN: You couldn't deal with them.

22 A. No.

23 MR ELIAS: So it was the criminals, if you like, if I can
24 call them that, that caused this particular problem --

25 A. Yes.

1 Q. -- as to what to do with them, where to put them and
2 so on?

3 A. And then I think there is another part on that lesson
4 learned, the distinction becoming blurred. Once you get
5 into a place like Basra, you then need to start trying
6 to understand the environment you are in and who is
7 being difficult and who is not.

8 Q. Thank you. Then finally this: this Inquiry is primarily
9 concerned, as you know, with what happened to detainees
10 detained by QLR, how they were handled and how the
11 process was monitored. Can we look at paragraph 33 of
12 your statement to this Inquiry at BMI03410, where you
13 repeat, I think, what you have said elsewhere in your
14 statement:

15 "As the CO of 1BW, I had ultimate responsibility for
16 the welfare of the prisoners for the periods that they
17 were detained ... I was not actively involved with the
18 capture, detention and questioning of detainees and,
19 although I made every effort to check up on this process
20 in periods throughout the tour, it would have been
21 impractical for me to scrutinise or supervise detainee
22 handling at all times due to the volume and nature of
23 other tasks associated with my role."

24 I wanted to ask you, Brigadier, if I may, what you
25 meant in practical terms, if you like -- if you can tell

1 the Inquiry -- of what "every effort to check up on this
2 process" in fact entailed.

3 A. I went -- well, I would go and visit the temporary
4 detention facilities just in my barracks and in the
5 company places as I was passing through -- not
6 routinely, but now and again.

7 Q. To satisfy yourself that the processes were being
8 observed?

9 A. And that the sort of standards of the facilities that we
10 had managed to put in place were adequate.

11 Q. If the ban on hooding that had come in in May, as you
12 indicate, was not handed over to 1 QLR, whose
13 responsibility would that be?

14 A. Ultimately mine.

15 Q. Forgive me?

16 A. Ultimately mine.

17 Q. But in the practicalities of the situation?

18 A. Well, I would have expected the provost staff to be
19 handing that responsibility over, I would have been
20 expecting the RSMs to have discussed it, but ultimately,
21 as I say, my responsibility.

22 MR ELIAS: Thank you very much.

23 THE CHAIRMAN: Now there are going to be some questions from
24 other counsel, Brigadier.

25 Ms Hetherington.

1 Questions by MS HETHERINGTON

2 MS HETHERINGTON: Thank you, Sir.

3 Brigadier, in your evidence this morning I think you
4 said that you had, on occasions, seen prisoners brought
5 into battalion headquarters with hoods on during the
6 peace-keeping stage in Basra; is that right?

7 A. I think I may have witnessed it on one or two occasions,
8 yes.

9 Q. Could I just ask you to look at paragraph 13 of your
10 witness statement, which is BMI03403? There you say:

11 "To the best of my knowledge, hooding was utilised
12 at the start of Op Telic 1 up until Basra had been
13 occupied by the battalion consistent with this training,
14 ie for security purposes. Once we arrived in Basra and
15 the war fighting was over, as I recall it, the hooding
16 of prisoners stopped ..."

17 And you say you can't remember whether you received
18 an order to say that was prohibited. You say that you
19 think you would have been aware if an order had been
20 given at the time, and then you say:

21 "After this time I did not see any instances of
22 hooding."

23 You appear to be saying there that you did not see
24 any hooding once the battalion was in Basra. Have
25 I interpreted that paragraph correctly?

1 A. No. I think what I was trying to say was that we
2 stopped during the peace-keeping phase. I didn't mean
3 we stopped on 7 April. That's, you know, the day after
4 we went into Basra.

5 Q. I see. But there was a point where it stopped and after
6 that you didn't see any hooding?

7 A. Yes.

8 Q. Just dealing with the matter of the concern that was
9 raised with you by the padre, you said earlier that the
10 nature of the complaint was that some people were
11 kneeling and some people were standing on their ankles.
12 Just so I understand that, do you mean that the
13 complaint was that soldiers were standing on detainees
14 ankles or that detainees were being made to stand on
15 their own ankles?

16 A. No, it was my understanding and reported speech through
17 two people that soldiers had been standing on prisoners'
18 ankles.

19 Q. In terms of what concerned you about that complaint, did
20 you regard that making prisoners kneel of itself
21 inappropriate or was it the standing on the ankles that
22 you thought --

23 A. It was particularly the standing on ankles.

24 Q. So in fact your concern was not about the position the
25 detainees were being put in of itself, but a physical

1 assault of standing on the ankles?

2 A. Like I said, a combination of the two, but I was more
3 concerned about soldiers doing things that they should
4 not have been doing.

5 Q. If you were also concerned about the kneeling position,
6 did your briefing to the companies include that
7 prisoners shouldn't be put in a kneeling position?

8 A. I can't remember. I mean, I was pretty Anglo Saxon
9 about it.

10 Q. Would you have used the term "stress positions" in that
11 briefing?

12 A. I simply can't remember.

13 Q. It is just that in your statement at paragraph 44 you
14 say that you personally briefed all the JNCOs and above
15 in all the companies that the use of stress positions
16 would not be tolerated. Is it the case that you are not
17 now sure whether that's what you said?

18 A. No. I called them all together and I specifically said
19 that maltreatment -- no, whether I used these words or
20 not, I don't know, but the idea was, you know, that
21 prisoners were to be treated in accordance with
22 everything that we had been taught, that they were to be
23 treated humanely and, you know, stress positions and
24 conditioning and all that stuff should not happen.

25 Q. I understand. Thank you.

1 Finally, in paragraph 35 of your statement --
2 I don't think we need go to it unless you wish to -- you
3 say that you weren't aware of any occasion outside the
4 ordinary where medical staff were called in to treat
5 detainees held by 1 Black Watch. You said that you were
6 aware of two deaths within the custody of Black Watch.
7 Were you aware that those people had received medical
8 attention?

9 A. Before or after -- I mean, they -- I don't know whether
10 they had received it specifically before or after they
11 died.

12 Q. Is there a reason why you didn't mention those deaths in
13 your witness statement?

14 A. No.

15 MS HETHERINGTON: Thank you.

16 THE CHAIRMAN: Yes.

17 Ms Dobbin?

18 Questions by MS DOBBIN

19 MS DOBBIN: May I just check your evidence in relation to
20 the concern raised by the padre about the use of stress
21 positions? Can I check whether it was the original
22 complainant who came from C Company or whether the
23 complaint related to C Company?

24 A. My understanding was that it was a soldier from that
25 company who had been on patrol who had subsequently

1 spoken to the padre.

2 Q. I understand. Thank you. Can I just check this? Is it
3 right that until you were static in Basra, it would have
4 been usual for orders to have been received via radio
5 because no O Group meetings were taking place until that
6 point?

7 A. No, orders come all the time as a mixture of written and
8 radio or verbal, and there were periods before we got
9 into Basra when we managed to get together and have
10 a formal Orders Group. A lot of the radio -- orders
11 came on the radio. After we got into Basra, some of
12 them came written, but again the sort of verbal orders
13 continued and if -- and radio orders continued as well.

14 MS DOBBIN: Thank you. Sir, that is all.

15 THE CHAIRMAN: Ms Edington?

16 Questions by MS EDINGTON

17 MS EDINGTON: Brigadier, you earlier said that hooding
18 ceased when you became static in Basra, which would have
19 been early April; is that right?

20 A. Well, we got into Basra on 7 April and I do not mean to
21 say that it stopped instantly on 7 April. It stopped at
22 some stage thereafter.

23 Q. Then you received FRAGO 63 some time around 21 May --
24 I put that because obviously your O Group would have
25 been that evening and the FRAGO is dated 18.00 hours or

1 one of oversight?

2 A. Yes, but oversight of a policy that I had implemented,
3 like many others in the battlegroup.

4 Q. When you say "a policy that I had implemented", do you
5 mean to refer to the backdrop that you described in
6 terms of what is the proper way to deal with the
7 detainees or a detailed policy in relation to how
8 prisoners should be handled, what processes should be in
9 place?

10 A. I think a bit of both. I think I -- as commanding
11 officer, I passed on orders that were given to me.
12 I gave orders of my own and I would have been
13 responsible -- I was responsible too for ensuring that
14 they were implemented correctly.

15 Q. So when it comes to matters of detail, such as whether
16 a log book should be kept, for example, of people
17 visiting the TDF, whether the guarding force should or
18 should not be made up of those who made the arrest, what
19 medical check, et cetera, et cetera, the detail, the
20 responsibility for putting those procedures in place, is
21 that something which you have delegated as CO or you
22 retain control of?

23 A. Not day-to-day control. Day-to-day control would have
24 been delegated.

25 Q. Do you regard that as being essentially the proper

1 exercise of mission command?

2 A. No, I don't. I think it's more once -- log books and
3 things is routine business. It's people doing their job
4 properly. Mission command is something completely
5 different.

6 Q. Can you just help with the distinction? Where does the
7 mission command aspect of relinquishing responsibility
8 cease and it becomes something just routine for junior
9 personnel to deal with?

10 A. I don't think I relinquish responsibility at all when
11 exercising mission command. Mission command, though, is
12 about giving people specific military tasks to do and
13 telling them what you want achieved, rather than how to
14 go about doing it. What you are describing in terms of
15 log books and things is just routine daily maintenance
16 of standards.

17 Q. Would you say the same in relation to managing how long
18 prisoners are detained for and whether any time limits
19 are being met -- I appreciate what you have said about
20 your awareness of what the time limits were -- but to
21 the extent that there are time limits, is that something
22 which, in the proper exercise of mission command, you,
23 as CO, would retain responsibility for?

24 A. Yes. That's, again, not mission command. That's about
25 getting things done properly, routinely. I would expect

1 the people in charge of prisoners to report to me if
2 they were not able to achieve the timelines that they
3 had been told to deal with. I suspect if timelines were
4 broken -- as I say, it was about administrative
5 difficulties of moving around the city with prisoners.

6 Q. As those functions were delegated, do these propositions
7 really follow as being axiomatic: that you have to have
8 confidence in the conduct of those to whom you are
9 delegating?

10 A. Yes.

11 Q. That you have to have confidence in the reporting lines
12 through the chain of command, the formal reporting
13 lines, as it were?

14 A. Yes.

15 Q. And that you also have to have confidence in the more
16 independent reporting lines, in other words, even though
17 there might not be a direct report, if somebody has a
18 concern about something that is going on, that it can be
19 reported to you in some way, shape or form?

20 A. Yes.

21 Q. In the light of your experience on tour with
22 1 Black Watch, where did the issue of prisoner-handling
23 feature in the scale of priorities that you faced?

24 A. During the war-fighting phase, not particularly high.
25 Higher once we'd got into Basra.

1 Q. At the handover, briefly, do you recall discussing with
2 Colonel Mendonca at any stage your experiences in Basra
3 and the need to demonstrate the battlegroup's intent to
4 the population more generally?

5 A. No, I don't recall having that sort of conversation.

6 Q. Do you remember a conversation about whether it would be
7 easier to maintain control with a vehicle such as
8 a Warrior, which has a cannon mounted on the front, and
9 whether you thought it would be as easy to demonstrate
10 your intent with something like a Saxon which doesn't
11 have any armament on the front?

12 A. I don't remember having the conversation, but one of the
13 reasons we had administrative difficulties moving people
14 around was that we didn't want to move Warriors around
15 the place because they cause damage, which doesn't do
16 anything in terms of helping you persuade the public
17 that you are on their side.

18 Q. Can I suggest that there was brief reference to the
19 guarding of a hospital and that you expressed concern to
20 Colonel Mendonca that it was an easier task to carry out
21 if you had something like a Warrior with a cannon, but
22 not so easy with a Saxon which didn't perhaps have the
23 same presence.

24 A. I might well have done. That's slightly different
25 though. That's using it as a pill box.

1 Q. Sorry, using it as a ...?

2 A. Pill box -- as a static facility that has presence and
3 indeed firepower.

4 Q. Lastly, O Groups. As well as your O Group, did you have
5 a smaller meeting group, as it were, perhaps only with
6 officers commanding your companies?

7 A. I might occasionally have thinned down the main O Group
8 to just company commanders, yes. I mean that's routine.

9 Q. Because the O Group is quite cumbersome, sometimes,
10 because of its make-up and numbers of people?

11 A. No, more likely because I wanted to discuss things that
12 were slightly more sensitive with just my senior command
13 group.

14 MR SUMMERS: Thank you.

15 THE CHAIRMAN: Thank you. Mr Greatorex?

16 Questions by MR GREATOREX

17 MR GREATOREX: The issue about what the padre said to you --
18 and you said you went round to speak to the other
19 companies and you didn't go into the detail of the
20 allegation -- did you mention to anyone that it had
21 originated from C Company?

22 A. No, I didn't.

23 Q. Just to clear up one point on that. You refer to
24 C Company in your statement as "Support Company", but it
25 is one and the same?

1 A. C (Fire Support) Company.

2 Q. In relation to FRAGOs, could we have on the screen
3 MOD031014? I am not going to ask you the detail
4 about it. My question is about them in general rather
5 than this one in particular. But I think you said, for
6 example, in this one, as with others, they may have been
7 preceded by a verbal order received over the radio; is
8 that right?

9 A. Possibly, yes.

10 Q. In terms of this paper order, how would you receive it?

11 A. It would come via a courier of some description from
12 brigade headquarters to the battlegroup headquarters.
13 It would be given to my ops officer, we'd probably
14 discuss it and then it would be promulgated at the
15 O Group in the evening.

16 Q. Right. There were no fax communications?

17 A. No.

18 Q. Following on from what you have just said, then, in
19 terms of it being promulgated in the evening, you would
20 give an oral presentation based upon the written order,
21 is that right?

22 A. Normally my ops officer would give the oral presentation
23 with us all there --

24 Q. Yes.

25 A. -- and I would then add emphasis as I thought fit.

1 Q. But it would be presented as a gist of the order, would
2 it?

3 A. No, the ops officer would go through the order in some
4 detail --

5 Q. Right.

6 A. -- and I would then add emphasis.

7 Q. That's what I want to ask you about. Was it normal to
8 read out these word for word?

9 A. Not necessarily entirely because not -- I mean in this
10 case probably, but some brigade FRAGOs have bits in it
11 that the companies don't need to know.

12 Q. Right.

13 A. So anything that they needed to know would have been
14 read out.

15 Q. Right. Then, in terms of onward dissemination from
16 those who were attending, listening to that, it follows
17 from what you have said that the presentation was oral
18 only and you didn't hand over any pieces of paper; is
19 that right?

20 A. I think so, yes.

21 Q. Can you recall an occasion -- for example -- perhaps
22 I should ask it another way -- did you have
23 a photocopying machine by which you could photocopy this
24 bit of paper and give it to people to take away?

25 A. I think towards the end of the tour we had

1 a photocopier.

2 Q. Was it normal to photocopy these documents and hand them
3 out or was it normal practice simply to --

4 A. No, because normal practice is to extract that which
5 people need to know and then slim it down so you are not
6 giving so much down.

7 Q. Can you recall any occasion when you handed out copies
8 of these documents?

9 A. No, I can't. But, as I say -- I mean I can't remember
10 exactly when we got the photocopier, but it was towards
11 the end of our tour.

12 THE CHAIRMAN: Remind me of the relevance of these questions
13 for one of your clients.

14 MR GREATOREX: It is, Sir. Would you like me to explain?

15 THE CHAIRMAN: Sorry?

16 MR GREATOREX: It is, but I don't know whether you would
17 like me to explain now --

18 THE CHAIRMAN: I just want you to remind me of the relevance
19 to which of your clients --

20 MR GREATOREX: S056, Sir, who Mr Henderson gave evidence
21 about him digging out a piece of paper.

22 THE CHAIRMAN: I follow.

23 MR GREATOREX: Just one last question: in terms of
24 communication between brigade HQ and C Company in
25 particular, is it right that the only means of

1 communication was via radio?

2 A. I would be horrified if brigade headquarters were
3 talking to C Company at all.

4 Q. So in terms of if you wanted to communicate with them,
5 how would you do it?

6 A. Well, I would -- brigade headquarters should only
7 communicate with me in the battlegroup headquarters.
8 I would not expect them to go and communicate directly
9 to one of my sub-units unless it was something very
10 particular.

11 Q. I am grateful. Putting it another way, looking at it
12 from C Company's prospective, how could others
13 communicate with them? Was it by the radio only?

14 A. Or going there physically.

15 MR GREATOREX: Thank you.

16 THE CHAIRMAN: Mr Garnham?

17 Questions by MR GARNHAM

18 MR GARNHAM: Thank you, Sir. Four matters please,
19 Brigadier.

20 What was the daytime temperature in Iraq, can you
21 remember, in rough terms in March 2003?

22 A. In March it was about 15 degrees, I suppose.

23 Q. Thank you. If you had learned that Mr Gallacher was
24 putting prisoners into stress positions, what would you
25 have done about it?

1 A. I would have stopped him doing it.

2 Q. Then and there?

3 A. Yes.

4 Q. If you had seen it?

5 A. If I had seen it, absolutely. If I had heard about it,
6 I would have made sure it was stopped as soon as I heard
7 about it.

8 Q. Thirdly, would Major Percy, then the ops officer, have
9 attended the briefing you have told the chairman about
10 in relation to the abuse of prisoners when you went
11 round to the companies?

12 A. I'm not sure. Because I had heard -- because I thought
13 this was one of the companies going out on patrol, it is
14 possible that we missed those in Headquarter Company who
15 were not routinely patrolling.

16 Q. Thank you. Finally, you indicated who might, at
17 an O Group, read out a FRAGO. You didn't include
18 amongst the possible candidates your 2IC. Would it be
19 likely that your second in command would read out the
20 contents of a FRAGO at an O Group?

21 A. Entirely possible.

22 MR GARNHAM: Thank you very much.

23 Further questions by MR ELIAS

24 MR ELIAS: Sir, just two matters if I may, briefly.
25 Brigadier, you said a little earlier to Mr Summers

1 to my left -- and I paraphrase what I think you were
2 saying -- that your degree of management of subordinates
3 would not include telling them how to do their job; you
4 expected them to do it essentially.

5 A. Yes and no. There are those things which are routine
6 which one would expect them to do routinely and it's
7 simply a question of checking and making sure those
8 standards are maintained, but if you are asking them to
9 carry out a particular mission or task, then I would
10 expect to say to them, "This is what I want achieved,
11 here are the resources you need, please now go and make
12 it so".

13 Q. Well, I understood that and it is really in that context
14 that I just want to put two points to you for your
15 consideration. If you assume for the moment that the
16 current practice is that detainees are not medically
17 examined on entering the camp, a decision that they now
18 were routinely to be examined, would you expect that, as
19 it were, to have come from you at the top or might that
20 be something which could be implemented, if you like,
21 a change, as part of the day-to-day operation?

22 A. It would certainly be a part of the change as part of
23 the day-to-day operation. That change could be
24 initiated either by brigade headquarters or by me or
25 indeed by the doctor suggesting it to me and me

1 agreeing.

2 Q. But is it something about which you would expect to be
3 told and to agree if a change of that kind were made,
4 assuming the status quo which I have put to you?

5 A. I would expect people to mention to me. I would not
6 think they would need to refer it to me for a decision
7 before doing it.

8 Q. Still on the same point really, were you aware with your
9 prisoners that from time to time they were guarded by
10 the arresting soldiers?

11 A. I don't know that I was, no, but I -- but it's not
12 impossible.

13 Q. No. Again, if that were going on and there were to be
14 any change because of, perhaps, perceived risks and the
15 conduct of the soldiers with men who they may have
16 arrested in violent circumstances, for example --

17 A. Yes.

18 Q. -- would you have expected such a change to have been at
19 least approved by you, if not initiated by you?

20 A. If it were a policy decision that it weren't to be
21 allowed, I would, principally because it would impose
22 a constraint on how people operated.

23 Q. Finally, a quite separate point. You said in answer to
24 Ms Edington, across the room behind me, when you were
25 asked about FRAGO 63, that it's possible that it was

1 preceded by some oral order, some verbal order, but you
2 added that if it were, it wouldn't have been preceded by
3 much, by which I think you meant by much time. There
4 would not have been much time between the two.

5 A. That's correct, yes.

6 Q. Why do you say that?

7 A. Because the issuing of FRAGOs normally follows some form
8 of development and it's likely therefore -- or it's
9 possible -- that I would have had a conversation with
10 the brigade commander shortly before that FRAGO emanated
11 about whatever had changed that caused it to be coming.

12 Q. Putting it that way, you are talking in, what, hours or
13 days at most, are you?

14 A. Two or three days at most, I would think, yes.

15 MR ELIAS: Thank you very much.

16 Questions by THE CHAIRMAN

17 THE CHAIRMAN: Back to the vexed description of "mission
18 command" and the like. I think I understand the concept
19 of it all. The practicalities may vary, may they not,
20 from person to person whom you have given the task to?
21 Is that accurate or not?

22 A. Absolutely, and I would -- those I know better and trust
23 more, you would give --

24 THE CHAIRMAN: More latitude.

25 A. -- more latitude to, yes.

1 THE CHAIRMAN: Those who you do not know or have some reason
2 to think are not quite as good as others, you might give
3 less latitude; is that right?

4 A. Yes.

5 THE CHAIRMAN: There is one other thing I want to ask you
6 about and that is this: you said that Basra fell --
7 there is a date that has been attached to it -- on
8 7 April; is that right.

9 A. Well, we actually went into Basra on 6 April, Sir, so
10 ...

11 THE CHAIRMAN: Well, we know, because Mr Bush told us so,
12 the president, that the war ended on 1 May, as he
13 announced. Is it or was it easy to tell whether the
14 war-fighting phase had changed in Basra on any
15 particular date or was it something that evolved over
16 a period?

17 A. I think over that very short period after 6 April, it
18 became relatively clear that what we would describe as
19 "war fighting" had finished, but there were still,
20 daily, large quantities of ammunition being fired by
21 people we didn't necessarily know and for what reason we
22 didn't necessarily know, so whilst war fighting might
23 have finished, it wasn't peaceful.

24 THE CHAIRMAN: How did you know war fighting had finished?

25 A. Because most of my soldiers were not being attacked on

1 a daily basis.

2 THE CHAIRMAN: I follow.

3 Towards the end of your tour, was it calmer in Basra
4 than it had been before?

5 A. No, it was beginning to get less calm.

6 THE CHAIRMAN: So it was preceded by a period of greater
7 calm, is that right?

8 A. Yes, that is correct.

9 THE CHAIRMAN: And then began to escalate?

10 A. Yes.

11 THE CHAIRMAN: So that would be consistent with what I have
12 heard from the 1 QLR officers and soldiers, that the
13 disruption and problems in Basra escalated throughout
14 their tour, as it were, an ascending period of
15 escalation starting in your period?

16 A. Yes, that's correct, and the underlying cause was a lack
17 of civil administration and naissant power struggle
18 amongst the locals.

19 THE CHAIRMAN: The collapse of the infrastructure?

20 A. Well, there was no -- the infrastructure had collapsed
21 completely, but it was more a power struggle amongst
22 those wanting to run that bit of Iraq.

23 THE CHAIRMAN: I follow.

24 Thank you very much. That is all the questions you
25 are going to be asked by the Inquiry. I am very

1 grateful to you for coming to give evidence. Thank you
2 very much. You are now free to go, Brigadier. Of
3 course you may come back at any stage if you wish to,
4 but you do not have to.

5 A. Thank you very much, Sir.

6 THE CHAIRMAN: That completes our evidence for today, does
7 it?

8 MR ELIAS: It does, Sir. Tomorrow we call Messrs Hunt and
9 Heron in that order.

10 THE CHAIRMAN: Hunt and Heron, yes. Thank you all very
11 much. 10 o'clock tomorrow morning.

12 (2.55 pm)

13 (The Inquiry adjourned until 10.00 am, Tuesday,
14 23 February 2010)

15

16

17 NICHOLAS HUGH DERENZY CHANNER1
(sworn)

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