

1 Wednesday, 21 October 2009

2 (11.15 am)

3 THE CHAIRMAN: Good morning, ladies and gentlemen.

4 MR ELIAS: Good morning, Sir. I call Lee Graham, please.

5 THE CHAIRMAN: Yes. Mr Graham, would you remain standing  
6 for a moment and I will ask that you take the oath?

7 LEE MICHAEL GRAHAM (sworn)

8 THE CHAIRMAN: Do sit down, Mr Graham.

9 If you could speak towards the microphone, but you  
10 do not have to get right up close to it as that  
11 positively distorts your voice. If you would like to  
12 speak reasonably slowly so that the interpreters who are  
13 interpreting your evidence into Arabic can follow what  
14 you are saying.

15 If you are asked a question which you don't  
16 understand, just say so at once. All right? Thank you.

17 Questions by MR ELIAS

18 MR ELIAS: Would you give the Inquiry your full name,  
19 please?

20 A. Lee Michael Graham.

21 Q. I wonder if you could come a little closer to the  
22 microphone.

23 A. Lee Michael Graham.

24 Q. Thank you. Mr Graham, I think you left the army two  
25 years ago or thereabouts; correct?

1 A. Yes.

2 Q. If you look, please, to a folder on your right-hand  
3 side, a red folder, you will find in it a document.  
4 I hope if you go to the last page of that document --  
5 our BMI01013 -- you will find the date, will you, of  
6 30 May of this year? You have to answer because  
7 otherwise it does not transcribe, you see.

8 A. Yes.

9 Q. Above that date, is it your signature?

10 A. Yes, it is.

11 Q. When you put your signature to that document, Mr Graham,  
12 were you doing so to affirm that the contents of the  
13 statement were true to the best of your knowledge and  
14 belief?

15 A. Yes, I was.

16 Q. Thank you. Put that aside, please. We will look at  
17 your statement as we go along, but I will bring it up on  
18 the screen for you to refer to as we need to.

19 Mr Graham, we have all, I think, read your witness  
20 statement to this Inquiry and indeed other statements  
21 that you have made and documents that relate to you and  
22 I am by no means going to ask you about every aspect  
23 that you touch upon in your Inquiry statement -- do you  
24 follow -- but I am going to deal with certain parts of  
25 it.

1 A. Okay.

2 Q. Can I begin by just ascertaining very briefly -- and  
3 I don't want to know, as it were, dates of birth and  
4 matters of that kind -- you were posted to Iraq in  
5 June 2003?

6 A. Yes.

7 Q. How old were you then?

8 A. I was 18.

9 Q. When did you join the army?

10 A. When I was 16.

11 Q. From school?

12 A. Yes.

13 Q. You told us that you left the army two years ago.

14 A. Yes.

15 Q. You indicate in your statement to this Inquiry that your  
16 memory of the events which this Inquiry is concerned  
17 with in particular -- that's to say what may have  
18 happened to these detainees arising from the Operation  
19 Salerno arrests -- you indicate that your memory in  
20 respect of those events is now poor.

21 A. Yes.

22 Q. You remember some things, do you?

23 A. Yes, I do.

24 Q. I suppose, like most, if not all of us, if you are shown  
25 photographs, for example, or documents as to what you

1           may have said at a previous time, those things may  
2           trigger memories from you?

3    A.   Yes.

4    Q.   What I am going to do, if I may -- and it will take us  
5           a little bit of time -- but I am going to seek, in the  
6           course of your evidence, to put certain matters to you  
7           to see whether your memory is triggered.  Do you follow?

8           Before we do that, I am going to ask you some  
9           questions about what actually you remember.

10   A.   Okay.

11   Q.   Can we start here, Mr Graham?  You are obviously  
12           perfectly aware that you made a statement -- and I think  
13           a very lengthy statement -- to the RMP much closer to  
14           the time than now, in October 2003; correct?

15   A.   Yes.

16   Q.   When you made that statement to the RMP, were you then  
17           endeavouring to tell them the truth --

18   A.   Yes.

19   Q.   -- the whole truth --

20   A.   Yes.

21   Q.   -- and nothing but the truth?

22   A.   Yes.

23   Q.   You were holding nothing back then, were you?

24   A.   No.

25   Q.   I will come back to this, but I will ask it just at this

1 stage if I may. We know -- and as I say, we will look  
2 at it in detail, and you will remember, I am sure --  
3 that you sought firstly to withdraw your statement at  
4 some point, didn't you?

5 A. I did.

6 Q. And you made an alteration in your statement in relation  
7 to the use of the term "torture"?

8 A. Yes.

9 Q. We will go into some detail with that in due course.  
10 Did you seek to withdraw the statement you made to  
11 the RMP because of any pressure put on you?

12 A. No.

13 Q. That's to say any pressure put on you by any other  
14 soldier --

15 A. Yes.

16 Q. -- or soldiers?

17 A. Yes.

18 Q. Did you seek to withdraw your statement because of that  
19 pressure?

20 A. No.

21 Q. So can you tell us in a nutshell why it was that you  
22 sought to withdraw your statement?

23 A. Because I was -- at the time I was worried about having  
24 to speak in court and I was trying to not have to do it.

25 Q. Worried about having to speak in court. I'm sorry to

1           say this, Mr Graham, but your voice is still just ever  
2           so slightly below easy reception point.

3    A.   I'm sorry.

4    Q.   If you can speak a little closer to the microphone.  
5           Just tell us that again, please, as to why you wanted to  
6           withdraw it.

7    A.   I was worried at the time about speaking in court.

8    Q.   Was that the top and the bottom of it? That was it?

9    A.   Yes.

10   Q.   It wasn't that anyone had suggested that it might be  
11           better for you, for example, if you didn't put other  
12           soldiers in difficulties by giving evidence or making  
13           a statement? Nothing of that kind?

14   A.   No.

15   Q.   You would tell us if it was, would you?

16   A.   Yes.

17   Q.   You are not, as you sit there, in fear of any other  
18           person, are you, in relation to the evidence you may  
19           give?

20   A.   No.

21   Q.   Thank you.

22           Your appearance at the time that you were in Iraq --  
23           that is to say September 2003 that we are concerned  
24           with -- would it have been much the same as it is now?

25   A.   Yes, I think so.

1 Q. You say in your statement that you are 6 foot tall.

2 A. Yes.

3 Q. You have, obviously, dark hair. Was your hair short in  
4 Iraq?

5 A. It were even shorter than this.

6 Q. Shorter than it is now?

7 A. Yes.

8 Q. Do you have any marks or tattoos on your body that may  
9 have been visible to anyone?

10 A. I have a tattoo on the top of my right arm of a cross.  
11 I'm not sure whether it would have been visible.

12 Q. What is the tattoo?

13 A. It's a cross.

14 Q. A cross.

15 You were posted in Iraq in June 2003. Do you recall  
16 whether you had any pre-deployment training in relation  
17 to the handling of any prisoners who might be taken?

18 A. No, not really.

19 Q. What, you are saying you don't remember it or you didn't  
20 have any?

21 A. I don't remember having any.

22 Q. Once deployed, were you given any training in Iraq in  
23 relation to the handling of prisoners?

24 A. Not that I can recall.

25 Q. In Iraq, were you in Mr Rodgers' multiple?

1 A. Yes, I was.

2 Q. I think, as we have been told, multiples would be broken  
3 down into smaller teams, would they?

4 A. Yes.

5 Q. Referred to as "bricks"?

6 A. I don't think so.

7 Q. No? Were they referred to by any particular name?

8 A. Just "teams", I think.

9 Q. Just "teams". Were you with the same team within the  
10 multiple throughout the time you were in Iraq?

11 A. I think so, yes.

12 Q. Do you remember who was in your team?

13 A. No.

14 Q. I'm sorry?

15 A. No, I don't, sorry.

16 Q. You can't remember any name, can you?

17 A. Not that was in my team, no.

18 Q. You know Mr Bentham?

19 A. Yes.

20 Q. Aspinall?

21 A. Yes.

22 Q. Were they in your team routinely or regularly?

23 A. I'm not really sure. I know they were in my multiple.  
24 I don't know if they were in my team.

25 Q. Can I approach it this way: in 2003, when you made your

1 statement to the RMP, you indicated then that when you  
2 were on guard duty -- and we will come to that in due  
3 course -- at the TDF, the detention centre, you were on  
4 guard duty with those two that I have mentioned.

5 A. Okay. They must have been in my team, then, if that's  
6 what I have said at the time.

7 Q. So that would be an indication that they were in your  
8 team, would it?

9 A. Yes.

10 Q. Thank you.

11 Well, now, I want to ask you, without going to any  
12 documents, what it is that you remember happening at  
13 various parts of Operation Salerno. Can we start by  
14 asking, please: you remember Operation Salerno, do you?

15 A. Yes.

16 Q. That it was a raid on hotels?

17 A. Yes.

18 Q. Do you remember any briefing in respect of it?

19 A. No, not really.

20 Q. There would have been one, would there?

21 A. More than likely, yes.

22 Q. And more than likely Lieutenant Rodgers would have given  
23 it, would he?

24 A. More than likely.

25 Q. Do you recall what part you played in that operation

1           itself -- that is going to the hotel?

2    A.   Not really, no.

3    Q.   What does "not really" mean?

4    A.   I know from reading my statement that I was there to

5           look for weapons, but not really my role in any more

6           detail than that.

7    Q.   So you know from reading your statement that you were

8           there to look for weapons. Does that bring back any

9           memory of actually being at the hotel?

10   A.   Well, not -- not that alone, but, yes, I remember being

11           at the hotel.

12   Q.   You do. All right. So you remember being at the hotel.

13           Were you at the door of the hotel or inside it?

14   A.   I was inside it.

15   Q.   Inside the hotel, you remember, do you, detainees at one

16           point lying flat -- civilians, that is to say, staff of

17           the hotel -- on the lobby floor?

18   A.   I don't.

19   Q.   What do you remember about detainees within the hotel?

20   A.   Not a great deal, really.

21   Q.   Tell us what you do remember.

22   A.   Of the detainees in the hotel, nothing. But of the

23           hotel in general, I remember where I was.

24   Q.   Where were you?

25   A.   I was in the room where the safe was.

1 Q. You were in the room where the safe was?  
2 A. Yes.  
3 Q. Was that the safe that was broken open?  
4 A. Yes.  
5 Q. I suppose that was a fairly dramatic event, the way it  
6 was broken open, was it?  
7 A. Yes.  
8 Q. Smashed open?  
9 A. Yes.  
10 Q. By whom?  
11 A. By me.  
12 Q. By you. What were you using to do that?  
13 A. A big silver crowbar.  
14 Q. I don't talk about value, Mr Graham. Once the safe had  
15 been smashed open, there was quite a lot of bank notes,  
16 dinar; correct?  
17 A. Yes.  
18 Q. Was Private Fearon with you when this was happening?  
19 A. I'm not completely sure.  
20 Q. Sorry, what does that mean?  
21 A. I'm not sure if he was with me or not.  
22 Q. You remember being in the room, you remember the safe  
23 being opened. Who else was with you?  
24 A. I can't remember.  
25 Q. You can't remember.

1           Do you remember, perhaps within moments or minutes,  
2           at least, of that safe being broken open, Mr Fearon  
3           being summarily dealt with for stealing bank notes?  
4   A.   I don't remember the event.  I remember the aftermath,  
5           if you will, and the nickname that he got.  
6   Q.   You remember the nickname that he got.  What was that?  
7   A.   It was "Dinar Dave".  
8   Q.   What, known thereafter as "Dinar Dave", was he?  
9   A.   Yes.  
10  Q.   You remember that.  Presumably you knew why he was  
11           called "Dinar Dave", did you?  
12  A.   Yes.  
13  Q.   Because ...?  
14  A.   Because he stole some dinars.  
15  Q.   He stole the dinars -- what, from that very safe that  
16           you had opened?  
17  A.   I assume so, yes.  
18  Q.   Did you see him do it?  
19  A.   I don't think so.  
20  Q.   All right.  Apart from smashing open the safe in the  
21           hotel, what else did you do there?  
22  A.   I can't really remember.  
23  Q.   Let me see if I can help you.  Did you take any  
24           detainees or were one of a group of soldiers who took  
25           detainees to the toilet on the ground floor of the

1 hotel?

2 A. I don't think so. Not that I can remember.

3 Q. Is there a difference, Mr Graham, between the phrase

4 "I don't think so" and "not that I can remember"?

5 A. No, I was -- well, no, there's not.

6 Q. Because, if you forgive me for saying so, perhaps there

7 should be. You see, we perhaps need to establish this,

8 do we, at this stage, so we understand what it is that

9 you are saying? If, for example -- and I make it clear

10 I am not suggesting it for one moment -- if it were

11 suggested by a soldier or someone else, a detainee, that

12 you were one of a party of soldiers who took them to the

13 toilets, is your position that you would not be able to

14 say whether you were or you were not?

15 A. It is.

16 Q. So within the hotel, is there anything else that you

17 recall, apart from the safe incident?

18 A. No.

19 Q. Were you aware of any detainee in that hotel, anyone

20 being arrested?

21 A. Sorry, was I aware of anyone being arrested?

22 Q. Yes.

23 A. I don't know. It's a difficult question to answer.

24 I assume that I must have been at the time.

25 Q. It's simply gone out of your mind, has it?

1 A. Well, yes.

2 Q. You have no picture? Do you have any picture of  
3 detainees leaving that hotel, being taken into army  
4 vehicles?

5 A. No.

6 Q. Did you go with detainees from that hotel to the BG Main  
7 detention centre when they were taken?

8 A. I'm not sure.

9 Q. What you have said in your accounts is that you didn't,  
10 that you stayed at the hotel.

11 A. Okay.

12 Q. If that's what you said, that would be true, would it?

13 A. Yes.

14 Q. You are telling this Inquiry that you have no  
15 recollection of that at all, are you?

16 A. Yes.

17 Q. Now it follows, doesn't it -- and you have read your  
18 first statement made in 2003 -- that you must have  
19 become aware of the fact, whether you saw it or not,  
20 that civilians had been arrested and taken into army  
21 custody.

22 A. Well, yes.

23 Q. When those civilians were taken into army custody, was  
24 there any gossip or rumour or talk amongst you and your  
25 multiple and maybe other soldiers too, suggesting that

1           these were detainees who may have had something to do  
2           with the death of Captain Dai Jones?

3    A.   I'm not really sure.

4    Q.   Sorry?

5    A.   I am not really sure.

6    Q.   So there could have been, could there?

7    A.   There could have been, yes.

8    Q.   Did you know Captain Dai Jones yourself?

9    A.   I don't think so, no.

10   Q.   Was there any rumour or gossip or chat that these  
11       detainees had anything to do with the murder of Royal  
12       Military Policemen who had been killed not very long  
13       before this incident?

14   A.   I don't know.

15   Q.   From the statement that you made in 2003, it would seem  
16       that you were telling the RMP, then, of making at  
17       least -- and I stress that -- three visits to the TDF --  
18       you know what I mean by the "TDF"?

19   A.   Yes.

20   Q.   Yes -- at BG Main. Do you recall making visits to the  
21       TDF at BG Main in relation to these detainees?

22   A.   I remember being at the TDF, yes.

23   Q.   When these detainees were there?

24   A.   I can't really say. I assume so.

25   Q.   What do you mean, you can't really say and you assume

1           so? Do you have any doubts but that you were there on  
2           occasions when the detainees from Operation Salerno were  
3           there?

4   A. Well, I remember being at the TDF, but I'm not sure  
5           whether the detainees were there or not.

6   Q. When you remember being at the TDF, there were detainees  
7           there, were there?

8   A. Like I say, I'm not sure if they were there or not.

9   Q. I am not really following. I'm sorry. Are you saying  
10          you were at the TDF and no one was there?

11   A. I am not saying that at all. I am saying that  
12          I remember being at the TDF, but I'm not sure if they  
13          were there or not.

14   Q. Who was there when you were at the TDF?

15   A. Apart from myself, I couldn't say.

16   Q. Sorry?

17   A. Apart from myself being there, I couldn't say.

18   Q. Apart from yourself, you couldn't say.

19           Let's just take a step or two back, shall we? You  
20          were involved in an operation which you told the  
21          chairman, not a minute or two ago, you knew resulted in  
22          the arrest of a number of civilians; correct?

23   A. Yes.

24   Q. You came to know that those civilians had been taken to  
25          BG Main -- correct?

1 A. Well, yes.

2 Q. -- because you went to BG Main to guard them, didn't  
3 you, on at least one occasion?

4 A. As I say, I remember being there, but I do not remember  
5 if they were there as well.

6 Q. So you remember being there, at the TDF, but you don't  
7 remember, what, anything about the detainees?

8 A. No.

9 Q. Nothing?

10 A. No.

11 Q. I am going to ask, then, please, that you look at  
12 a pixilated version of what we call the "TDF video".  
13 You have probably seen that before, have you?

14 A. Yes, I think so.

15 Q. When did you last see it?

16 A. I don't know -- a few weeks ago.

17 Q. A few weeks ago. I would be very grateful if you would  
18 look at it with a little care now, please. We will have  
19 it played and we will play it with sound, please.

20 (Video played)

21 Does that trigger the ghost of a recollection,  
22 Mr Graham?

23 A. It triggers the recollection of the building.

24 Q. I am sorry?

25 A. It triggers the recollection of the building.

1 Q. It triggers the recollection of the building, does it?  
2 What about what was going on?  
3 A. No.  
4 Q. Men, hooded and plasticuffed: did you ever see that?  
5 A. I can't remember.  
6 Q. You can't remember or you don't want to tell us,  
7 Mr Graham?  
8 A. As I say, I can't remember.  
9 Q. So we fully understand your evidence, you are telling  
10 the Inquiry on your oath, are you, that seeing that does  
11 not trigger any recollection whatsoever of anything that  
12 you ever saw in the TDF? Is that your evidence?  
13 A. Yes.  
14 Q. Thank you. So you have a recollection, you have told us  
15 five minutes ago, of being in the TDF. What did you  
16 see?  
17 A. Like I say, I was -- well, I have a memory of the  
18 building and that's it.  
19 Q. You have a memory of the building. What did you see  
20 there?  
21 A. As I say, just the building.  
22 Q. Who was in it?  
23 A. I'm not sure. I don't really remember.  
24 Q. Who was with you?  
25 A. As I say, apart from myself, I can't really say.

1 I don't know.

2 Q. You can't really say or you don't want to say?

3 A. I can't really say.

4 Q. Why not?

5 A. Um --

6 Q. Sorry?

7 A. I said "Um". I can't really answer that.

8 Q. I am going to press you to answer it. Why can you not

9 really say who was there?

10 A. Because I don't know.

11 Q. I'll repeat the question I asked you a little while ago

12 now. Do you feel under any pressure from anyone to say

13 or not to say anything to this Inquiry?

14 A. No.

15 Q. I don't suppose that your loss of memory about events is

16 something that has happened in the last month or two,

17 is it?

18 A. No.

19 Q. What, it has been there now for some years, has it,

20 a blank about what happened in relation to these

21 detainees?

22 A. It's -- I have not got a blank about what happened in

23 relation to the detainees. It's just that my memory has

24 faded over time.

25 Q. Well, if you haven't got a blank about what happened to

1           these detainees, tell us what happened to them.

2    A.   Maybe I should have said, I haven't just got a blank

3           about what happened to the detainees. My memory has

4           just faded over time.

5    Q.   Your memory has just faded over time.

6           Let me ask you again: can you tell us of anyone --

7           soldier or civilian -- who was present at the TDF?

8    A.   I can't remember, no.

9    Q.   Can we have on the screen, please, BMI00998, and just

10           hone in on paragraph 85? May I read what you signed as

11           being honest and truthful?

12           "As far as Corporal Payne is concerned, I can

13           remember that he was there ..."

14           When you signed that, was it true?

15   A.   Yes, it was.

16   Q.   Can you remember that Corporal Payne was there?

17   A.   Um, no, I can't remember.

18   Q.   Sorry?

19   A.   I can't remember, no.

20   Q.   What, so since signing this statement, as I think we

21           discovered, on 30 May, just those few months ago, even

22           that memory has been erased, has it?

23   A.   I am afraid so.

24   Q.   Is that the truth?

25   A.   Yes, it is.

1 Q. Even when it is pointed out to you that you remembered  
2 it, as I am doing now, it doesn't bring back a glimmer  
3 of a recollection to your mind, does it?

4 A. I am afraid not.

5 Q. We may, Mr Graham, need to plough quite a long field in  
6 that case because we may need to go to look at what you  
7 said originally in 2003 in some detail. You understand,  
8 don't you?

9 A. Yes.

10 Q. So just staying with your memory now, you have no  
11 recollection of anyone being present -- you remember the  
12 building. Tell us about the building.

13 A. It was small.

14 Q. How many rooms?

15 A. I'm not really sure.

16 Q. Really? But you were to tell us you remembered the  
17 building.

18 A. Yes.

19 Q. You don't recall that it had three rooms, two with  
20 a toilet in between, hole in the floor?

21 A. I'm not sure. It's difficult now. I'm trying to decide  
22 whether I remember it from the time or whether, because  
23 I have read that it has -- had so many times.

24 Q. Is it really?

25 A. Sorry?

1 Q. Is it really difficult?

2 A. Yes.

3 Q. Because of that?

4 A. Yes.

5 Q. You see, I would suggest that most of us, perhaps  
6 reading what we ourselves have written or had said some  
7 five or six years ago, might well be triggered to the  
8 recollection of those events to some extent. That  
9 doesn't seem to happen with you at all, does it?

10 A. No.

11 Q. No. I am not suggesting -- let me be clear about it,  
12 Mr Graham -- that it would be unsurprising if you could  
13 not remember the sequence of the events or indeed forgot  
14 some of the detail, but you are telling this Inquiry  
15 that you remember absolutely nothing?

16 A. I'm not saying I don't -- but I have forgotten some  
17 things.

18 Q. Tell us about the prisoners then, please. How did you  
19 behave towards them that you remember?

20 A. I don't really remember coming into contact with the  
21 prisoners.

22 Q. You don't remember coming into contact. So tell us how  
23 you did behave towards the prisoners that you remember,  
24 please.

25 A. As I say, I don't remember really coming into contact

1 with the prisoners.

2 Q. So, by "coming into contact", do you mean being in the  
3 presence of them or actually physically touching them?

4 A. Both.

5 Q. So you don't have any recollection of being in the  
6 presence of them?

7 A. No.

8 Q. So it follows that you have no recollection whatsoever  
9 of ever seeing a prisoner, is that it?

10 A. Yes.

11 Q. Can we look again at your statement to this Inquiry,  
12 30 May, BMI01001, please, paragraph 93. Was this lies  
13 when you said it, Mr Graham?

14 "In general terms [note the two words would you  
15 please] I recall that we were physical with the  
16 prisoners in terms of keeping them in and returning them  
17 to stress positions ..."

18 Can we take that off the screen, please?

19 "In general terms I recall that we were physical  
20 with the prisoners in terms of keeping them in ..."

21 Did you recall that in May when you signed this  
22 statement?

23 A. I must have done if I said it.

24 Q. Do you recall it now that you see it there in black and  
25 white?

1 A. No.

2 Q. It's not the case, Mr Graham, is it -- I put it because  
3 some may say it -- that you are deliberately  
4 stonewalling and not telling the truth because you know  
5 to tell the truth would implicate soldiers?

6 A. No, it's not true.

7 Q. So even since 30 May your memory has, in this regard  
8 anyway, had, if you like, a turn for the worse?

9 A. It must have.

10 Q. Yes. Either that or you are not telling us the truth at  
11 all. Which is it?

12 A. As I say, it must be my memory.

13 Q. Are you able to help us about this: you have seen that  
14 TDF video ten minutes ago and you tell us you have seen  
15 it before. You recognised the soldier in it, didn't  
16 you?

17 A. Yes.

18 Q. Who was it?

19 A. It was Corporal Payne.

20 Q. Yes.

21 A. Donald Payne.

22 Q. You are dropping your voice a little, Mr Graham.

23 A. I'm sorry. It was Donald Payne.

24 Q. Thank you. Was that conduct that you saw on the video  
25 in your view proper conduct, the proper treatment of

1 detainees?

2 A. To be honest, I don't really know. It was -- it was  
3 horrible to watch -- well, it was horrible to watch. If  
4 it's proper conduct towards detainees, I am not sure.

5 Q. It was horrible to watch. It would be fair to say it  
6 horrified you to see that video?

7 A. It wasn't pleasant.

8 Q. No. Horrible to watch and it wasn't pleasant, and you  
9 may have noted that in that piece of video, not a single  
10 punch appears to have been thrown, does it?

11 A. No.

12 Q. Not a single kick appears to have been administered,  
13 does it?

14 A. No.

15 Q. I suppose that if you imagine that conduct with kicks  
16 and punches applied to the same individuals, you would  
17 regard such treatment as horrifying, would you?

18 A. Yes.

19 Q. It may be thought somewhat strange, Mr Graham -- as  
20 I say, we will go back and look at your statement at the  
21 time in due course, but I will be corrected if I am  
22 wrong -- but I think neither in that statement nor in  
23 your statement to the Inquiry do you indicate anywhere  
24 that you did feel horrified by what you saw. Was there  
25 any reason for that, that you can now recall?

1 A. No.

2 Q. I suggest, Mr Graham, if you had seen what's shown on  
3 that video -- that clip or something like it -- together  
4 with repeated punching and kicking by a bunch of  
5 soldiers, it is something that you would never have  
6 forgotten, isn't it?

7 A. Well, you would think so, yes.

8 Q. You would think so.

9 Do you have any recollection now of seeing the body  
10 of a man who was within minutes, you were to be told,  
11 dead?

12 A. No.

13 Q. As I say, we will come back to your accounts nearer the  
14 time in the hope that they may trigger some memory from  
15 you in due course.

16 First of all, I want to take you to a few  
17 paragraphs, please, in your statement to this Inquiry,  
18 a few further paragraphs. Paragraph 33, page BMI00983,  
19 please. You say this in paragraph 33:

20 "I do not recall any specific guidance or training  
21 on the use of force on prisoners."

22 Is that right?

23 A. That's correct.

24 Q. That's what you told us, isn't it? You remembered that.  
25 You answered that to me earlier on.

1 A. That's correct.

2 Q. "Obviously I would have known even before I joined the  
3 army that we were not meant to beat prisoners up ..."

4 That obviously would be the case too, wouldn't it,  
5 and you still remember that, do you?

6 A. Yes.

7 Q. Yes.

8 "... but there is a fine line between doing this and  
9 merely handling prisoners a bit roughly."

10 What did you mean by that, "a fine line"?

11 A. I can't really explain it any more than -- sorry,  
12 I can't really explain it anymore than it is, I don't  
13 think.

14 Q. You go on to say:

15 "An example of rough handling in the context of  
16 prisoners, would be lifting somebody up by their shirt  
17 or by their armpits. You cannot do that gently."

18 Do you see that? Why can't you lift someone up  
19 gently?

20 A. I suppose because you have to lift their weight up.

21 Q. Yes. Why can't you lift them gently, whatever the  
22 weight may be?

23 A. Well you have to use your hands, I suppose, and pick  
24 them up.

25 Q. Or was it -- and this may not be a critical question,

1 critical of you anyway, Mr Graham -- that prisoners  
2 would be roughly handled in that if they were lifted up,  
3 they would be roughly lifted up and not gently lifted  
4 up. Is that truth of the matter?

5 A. I don't think so. I think -- as I said, you can't  
6 really lift someone up gently.

7 Q. That's your view, is it? You can't lift someone gently?

8 A. Well -- well, yes.

9 Q. That's your view? Nothing to do with memory. That's  
10 what you are telling the Inquiry today, that you cannot  
11 lift someone gently, even by the armpits; is that right?

12 A. Yes it is.

13 Q. You see, I just wonder why, in paragraph 33, you were  
14 saying there was some fine line and how difficult it  
15 might be to determine when it was crossed, because in  
16 this case, with these detainees, there was no fine line  
17 at all, was there? You know, don't you, that they were  
18 beaten?

19 A. No.

20 Q. What, you say you don't know?

21 A. Well -- yes, I don't know.

22 Q. You don't know. We will come back, as I say, to what  
23 you said some time ago about that. Just reading on in  
24 this paragraph, then, please, paragraph 33, the last  
25 line:

1           "But that is different, for example, from kicking  
2           somebody in the face, which would obviously be over the  
3           line."

4           Why did you use that example of kicking somebody in  
5           the face? Did you see it?

6    A. It sounds -- maybe I should have used a different  
7           example. I was trying to show two ends or two opposite  
8           ends of the example because -- it was the hardest thing  
9           I could think of because it is obviously a lot over the  
10          line.

11   Q. Yes. If these detainees were kicked and punched, there  
12          would be no question but that that was well over the  
13          line, would there?

14   A. No.

15   Q. What does the phrase "filled in", mean to you?

16   A. Beaten up.

17   Q. Beaten up. With what?

18   A. Hands, I suppose.

19   Q. Feet as well?

20   A. Yes.

21   Q. Yes. If a prisoner was filled in, beaten up, there  
22          would be no doubt about which side of this fine line  
23          that treatment fell, would there?

24   A. No.

25   Q. You have read it. If what happened in your first

1 statement happened, as you have described it, there is  
2 no question about which side of the line that conduct  
3 falls, is there?

4 A. No.

5 Q. So we can leave fine lines as something of a red  
6 herring, can't we, here?

7 A. Um, yes.

8 Q. Thank you. If we go to paragraph 51, please, in your  
9 statement -- a different topic -- in general terms --  
10 again you use the word "recall", so I presume you had  
11 some -- or lack of it, as it is in this case:

12 "I do not recall any attempt by the 1QLR chain of  
13 command to maintain discipline in the handling of  
14 prisoners."

15 Pausing there, what did you mean by that, that you  
16 don't recall any attempt by the chain of command of 1QLR  
17 to maintain discipline in the handling of prisoners?  
18 What does that mean?

19 A. Again, I can't really explain it any deeper than what it  
20 says.

21 Q. Let's read on:

22 "If there was, it would have been either the team  
23 commander ..."

24 Do you mean by that the multiple commander?

25 A. Well, the team commander, as in the commander of the

1 team.

2 Q. So, in your team, you remember Bentham, Aspinall and  
3 yourself anyway. Who was the commander in your team?

4 A. It would have been Lance Corporal Redfearn.

5 Q. It would have been Redfearn. So he was another member  
6 of the team that you now remember, was he?

7 A. Yes.

8 Q. All right. So it would have been either the team  
9 commander -- in your case it would have been Redfearn or  
10 whoever else was in charge.

11 "The impression I got on this occasion ['on this  
12 occasion', as I understand it, referring to these  
13 detainees arising from Operation Salerno] was that we  
14 were very much left to our own devices."

15 Can you tell the chairman, please, how do you have  
16 that impression that on this occasion -- that is to say  
17 in relation to these detainees -- you were very much  
18 left to your own devices?

19 A. Well, there was nobody in direct command.

20 Q. There was nobody in direct command, what, of the  
21 guarding of these detainees?

22 A. Well, of us.

23 Q. Sorry?

24 A. Of us or them.

25 Q. There was no one in direct command of the guarding of

1           these detainees, is that what you are telling the  
2           Inquiry?

3    A.   I know that there was a -- well, yes.

4    Q.   Sorry?

5    A.   Yes.

6    Q.   Yes.  I don't want it to be thought, Mr Graham, that you  
7           have skated over.  What you say in this statement is  
8           "The impression I got on this occasion ..."  It must be  
9           a reference, mustn't it, "this occasion", the one we are  
10          talking in about in this statement, to these detainees.  
11          There is no doubt about that, is there?  You say that  
12          the impression you got was that "... we were very much  
13          left to our own devices" and you told us a moment ago  
14          that there was no one in direct command.  So that is  
15          something you remember; correct?

16   A.   Yes.

17   Q.   So you remember there was no one in direct command.  
18          What, for example, Mr Redfearn would have been left,  
19          would he, as leader of your team to take decisions  
20          without recourse anywhere else?

21   A.   Could you say that again, please?

22   Q.   In relation to your team, therefore, for example,  
23          Mr Redfearn would have been left to take decisions  
24          without recourse to anyone higher than himself?

25   A.   I'm not really sure.

1 Q. This is what you were saying --

2 A. Yes.

3 Q. -- in May, isn't it?

4 A. It is.

5 Q. Are you saying again that your memory has now faded

6 away, even on this point?

7 A. Um, I think I am just confusing myself. Well, he was

8 the commander of our team, so he would have been in

9 charge of us.

10 Q. Yes. That's not quite what you are saying in

11 paragraph 51, is it? I will just read it again and we

12 will do it one more time, please.

13 "The impression I got on this occasion ..."

14 Do you see those words?

15 A. Yes.

16 Q. That means on the occasion when these detainees were in

17 custody, doesn't it?

18 A. Yes.

19 Q. Mm-hm. What I would like you to tell the Inquiry,

20 please, is how you have a memory of that, that you were

21 very much left to your own devices?

22 A. How I have a memory of it?

23 Q. Yes.

24 A. I don't know.

25 Q. You go on:

1            "I do not remember there being anybody in charge or  
2            telling us what to do."

3            You see, you are not saying here, are you, "I don't  
4            remember anything at all about it"? You are remembering  
5            something quite specifically, aren't you? Left to your  
6            own devices, no one higher up the chain.

7            It may be said, Mr Graham, that you seem to have  
8            a very selective memory, perhaps to remember matters  
9            that don't get others into trouble, but to forget  
10           everything else. What would you say to that?

11          A. I have to say that's not right.

12          Q. You don't have to say it if it isn't true.

13          A. Well, I'm saying that's not right.

14          Q. Can you go back in the statement, please, and look at  
15           paragraph 11. Page BMI00978. Thank you very much. You  
16           say in this paragraph, as you no doubt will recall, that  
17           you found the experience of giving evidence to the court  
18           martial very difficult; correct?

19          A. Yes.

20          Q. I have asked you whether there is any influence upon  
21           your decision to seek to withdraw your statement. Did  
22           you find the experience of being summoned to give  
23           evidence at the court martial -- which probably you knew  
24           about weeks or months before you had to go, did you?

25          A. Yes.

1 Q. Yes -- did you find in that period of time that you were  
2 put under any pressure about giving evidence to the  
3 court martial?

4 A. No.

5 Q. So no suggestion at all that anybody anywhere put any  
6 pressure on you to either give evidence or withdraw from  
7 giving evidence?

8 A. Yes, that's true. That's right.

9 Q. Was part of the pressure that you felt going to the  
10 court martial that here you were, a soldier, you knew  
11 what was in your statement, you knew that if you told  
12 the truth of what was in your statement you would be  
13 naming names? Was that part of the pressure for you, an  
14 understandable pressure no doubt, that here you were  
15 going to be giving evidence against other named  
16 soldiers?

17 A. Well, that was one of the reasons why it was difficult,  
18 yes.

19 Q. That's one of the reasons it was difficult. I think the  
20 Inquiry may understand it is never going to be an easy  
21 experience, is it, to give evidence which implicates  
22 fellow soldiers in doing things they should not have  
23 done?

24 A. No, it's not easy.

25 Q. And you didn't find that easy?

1 A. No.

2 Q. In relation to the withdrawal of your statement or the  
3 attempt so to do and the unease you felt about giving  
4 evidence, was that the predominant reason for all of  
5 that, that you really didn't fancy the idea that you  
6 would have to come forward and name names?

7 A. Well, it was more the fact that just -- just the actual  
8 court martial itself really, having to speak in front of  
9 so many people about -- about that. It was a difficult  
10 time.

11 Q. I'm not sure it quite deals with my question to you,  
12 Mr Graham. Was the real difficulty that you would have  
13 to name names?

14 A. Well, no. I told -- I told all that I could in the  
15 court martial. It was difficult because of that.

16 Q. Difficult because of what?

17 A. Because of having to speak in the court martial.

18 Q. Speak in the court martial.

19 You see if we go on in paragraph 11, starting at the  
20 very last line of the previous page, you said this, the  
21 last line of paragraph 11:

22 "I was not confident because I had little or no  
23 recollection of certain things happening."

24 So that was the position even before the court  
25 martial, was it?

1 A. Yes.

2 Q. "The best example of this, which is dealt with in more  
3 detail below, were the things that my first witness  
4 statement said about Corporal Payne."

5 What had happened after you had made your first  
6 witness statement in relation to Corporal Payne which  
7 caused you concern about him? I don't think the  
8 statement will help you, Mr Graham.

9 A. Sorry.

10 Q. What had happened to cause you now to question what you  
11 had said about Corporal Payne?

12 A. Nothing -- nothing had happened.

13 Q. Well, something must have happened, in your mind or  
14 somewhere else, no doubt.

15 A. Um --

16 Q. Don't worry about the statement. It won't help you.

17 A. I'm just re-reading it.

18 Q. Perhaps we can take it off the screen, can we? Thank  
19 you.

20 A. Well, nothing had happened.

21 Q. Here you are saying to this Inquiry, on 30 May of this  
22 year, that the best example was what you had said about  
23 Corporal Payne. What I want to know from you, if you  
24 can help the Inquiry please, is are you saying that at  
25 this stage you simply had no memory of what

1 Corporal Payne had done or are you saying you had  
2 changed your mind about what he had done?

3 A. No, I wouldn't have changed my mind about what he had  
4 done.

5 Q. So there was nothing in your original statement that you  
6 wanted to alter because you now knew that you had said  
7 things that were not true?

8 A. Sorry, can you say it again please?

9 Q. Yes. There was nothing in your first statement that you  
10 wanted to alter because you knew that it wasn't true?

11 A. I might sound dense, but I don't understand that  
12 question.

13 Q. All right. I will try to put a different way to you.  
14 You have told us -- correct me if this is wrong -- as  
15 I understand it, that nothing occurred to you about  
16 Corporal Payne such that you were saying to yourself,  
17 "Well, I don't think he did do what I said in my first  
18 statement"? Nothing of that kind happened in your mind?

19 A. No.

20 Q. No. Your concern appears to be -- if you are telling  
21 the truth in this statement -- that there came a time  
22 when you couldn't remember what Corporal Payne had done;  
23 is that it?

24 A. Well, there was a lengthy gap in between.

25 Q. A lengthy gap between what?

1 A. In between the statement and the court martial.

2 Q. Yes. I understand and that I am sure the Inquiry will  
3 have in mind. But that was the position, was it?  
4 Insofar as you had concern, the best example that you  
5 speak of in paragraph 11 relates to what you could now  
6 remember and not because you wanted to make any  
7 correction to what you had earlier said?

8 A. That's true.

9 Q. Correct?

10 A. Correct.

11 Q. Thank you. Just on the same theme, can we go back to  
12 paragraph 9, please? Forgive me for being pedantic  
13 about this, but in paragraph 9, four lines down, you say  
14 this to this Inquiry:  
15 "As I have said I think that I would have  
16 been truthful to the SIB officer who took my first  
17 statement ..."  
18 Do you see that?

19 A. I do.

20 Q. It is just the word "think"; it may just be the  
21 grammatical phrase. There is not any doubt, is there,  
22 that you did tell the truth in the SIB statement to the  
23 RMP officer as you then believed it to be?

24 A. No.

25 Q. Thank you. Finally looking at paragraphs of this

1 statement at this stage, can we go back to paragraph 7,  
2 BMI00976, please, and over the page? You talk about not  
3 wanting to give evidence to the court martial. We have  
4 dealt with that. Then, four for five lines from the  
5 bottom of this paragraph:

6 "The thing that particularly struck me was the use  
7 of the word 'torture' ..."

8 You didn't like the use of the word "torture" in  
9 your first statement, is that right?

10 A. Yes, that's true.

11 Q. So it does follow, does it, Mr Graham, that at that  
12 stage, when you were having these thoughts about not  
13 liking the use of the phrase "torture", you must, in  
14 your mind, have been able to remember what in fact did  
15 happen?

16 A. At that stage, yes.

17 Q. I am sorry?

18 A. At that stage, yes.

19 Q. At that stage you could. What was it that you didn't  
20 like about the term "torture"?

21 A. Um, I don't know. I must have felt that what was  
22 happening didn't fit the word.

23 Q. Didn't fit the word "torture"? Had you learnt in the  
24 army anything at all about the Geneva Conventions?

25 A. Yes.

1 Q. About the treatment of prisoners humanely?

2 A. I think so, yes.

3 Q. I think the Geneva Convention -- I am not suggesting you  
4 should have known this or indeed perhaps that it matters  
5 in the end -- but putting it in shorthand, the Geneva  
6 Convention would seem to say that torture involves the  
7 deliberate infliction of severe physical pain as a means  
8 of punishment, for example, or of extracting information  
9 from a detainee. Do you follow?

10 A. I do.

11 Q. The infliction of severe physical pain deliberately.  
12 Again, we will look at it in detail, but having read  
13 your first statement, if there were kicks and punches,  
14 as many as 30 to an old man that you referred to as  
15 being called "Grandad", which resulted in his body being  
16 black and blue and he being taken to hospital, if not  
17 within an inch of his life, at least with his life  
18 seriously threatened, that would seem to be severe  
19 physical pain deliberately inflicted, wouldn't it?

20 A. It would.

21 Q. I don't want to spend any time on it unless we have to,  
22 Mr Graham. When you went back to the RMP and you wanted  
23 to change your statement and remove the word "torture",  
24 you wanted to replace it with the words "filled in",  
25 which you then went on to indicate meant what you have

1 told us today, being beaten, that was the only amendment  
2 that you sought to make to your statement, wasn't it?

3 A. I think so, yes.

4 Q. Yes. As I say, the semantics or the use of the precise  
5 language may not matter very much. If what happened  
6 according to your first statement happened, then these  
7 prisoners were filled in, weren't they?

8 A. Yes.

9 Q. Were you ever part of a group of soldiers who were told  
10 by Mr Payne that it should be said, in effect, that the  
11 death of the detainee who died was in some way  
12 accidental, that he had banged his head, if anyone was  
13 questioned about it?

14 A. I don't think so.

15 Q. Why do you say you don't think so, because you would  
16 have remembered it if you had been?

17 A. Well, I don't know. I don't remember being in that  
18 group of people who was told that.

19 Q. Or is your position that you simply can't say whether  
20 you were or not --

21 A. I just don't know.

22 Q. -- if it happened?

23 A. I can't remember.

24 Q. I'm not suggesting that you were, but do you recall any  
25 incident where Lieutenant Rodgers was talking to the

1 multiple, which presumably would have included you,  
2 indicating that what happened in the TDF to the man who  
3 died should be blamed upon Corporal Payne and that the  
4 multiple should stick together with their stories?

5 A. No, I don't.

6 Q. Again, in relation to that, are you saying such a thing  
7 didn't happen or you simply don't know?

8 A. I'm saying that I don't know.

9 Q. You don't know.

10 If from either side, if you like, from Mr Payne or  
11 Mr Rodgers, you had been invited or asked or told to be  
12 part of a conspiracy of that kind, an agreement, to  
13 pervert the course of justice, to tell lies about what  
14 had happened to the detainees, isn't that something you  
15 would remember?

16 A. Yes, I would, I think.

17 Q. You would expect to, would you?

18 A. I think so, yes.

19 Q. Would you expect to remember that more readily than the  
20 sight of an elderly man being kicked and punched  
21 30 times in a day?

22 A. Well, no.

23 Q. So we may take it, may we, from all that you have said  
24 to us today, that the account that you gave originally  
25 to the SIB would be the truth as you remembered it then?

1 A. Yes, it would be.

2 Q. Can we have a look, then, please at a statement,  
3 MOD000143?

4 Do you see the declaration at the top of the  
5 statement?

6 A. Yes.

7 Q. This is a typed copy of a statement that was 34 pages  
8 long and you signed the declaration that it was true to  
9 the best of your knowledge and belief, and you make it  
10 knowing that if it is tendered in evidence, you would be  
11 liable to prosecution if you have wilfully stated in it  
12 anything which you knew to be false or didn't believe to  
13 be true. Do you see that declaration?

14 A. I do, yes.

15 Q. It is dated 12 October 2003. No doubt your recollection  
16 of events then would have been good, would it?

17 A. Yes.

18 Q. At this time you would have known the identities and  
19 indeed the faces of all members of the multiple with  
20 whom you worked?

21 A. Yes.

22 Q. You would have known them well?

23 A. Yes.

24 Q. You had to work with them day by day by day?

25 A. Yes.

1 Q. And indeed I think you were working long hours, weren't  
2 you, some days, 20-hour days and things of that kind?

3 A. Yes.

4 Q. I just want to begin, please, by asking you about what  
5 may appear to be a small part of your recollection then,  
6 which we find on page MOD000153.

7 Can I just deal with this, Mr Graham: your statement  
8 to this Inquiry does go into quite a lot of length of  
9 detail about how some of the language may not be  
10 precisely yours. I understand that and I would venture  
11 to suggest that anyone who has ever made a statement  
12 will no doubt find that in that statement there is  
13 phraseology which may be not in everyday use or may not  
14 be precisely the words that one would choose to use.  
15 But when you signed it, as you told us, you signed it on  
16 the basis it was the truth, didn't you?

17 A. I did.

18 Q. Yes. Again, I don't want to spend a lot of time, but if  
19 the officer asked you, "What were the toileting  
20 arrangements?", you would have known exactly what he  
21 meant, wouldn't you?

22 A. Well, yes.

23 Q. Wouldn't you? Are you doubtful about it?

24 A. No, I'm not.

25 Q. No. Well, I'm not going to go into details about

1           whether you would have used this phrase or that.  If we  
2           look, please, at the paragraph second down from the top  
3           beginning "Having been asked ...", I want to ask you  
4           about this, please:

5                     "... I do recall that whilst on duty I talked for  
6           a period with an RAF soldier who appeared to be hanging  
7           around the area for a time."

8                     Do you have any recollection now of an RAF soldier  
9           hanging around the area for a time?

10    A.  I don't.

11    Q.  Again, not a glimmer?

12    A.  No.

13    Q.  And even reading that doesn't bring anything back?

14    A.  No.

15    Q.  You go on in the paragraph:

16                     "At that time I was on duty with Private Bentham and  
17           Private Aspinall still, and I remember that  
18           Corporal Payne was present at some point during the RAF  
19           soldier's visit ..."

20                     Do you follow?

21    A.  Yes.

22    Q.  It's clear, I think, from the statement that you were  
23           making in October 2003, that you were referring to that  
24           time of your stag on the Monday when you were on stag  
25           with Bentham and Aspinall.

1 A. Yes.

2 Q. Lest it brings back any recollection, I'm just going to  
3 ask you a question or two about evidence that this  
4 Inquiry has heard from an RAF soldier who was at the TDF  
5 on that Monday -- do you understand?

6 A. Yes.

7 Q. -- and of some of the things that he is able to say  
8 which would appear to be mirrored in your statement.

9 A. Okay.

10 Q. The witness who has given evidence to this Inquiry is  
11 a man by the name of Aircraftman Hughes, and he talks of  
12 coming on the scene of the TDF on that Monday afternoon  
13 and finding three soldiers, together with a fourth, and  
14 on a subsequent occasion, or occasions, he identifies  
15 three of the soldiers as being Mr Payne, Mr Bentham and  
16 another man by the name of "Slicker" -- we will come to  
17 him in a moment -- but he is unable to identify the  
18 other two. Do you follow?

19 Were there ever any times that you can recall,  
20 Mr Graham, when you were outside the TDF, sitting  
21 around, whilst perhaps your colleagues were inside?

22 A. Not really, no.

23 Q. I'm sorry?

24 A. No.

25 Q. Why do you say "no"?

1 A. Why do I say "no"?

2 Q. Yes.

3 A. Because I can't really remember a time when I was sat  
4 outside when other people were inside.

5 Q. But you can't remember being there, can you, with these  
6 detainees?

7 A. I've still got the same answer.

8 THE CHAIRMAN: Sorry, you will have to explain that to me.  
9 I don't understand.

10 MR DINGEMANS: Sir, can I make one comment? He was asked  
11 did he recall -- if you read the question my learned  
12 friend asked, it was "Do you recall ...", to which he  
13 got the answer "No". It wasn't --

14 THE CHAIRMAN: Mr Dingemans, we will try all over again.

15 MR DINGEMANS: Thank you.

16 MR ELIAS: I thought you were telling the Inquiry -- forgive  
17 me if I have it wrong -- that there was not a time when  
18 you would have been outside whilst Bentham and Aspinall  
19 were inside; is that correct or do I have it wrong?

20 A. Well, you asked me if I remember a time when I was  
21 outside and those other two were inside and I said "no".

22 Q. Was there ever a time when you were outside the TDF?

23 A. Well, I --

24 THE CHAIRMAN: To be fair, before you ask, I think you  
25 should put it: was there ever a time when you were on

1 stag and you were outside the TDF?

2 A. I don't know.

3 THE CHAIRMAN: You don't know?

4 A. No.

5 MR ELIAS: Lest it triggers any memory for you, let me go on

6 and tell you about the RAF soldier coming on the scene,

7 Mr Hughes. He speaks of talking with soldiers or

8 a soldier outside the TDF. You have no recollection of

9 speaking with the RAF soldier, do you?

10 A. No.

11 Q. That soldier has told this Inquiry that he went into the

12 TDF and that Corporal Payne there demonstrated to him

13 "the choir". When I refer to "the choir", you know what

14 I mean, don't you?

15 A. I do.

16 Q. No doubt about that, is there?

17 A. No.

18 Q. Do you tell this Inquiry that you have seen "the choir"?

19 A. I can't tell you if I have seen it. I don't remember

20 seeing "the choir", but I have read about it a lot of

21 times.

22 Q. If you were telling the truth, as we will see in a few

23 minutes perhaps, in your original statement that you saw

24 "the choir" I think on a number of occasions, that must

25 be something, must it, that you have forgotten?

1 A. It must.

2 Q. Civilians, detainees, prisoners, being put in a circle  
3 or a horseshoe and being repeatedly struck so that  
4 sounds could emit from them? Does that bring anything  
5 back to you?

6 A. I am afraid not.

7 Q. You have no recollection at all?

8 A. No.

9 Q. Did you ever participate, Mr Graham, in striking  
10 detainees to participate in the choir?

11 A. Not that I can remember, no.

12 Q. But you may have done?

13 A. As I say, not that I remember.

14 Q. But you may have done?

15 A. I don't really know how else to answer it, other than  
16 saying "not that I remember".

17 Q. Aircraftman Hughes not only says that he was taken in  
18 and shown "the choir" by Corporal Payne, but in that  
19 paragraph -- can we have that paragraph back up on the  
20 screen please -- having been asked, you are or were then  
21 able to remember that at the time when the aircraftman  
22 was at the TDF, it seems Mr Payne -- Corporal Payne --  
23 was also present.

24 A. That's what it looks like, yes.

25 Q. You describe in this statement, in October 2003,

1           witnessing "the choir", don't you?

2    A.   I do, yes.

3    Q.   In the next paragraph in your statement you say that you

4           recall seeing Corporal Payne kick a prisoner so hard

5           that they fell over to their sides from their seated

6           position.  Do you see it?

7    A.   I do, yes.

8    Q.   Aircraftman Hughes has said that when he was present, he

9           saw a detainee kicked such that he fell over onto his

10          side.  Were you present with the aircraftman in that TDF

11          at that time?

12   A.   Not that I can remember.

13   Q.   Your statement refers to Corporal Payne on occasions --

14          we will look at in detail in due course -- going into

15          the TDF and clicking his fingers to get a response from

16          one of the detainees who was there.  You remember your

17          statement saying that, do you?

18   A.   Yes.

19   Q.   To get the response "no sleep, no sleep".  Do you

20          remember any of that, Corporal Payne doing that?

21   A.   No.  I have read it, like I say, but I don't remember it

22          happening.

23   Q.   Aircraftman Hughes has a recollection of it being

24          another soldier, not Corporal Payne, who was doing that

25          at that stage, clicking fingers and getting the

1 response. He suggested, I think, that it was  
2 Private Bentham. Do you have any recollection of that  
3 at all?

4 A. I'm afraid not.

5 Q. Did you do it, click your fingers to get some response  
6 from prisoners?

7 A. Not that I can remember.

8 Q. You refer in this statement to one of the detainees  
9 being known by the nickname "Grandad".

10 A. Yes.

11 Q. You refer in this statement to that man -- and we will  
12 see it, as I say, in the detail in due course -- to that  
13 man, "Grandad", being, to an extent, singled out by  
14 Corporal Payne for special treatment. He is the man who  
15 is kicked 30 times in the day, as you said in this  
16 statement. You recall that, don't you?

17 A. I do.

18 Q. Do you have any recollection of that now, this man being  
19 kicked so repeatedly?

20 A. I don't.

21 Q. Just so we can put it out of the way, have there been  
22 other occasions when you have seen detainees treated in  
23 what you describe as a "horrible way", kicked and  
24 punched?

25 A. I don't think so.

1 Q. It is not a case that this has happened so often it has  
2 really faded because of that? You would never have seen  
3 this before, what you are describing in your first  
4 statement; is that right?

5 A. I don't think so, no.

6 Q. Because Aircraftman Hughes has told the Inquiry that he  
7 heard the nickname "Grandad" and that even for the  
8 period that he was there, it seemed to him that  
9 "Grandad" was singled out. Does that help you in your  
10 recollection at all?

11 A. I'm afraid not.

12 Q. No. While Aircraftman Hughes was there, a man that he  
13 has picked out as being Corporal Slicker from the stores  
14 came across and went into the TDF -- your stag,  
15 I suggest, during your stag, when the aircraftman was  
16 there. Do you have any recollection of that?

17 A. No.

18 Q. You knew Slicker, did you?

19 A. I remember his name now. I don't remember what he looks  
20 like.

21 Q. But you would have known him then, would you, both by  
22 name and by looks, as the storeman?

23 A. Yes, it is quite likely.

24 Q. Yes?

25 A. Yes.

1 Q. If he turned up and kicked a man, did you see that?

2 A. I don't remember. I may have known him by his face and  
3 appearance. I may not have known his name because  
4 there's so many people.

5 Q. So can we go back, please, to the beginning of your  
6 statement, page MOD000143? I want to take you through  
7 certain paragraphs of this, Mr Graham, if I may. The  
8 last paragraph on the first page, you are saying:  
9 "... looters or other wanted people get arrested by  
10 our troops on the ground and are then brought in for  
11 tactical questioning (TQ'ing). This is done to get  
12 intelligence out of them which can be used to fight  
13 terrorism. It's important when someone is are brought  
14 in for TQ'ing that they are kept awake and made to feel  
15 really uncomfortable which makes their questioning a lot  
16 easier."

17 My question to you, that being what you said, is:  
18 who instructed you that that is what you were to do --  
19 you and your colleagues, of course -- with those who  
20 were brought in?

21 A. I'm not really sure. I think it were just a -- not  
22 a common sense, but just a known idea.

23 Q. I didn't quite catch the last answer.

24 A. I said not that it was common sense, but it was just  
25 a known idea.

1 Q. A known idea? What, an idea known to you?

2 A. Well, I think so, yes.

3 Q. Who told you that prisoners were to be kept awake?

4 A. I'm not sure.

5 Q. When you say in this statement, as you do, "made to feel  
6 really uncomfortable", what did you mean by "really  
7 uncomfortable"?

8 A. I'm not sure what I meant at the time.

9 Q. What do you think it means now?

10 A. Well, it says kept awake and probably kept in stress  
11 positions.

12 Q. Kept in stress positions?

13 A. That would probably make you feel really uncomfortable.

14 Q. Just pausing there, what did you know about stress  
15 positions when you were out in Iraq? Had you been  
16 trained that they could or should be used with  
17 prisoners?

18 A. I do not remember any specific training on how to do it,  
19 but it's a -- I think it's just another known idea.

20 Q. Another known idea. I'm not quite sure I understand  
21 what you mean by "known ideas", but you knew about it,  
22 did you?

23 A. I still do. I think it was just something that was done  
24 throughout the army -- sorry, go on.

25 Q. Something done throughout the army. Had you seen stress

1 positions used before the occasion of these detainees?

2 A. I think so, yes.

3 Q. Where had you seen stress positions before?

4 A. Well, in places like -- in school, I think, even, and in  
5 training and stuff like that, and in my NCO cadre.

6 Q. In school, you say. What, you mean in army-training  
7 school or where?

8 A. Just in normal school, I think.

9 Q. What, as part of your education?

10 A. We were in like -- in PE and stuff like that.

11 Q. PE?

12 A. I think so.

13 Q. What do you understand by "stress positions", then,  
14 Mr Graham?

15 A. Well, a position that's uncomfortable. Like I have  
16 given the example in my statement of having your back  
17 against the wall and bending your knees and having your  
18 arms out.

19 Q. What, that which we saw in the video. That's a stress  
20 position, is it?

21 A. I would say, yes.

22 Q. Had you seen that stress position or something like it  
23 being used on detainees in Iraq before these events with  
24 the Operation Salerno detainees?

25 A. I'm not sure.

1 Q. Putting it another way round, I am asking you the  
2 question: how did you know, in relation to these  
3 detainees, that they were meant to be made to feel  
4 really uncomfortable and put in stress positions?  
5 A. I don't know.  
6 Q. Was it just because that's what was always done or is  
7 this the first time you had ever seen it?  
8 A. I suppose it -- I must have been told by someone.  
9 I think it was just what was done.  
10 Q. Had you carried out guard duty in this building on  
11 previous occasions?  
12 A. I don't think so.  
13 Q. But you had carried out guard duty elsewhere, had you,  
14 on civilian detainees?  
15 A. Our -- I am struggling here because I know that I have  
16 done now. I have read it. But as I was writing my  
17 statement, I didn't think that I had done -- I didn't  
18 know if I had done.  
19 Q. You know now that you have because you have read it?  
20 A. Yes.  
21 Q. So it does trigger memories then?  
22 A. Well, as I say, I read it.  
23 Q. If we go over the page, please, you say in that middle  
24 paragraph:  
25 "On a couple, maybe three occasions since arrival in

1 theatre [that would be in Iraq, wouldn't it?] I've been  
2 employed on providing security over prisoners that have  
3 been arrested and taken back to Battlegroup Main. This  
4 has always been done at a small concrete building at the  
5 rear of Battlegroup Main, just inside the camp's rear  
6 wall."

7 You appear there to be referring to the TDF, don't  
8 you?

9 A. I think so.

10 Q. Sorry?

11 A. I think so.

12 Q. Yes. You recalled that it was a basic ground floor  
13 building, three rooms in it, two entrances.

14 "All three of these rooms are bare concrete with no  
15 furniture in them whatsoever. Prisoners normally sit on  
16 the floor and that's it."

17 That's what you were able to remember at the time.  
18 Apart from the number of rooms, that is what you can  
19 remember now, isn't it?

20 A. As I say, I am struggling because I have read it and  
21 I know that's the case.

22 Q. You drew a sketch plan, didn't you, at the time you were  
23 making this statement?

24 A. Yes.

25 Q. We can see it at MOD015413, please. I say that you drew

1           it. Perhaps you did not draw it, I do not know, but it  
2           was drawn for you and you were able to mark it; is that  
3           right?

4   A. Yes.

5   Q. You have seen that obviously, haven't you, recently?

6   A. Yes.

7   Q. We will come back to that sketch. You say at the foot  
8           of page MOD00144, please, the last paragraph:

9           "During the early hours of Sunday 14 September 2003  
10          I deployed ... search operation which took place at a  
11          hotel in Basra ... deployed that day as a searcher and  
12          whilst I'm aware there were about nine people arrested  
13          ... I didn't actually have anything to do with these  
14          prisoners at the hotel as I was there to search rooms  
15          for weapons and explosives."

16          That you were able to remember when you told us this  
17          morning, weren't you?

18   A. Yes.

19   Q. I am sorry?

20   A. Yes.

21   Q. Over the page, please, you were saying:

22          "My memory of this search op is now slightly faded  
23          but I can remember we were there for a long time, but  
24          that whilst there, we were ordered by someone, though  
25          I can't remember who, to break into an office safe ..."

1 All right?

2 "It took some 45 minutes to break into the safe ...  
3 a lot of personnel present were involved in doing so ...  
4 eventually a large quantity of Iraqi dinar was found  
5 inside it. This was recovered along with a quantity of  
6 firearms. At the hotel I had no involvement with the  
7 prisoners, however, when we left, I was involved in  
8 placing one prisoner into the back of a Bedford  
9 vehicle."

10 If you said that, it must be true, mustn't it?

11 A. Yes.

12 Q. Do you have any recollection of it?

13 A. No.

14 Q. "At this time, all the prisoners, including mine, were  
15 handcuffed either to their front or to their rear,  
16 I can't remember. I do recall that none of them had  
17 sandbags on their heads."

18 Does that bring back the memory now of you taking  
19 a detainee to the vehicles?

20 A. Not really, no.

21 Q. "Whilst at the hotel I didn't see anyone abusing the  
22 prisoners physically. Most of the time they were left  
23 lying on the ground."

24 That would have been true, too, would it, that you  
25 would you have seen that at the time?

1 A. I assume so, yes.

2 Q. You didn't see anyone with any injuries whilst at the  
3 hotel, all the prisoners were treated firmly but fairly.  
4 You then go on to describe how the nine of them were  
5 taken from the hotel in the back of the Bedford and you  
6 remained at the scene after the prisoners had gone to  
7 complete the search.

8 You then go on in the next paragraph to say this:  
9 "I did travel by Saxon later, about 22.00 hours ..."  
10 I suggest it might've been somewhat earlier than  
11 that, but that may not matter too much:  
12 "I did travel by Saxon later [later that evening]  
13 ... to BG Main from Anzio Company."  
14 That would have been from Camp Stephen, yes?

15 A. Yes.

16 Q. A journey of about five minutes?

17 A. I think so, yes.

18 Q. Something like that. You say:  
19 "... but that was just to drop off some of our call  
20 sign that had to provide an overnight guard for the  
21 prisoners."  
22 You said this:  
23 "When we dropped them off, I didn't leave our Saxon  
24 vehicle and accordingly I didn't have any contact with  
25 the prisoners at that time."

1           I want to ask you about that. A number of witnesses  
2           have said that the multiple appeared to have gone into  
3           the TDF on this occasion.

4   A.   Um --

5   Q.   Do you have any recollection of any occasion when all  
6           the multiple were in that TDF together?

7   A.   No.

8   Q.   You know the soldier by the name of MacKenzie?

9   A.   I do.

10  Q.   I think he says that you were in the TDF on this  
11           occasion. Do you have any recollection of that?

12  A.   No.

13  Q.   So the position is that you think what you said in this  
14           statement would be true, but you don't have any  
15           recollection of it at all?

16  A.   That's right.

17  Q.   I will just ask you: is it possible that you were wrong  
18           about that in this statement and that you did, with  
19           others, debus from the army vehicles and go in to take  
20           a peek at the detainees?

21  A.   It is possible.

22  Q.   You talk about the soldiers who were dropped off,  
23           Reader, Appleby, MacKenzie, Cooper, Kenny and Hunt, and  
24           the remainder of the call sign returned to Camp Stephen.  
25           That is Anzio's unit lines, isn't it? That's what the

1 reference is?

2 A. Yes, that's what it says.

3 Q. Thank you. So that was your first visit to the TDF when  
4 these detainees were there. You then refer to a second:  
5 "About 9 o'clock the next morning [the 15th, the  
6 Monday] ... I remember that members of my call sign and  
7 I travelled to BG Main."  
8 Pausing there, can you help us about this: "members  
9 of your call sign", is that a reference to your  
10 multiple?  
11 A. Yes.  
12 Q. So your multiple, with you, travelled to BG Main, "...  
13 where Private Bentham, Aspinall and I were due to be  
14 dropped off to take over prisoner security duties from  
15 the nightshift".  
16 Again, we can take it, can we, that that would have  
17 been true and accurate if you are stating it at that  
18 time?  
19 A. Yes.  
20 Q. "When we arrived, I remember Private Bentham, Private  
21 Aspinall and I went for breakfast then walked around to  
22 the area of the swimming pool ..."  
23 Do you remember a swimming pool at BG Main?  
24 A. I don't think so.  
25 Q. "... across the road from the prisoner-handling centre,

1 and we woke the offgoing shift, who were asleep on cot  
2 beds. They included Private MacKenzie, Private Kenny,  
3 Private Reader and possibly Private Cooper."

4 All of that we can take to have been an accurate  
5 recollection from you to the best of your knowledge and  
6 belief, can we?

7 A. Yes.

8 Q. You go on at the foot of that page:

9 "I recall meeting Private Hunt and Private Appleby,  
10 who I think were inside the three-room complex."

11 So it rather looks, does it, as though you were  
12 actually taking over from Hunt and Appleby as the guards  
13 on duty?

14 A. That's what it looks like.

15 Q. "They were wearing desert combat 95 uniform. This was  
16 the point when I got my first glimpse of the prisoners  
17 following their arrest."

18 That would have been right, would it?

19 A. I assume so, yes.

20 Q. You would have gone in as guard, would you?

21 A. More than likely.

22 Q. Of course, now that we see the earlier part of your  
23 statement, this was a building you had been in before?

24 A. That's what it says.

25 Q. Yes. You go on to say this:

1           "The handover of the security wasn't supervised, nor  
2           did it amount to anything more than us saying 'right  
3           we're taking over'."

4           There wasn't any formal handover?

5   A.   Not that I know of.

6   Q.   Not according to that account?

7   A.   No.

8   Q.   "At that point there was nothing else said and  
9           Private Hunt and Private Appleby walked off towards the  
10          cookhouse. At that point, it would be fair to say that  
11          Private Aspinall, Private Bentham and I took over  
12          responsibility for guarding those prisoners present."

13          Can you help us about what your responsibility was,  
14          Mr Graham, in terms of guarding prisoners? Was there  
15          any requirement that would have meant that you should  
16          have stopped anyone coming into the area where civilians  
17          were being detained?

18   A.   Um, I don't think so, no.

19   Q.   I'm not asking you just about this occasion, but if you  
20          were on guard duty, was there a requirement that you,  
21          the guard or guards, should not simply permit any Tom,  
22          Dick or Harry to come in and nose around?

23   A.   That would make sense.

24   Q.   Sorry?

25   A.   That would make sense, but I don't know if that was the

1 case.

2 Q. I'm not talking about this occasion, you understand.

3 Whenever you were on guard duty I am asking you about.

4 Was it part of your duty, as the guard, to ensure that

5 the detainees were, as it were, kept safe, and one of

6 the ways of doing that, by ensuring that not anybody was

7 able to come in and have access to them?

8 A. As I say, I'm really not sure if that was the case, but

9 it sounds like -- well, it sounds like the right thing.

10 Q. It may sound like the right thing. What I am really

11 asking you is whether, when you were on guard duty --

12 not on this occasion, but on any occasion -- was that

13 part of what you understood your duty to be, to ensure

14 that soldiers randomly did not come in?

15 A. I've got no idea.

16 Q. Going back to your statement:

17 "The handover of the security was not supervised ...

18 At that point there was nothing else said."

19 They walk off to the cookhouse and it is fair to say

20 you took over responsibility.

21 The next paragraph says this:

22 "Looking back now [and this is October 2003] there

23 had been no briefing on what to do or how to do it."

24 What briefing would you have required, Mr Graham?

25 A. Um --

1 Q. Accepting your age and stage at that time?

2 A. I assume that I should have had a briefing saying --

3 well, instructions left on what to do.

4 Q. Yes. What briefing might you have expected to do the

5 guard duty?

6 A. Well, instructions on when they were to be given food.

7 Q. Food.

8 A. And drink.

9 Q. Water.

10 A. Toileting, as you have been saying.

11 Q. Toileting.

12 A. That's about it.

13 Q. All right. Because I suppose one of the things that you

14 would need to know is when they were last fed, for

15 example --

16 A. Yes.

17 Q. -- and when they might be expected to be fed again?

18 A. Yes.

19 Q. Was it your function -- was it your task -- as guard, to

20 arrange the food for detainees?

21 A. I don't know.

22 Q. Who did that? I am not talking about this occasion, but

23 just generally, who would arrange food if you were on

24 guard duty in the TDF?

25 A. I don't really know. I assume it would be an NCO or an

1 officer.

2 Q. And physically, was it your job to go and get it for the  
3 detainees if it was ordered?

4 A. Like I say, I don't know if it was, but more than  
5 likely, yes.

6 Q. So you go on in this paragraph:  
7 "I'd not read any orders for guarding these  
8 prisoners ... no log available detailing previous events  
9 or any other kind of custody record."  
10 Should there have been such a record? That's to say  
11 a record of perhaps movements of detainees in and out?

12 A. There normally is if you are on a normal guard duty on  
13 a camp.

14 Q. So normally on guard duty there would be a log --

15 A. As I say, on a normal guard duty, a camp-guard guarding  
16 the gates, you have a log to write things down in.

17 Q. On normal guard duty, when you were guarding prisoners,  
18 would there be a log that would indicate, for example,  
19 if a prisoner were taken over to the medical centre or  
20 taken out for questioning?

21 A. Well, you would assume so, but I don't know if there was  
22 or would be or not.

23 Q. You had guarded before, you see. That's why I am asking  
24 you: had there been on previous occasions?

25 A. As I say, I don't know.

1 Q. You don't know.

2 Do you have any recollection of whether an

3 interpreter was present at this building for these

4 detainees when you were on stag?

5 A. Not really.

6 Q. You don't remember?

7 A. No.

8 Q. What you said in this statement was:

9 "There was no interpreter to hand ... nor was there

10 any way we could properly communicate with ... [the

11 prisoners]."

12 That would have been your recollection then; it

13 would have been true, would it?

14 A. Yes.

15 Q. "... no medical facilities or personnel to hand and

16 there certainly was no medical brief or awareness pack

17 to hand."

18 A. I assume not.

19 Q. You would not have said it otherwise, would you?

20 A. No.

21 Q. As you have said:

22 "... no record there to give us a clue as to what

23 the prisoners had been fed or when their next meal was

24 due."

25 In Iraq, did you drink a lot of water?

1 A. Yes.

2 Q. Were you so instructed?

3 A. I don't think so.

4 Q. Were these detainees given a lot of water?

5 A. I don't know.

6 Q. Sorry?

7 A. I don't know.

8 Q. Towards the foot of this paragraph, you said:

9 "I had no idea who was supposed to be in charge of

10 handling the prisoners as I'd not been told. Nor

11 did I have any idea which officer from our unit was in

12 charge."

13 Can we just examine that for a moment? To whom

14 would you have taken any concerns that you had about

15 detainees?

16 A. I don't know. Probably to a team commander or an

17 officer or someone like that.

18 Q. So the team commander, Redfearn, on this occasion?

19 A. Yes.

20 Q. And the officer that you refer to?

21 A. I assume just any officer. More than likely the platoon

22 commander or whoever was knocking about.

23 Q. Who would you have gone to if you had wanted to make

24 some report about what was going on in this TDF?

25 A. I don't really know. Whoever was -- had a rank and was

1 close.

2 THE CHAIRMAN: We are almost exactly at 1 o'clock, but if

3 that is a convenient or inconvenient, let me know.

4 MR ELIAS: May I just finish this single point, Sir?

5 THE CHAIRMAN: Yes, of course.

6 MR ELIAS: Redfearn would have been the next up to you,

7 would he?

8 A. Team commander, yes.

9 Q. And above him?

10 A. I suppose platoon commander.

11 Q. Lieutenant Rodgers?

12 A. Yes.

13 Q. That would have been, would it, the normal approach that

14 you would have made through one or other of those two if

15 you had had anything that you wanted to report about

16 what was going on in this detention centre?

17 A. More than likely -- well, I can't say about in the

18 detention centre, but in normal life, yes.

19 MR ELIAS: Thank you.

20 THE CHAIRMAN: We are going to break off now, Mr Graham, for

21 an hour for lunch. I must ask you, please, not to talk

22 to anybody about your evidence during the course of the

23 break. Do you understand?

24 A. Yes, Sir.

25 THE CHAIRMAN: I just wish to make this quite clear: my task



1 A. I think so, yes.

2 Q. Over the page, you are now referring to the early part  
3 of your stag in this statement, now on page 5 of the  
4 typed copy.

5 "For a while the mood inside the room was calm. The  
6 prisoners were behaving themselves, no one appeared to  
7 be moaning or crying or talking or complaining. As  
8 a result Private Aspinall, Private Bentham and I just  
9 milled about keeping an eye on the prisoners and leaning  
10 against the walls."

11 Again, presumably, all that would have been true,  
12 would it?

13 A. I think so, yes.

14 Q. At this time, according to this account:

15 "Whilst walking around, I recall seeing the middle  
16 room, room 2, was empty and that three prisoners  
17 similarly cuffed and sandbagged were sat in room 1  
18 facing the back wall of that room."

19 So if we go back to the sketch plan, please, at  
20 MOD015413, you then placed, for the statement-taker, the  
21 detainees in the positions that we see in that sketch.

22 A. Sorry, can you say that again?

23 Q. Yes. You placed, for the statement-taker, the detainees  
24 in the position that we see in that sketch?

25 A. Yes.

1 Q. They are numbered so you could later refer to them in  
2 the statement. "3" is put in a dotted circle, as we  
3 will see in a moment or two, because he was moved from  
4 the position in the right-hand room, room 3, as it is  
5 called here, into room 2.

6 I suppose you do recall, do you, having been to the  
7 TDF on the three or four occasions that you are able to  
8 speak about, that the middle room was a toilet?

9 A. I do, yes.

10 Q. I am sorry?

11 A. I do, yes.

12 Q. And it was a hole in the ground?

13 A. I think so, yes.

14 Q. Do you recall why any detainees would have been put in  
15 that room particularly by you and your colleagues?

16 A. Not really, no.

17 Q. Sorry, does "not really" mean you don't have any idea?

18 A. By then, same problem. I know now after reading it that  
19 he was put in there after being troublesome.

20 Q. That is number 3, isn't it?

21 A. Well, yes.

22 Q. Number 3 was being put in there after being troublesome,  
23 you say because you have read it. You don't have any  
24 recollection of that, do you?

25 A. No.

1 Q. No. Do you remember putting another detainee in that  
2 room?

3 A. No.

4 Q. Was there any question of punishing any of these  
5 detainees?

6 A. Not that I know of.

7 Q. Do you recall holding the head of one young detainee  
8 over that open-holed toilet?

9 A. No.

10 Q. Again, you can't tell us whether it happened or not, can  
11 you?

12 A. No.

13 Q. No. So coming back to your statement, page MOD000147,  
14 please:

15 "I think Private Aspinall, Private Bentham and I had  
16 been with the prisoners about an hour and a half before  
17 ... Corporal Payne arrived at the prisoner-handling  
18 centre ... the prisoners were still sat in the same  
19 positions as I've marked on the sketch plan ...

20 "Corporal Payne, who I've known since November 2002,  
21 when I joined the battalion, was wearing desert combat  
22 95 trousers, desert boots and a sandy coloured ...  
23 T-shirt."

24 What was your relationship with Corporal Payne at  
25 that time?

1 A. I don't think I really had a relationship with him, to  
2 be honest. I had seen him knocking about, but that was  
3 about it.

4 Q. You'd seen him knocking about. You did not have any  
5 particular relationship, didn't have any particular  
6 reason to be afraid of him?

7 A. No, not particularly.

8 Q. No. You didn't know anything about him by way of  
9 reputation?

10 A. All RP corporals, I suppose, have a slight reputation,  
11 you could say, because of the nature of the job.

12 Q. They have to be tough and hard?

13 A. Well, yes.

14 Q. Yes. But in his case, did you know anything about him  
15 or have any --

16 A. Not that -- I don't think so.

17 Q. No. So you had no particular reason to be afraid of  
18 Corporal Payne?

19 A. Not that I know of, no.

20 Q. You had known him since November 2002 when you joined  
21 the battalion. You described what he was wearing. You  
22 say that as soon as he arrived, he made his presence  
23 felt and there was a change of atmosphere.

24 Can I just take you to this sentence?

25 "He was shouting almost all the time directly behind

1           the prisoners and as he walked around he would forcibly  
2           manhandle the prisoners into seated stress positions."  
3           Had you ever seen anyone do that before?  
4   A.   I've got no idea.  I don't know.  
5   Q.   I'm sorry?  
6   A.   I've got no idea, I don't know.  I may have.  
7   Q.   Shall I ask the question again: had you ever seen anyone  
8           do that before this occasion, when these detainees were  
9           being treated, according to this statement, in that way?  
10  A.   As I say, I'm not sure.  I may have, but I don't really  
11           know.  
12  Q.   You may have?  Just another memory fade, is it,  
13           Mr Graham?  
14  A.   Yes.  
15  Q.   "He was shouting almost all the time directly behind the  
16           prisoners and as he walked around he would forcibly  
17           manhandle the prisoners into seated stress positions."  
18           Do you have, when you read that, no memory of it?  
19  A.   It is hard to say, again, after the video and stuff.  
20           I can't really tell you.  No, not really, apart from the  
21           video.  
22  Q.   So when you saw the video -- when you saw it again  
23           today -- that video more or less reflects what you are  
24           saying in those two lines of this statement, doesn't it?  
25  A.   It does.

1 Q. When you see the video, that doesn't bring it back to  
2 you either; you still say that, do you?

3 A. Yes.

4 Q. You go on to talk about stress positions. I am not  
5 going to trouble with those at this moment in this  
6 statement:

7 "Corporal Payne within a minute or so had forced the  
8 prisoners into the ... stress position ... sit them up  
9 straight ...", and so on.

10 "I saw that he did this by physically manhandling  
11 these prisoners into these positions by using his hands  
12 to move their heads, arms and bodies to the required  
13 form ... Corporal Payne continued to shout swear words  
14 at them to intimidate them."

15 So in other words all that was happening on the  
16 video is what you are recalling here; correct?

17 A. Correct.

18 Q. "As moments went on the prisoners all seemed to heed  
19 Corporal Payne's attention, all that is bar one. Pretty  
20 soon I noticed the guy sat in room 3, I've numbered as 5  
21 on the sketch plan, was attracting almost constant  
22 attention from Corporal Payne ..."

23 Can we just go back to that sketch again, please?  
24 MOD015413. Thank you.

25 So number 5, according to your statement, was

1           attracting almost constant attention from  
2           Corporal Payne.  What you were saying here was what  
3           Aircraftman Hughes claimed to have seen in his short-ish  
4           visit, that is this man being singled out above all the  
5           others.

6    A.  Yes.

7    Q.  That is what you are describing, isn't it?

8    A.  That is.

9    Q.  Can we go back to the statement?  MOD000147.  Thank you  
10       very much.

11           Can we put it up alongside?  It might be helpful.  
12       In the bottom paragraph, "As moments went on ...", you  
13       refer to number 5 seemed to be targeted by  
14       Corporal Payne in response to his inability to maintain  
15       the stress position.  Do you see that?

16   A.  Yes.

17   Q.  Over the page, top two paragraphs if we can.

18           "Now this prisoner's sandbag had been on his head  
19       the whole while since I'd been there and I recall that  
20       whilst giving him the increased attention which included  
21       slaps and kicks to the back of his sides ..."

22           Have you forgotten those as well?

23   A.  Sorry?

24   Q.  Have you forgotten those as well?

25   A.  I don't remember seeing them.

1 Q. Sorry?

2 A. I don't remember seeing them.

3 Q. You don't remember seeing them.

4 "... whilst giving him the increased attention ...

5 I heard Corporal Payne refer constantly to prisoner 5 as

6 'Granddad'."?

7 Do you remember that?

8 A. No.

9 Q. Does the name "Granddad" now mean anything to you in

10 relation to detainees in that TDF?

11 A. It does.

12 Q. Yes. What does it mean?

13 A. I can't really answer that. It means that he was

14 number 5. I can't really give any more details.

15 Q. But you can remember, then, one of the detainees being

16 called "Granddad", can you?

17 A. Well, yes.

18 Q. You can. So you can remember, can you, that Granddad was

19 no doubt so-called because he appeared older than the

20 others?

21 A. Makes sense.

22 Q. Then the next paragraph:

23 "Every time Corporal Payne moved from room 1 to

24 room 3, he'd walk over to Granddad shouting things like

25 'Get your fucking hands up'. As he'd do so he'd kick

1 Granddad in the sides with the toe cap of his boot ...  
2 The kicks varied in strength but all were met with  
3 Granddad reeling to the side from the kick and crying out  
4 in pain in response."  
5 That's pretty graphic, isn't it, Mr Graham, as  
6 a description?  
7 A. It is, very.  
8 Q. Do you remember it?  
9 A. I don't.  
10 Q. Nothing of it?  
11 A. No.  
12 Q. Not a glimmer.  
13 "I witnessed Corporal Payne kick Granddad in this way  
14 in excess of 30 times during the day ..."  
15 If you said it, it was true, was it?  
16 A. I assume so, yes.  
17 Q. If you said it in 2003, it would have been true, would  
18 it?  
19 A. Yes.  
20 Q. This was an unfit relatively older man, wasn't it?  
21 A. Sorry? I was reading that, sorry.  
22 Q. Granddad was an unfit, relatively older man?  
23 A. Yes.  
24 Q. You saw him manhandled, shouted at, bag on head for  
25 hours on end and kicked at least 30 times by

1 Corporal Payne in the course of one day. Did you think  
2 that was torture?

3 A. I can't comment on what I thought at the time, but now  
4 I'd say "yes".

5 Q. Yes. Would you have a look, please, at MOD021809? Can  
6 we put that on one half of the screen and have on the  
7 other, please, MOD021812?

8 We are now looking at photographs taken a day or two  
9 after the incidents that you were describing in this  
10 statement of the man that you were calling "Grandad",  
11 his left and his right side. Do you follow?

12 A. Yes.

13 Q. When you see that, does it bring any memory back to you?

14 A. Not memory, no.

15 Q. You go on in the statement that you made in 2003 to  
16 describe how you did see injury to some of these  
17 detainees, bruising to the body, don't you?

18 A. I do.

19 Q. Seeing those photographs, does it bring back any memory  
20 to you?

21 A. Not memory, no.

22 Q. That's just the sort of injury that you would expect,  
23 is it, from the kicks that you were describing  
24 Corporal Payne as delivering to "Grandad" throughout  
25 that day?

1 A. I suppose it is, yes. Sorry, I have just broken the  
2 screen.

3 Q. Sorry?

4 A. I have just broken the screen. It has cut off.

5 Q. The screen has cut off, has it?

6 A. Yes, sorry.

7 Q. We will have that fixed for you. You have probably  
8 taken a wire out or something.

9 You saw those photographs?

10 A. Yes.

11 Q. You agree, do you, that they are, the bruising and  
12 damage that we see in those photographs, just what one  
13 might have expected from the kicks that you were  
14 describing Corporal Payne as inflicting?

15 A. Yes.

16 Q. Was it only Corporal Payne who kicked or were there  
17 other soldiers?

18 A. I can't really say. In my statement that's what it  
19 says, so I have to assume that was true.

20 Q. Take those photographs down now, please.

21 Could it be the case that even in your statement in  
22 October 2003, you were downplaying anything that you may  
23 have done or members of your own multiple?

24 A. I don't think so.

25 Q. You go on in your statement -- if we go back to that,

1           please, MOD000148 -- in the middle of the page, talking  
2           about this first visit of Corporal Payne lasting about  
3           an hour, "... during which his shouting, manhandling and  
4           kicking of all the prisoners was almost constant".  
5           Again, you would not have said that if it had not been  
6           true, would you?  
7    A.    I don't know.  
8    Q.    "All the nine got varying amounts of this treatment ...  
9           however Grandad certainly seemed to get more than the  
10          others."  
11                I don't suppose it was easy, was it, to make this  
12          statement making allegations against a fellow soldier?  
13    A.    No, I don't suppose it was.  
14    Q.    You then refer to another prisoner, referred to by  
15          Corporal Payne, you say, as "Cannon and Ball".  Were  
16          a number of them given nicknames?  
17    A.    Well, yes.  
18    Q.    Were those nicknames given to you by Corporal Payne?  
19    A.    I don't know.  
20    Q.    Sorry?  
21    A.    I don't know.  
22    Q.    How did you come to know those names in October 2003  
23          when you were making this statement?  
24    A.    I don't know.  
25    Q.    You then go on to refer to Corporal Payne leaving you,

1           Aspinall and Bentham to look after the prisoners,  
2           further down the page.

3           "... I'm now unable to offer any timings for events  
4           ... because I can't clearly remember when they happened  
5           or in what order ..."

6           I am going to simply say that may not be entirely  
7           surprising.

8           You go on to say this:

9           "Throughout the day though, I recall that there were  
10          many visitors to the prisoner-handling centre ..."

11          You would not have said that if it had not been  
12          true, would you?

13       A.   No.

14       Q.   And the many visitors were "from our unit".  What does  
15          that mean, "our unit"?

16       A.   "Unit" probably meant the regiment.

17       Q.   From the regiment.  What, from 1QLR?

18       A.   Yes.

19       Q.   "During the day, Corporal Payne would come and go at  
20          irregular times and continue to treat the prisoners in  
21          the same aggressive way.  I found his actions to be  
22          intimidating towards the prisoners."

23          That is over the page.  Do you see that?  You  
24          thought it was intimidating to the prisoners.

25       A.   Yes.

1 Q. It was not intimidating to you, was it?

2 A. Well, not that I know of.

3 Q. "Due to the repeated nature of these kicks, always to  
4 the same area on the sides of the prisoners, I'd  
5 describe his treatment of these prisoners amounted to  
6 torture."

7 You withdrew that, as we know. We are not going to  
8 go back over that:

9 "That's how I saw it."

10 You then go on to say this:

11 "Sometimes Corporal Payne would ill-treat these  
12 prisoners in front of other members of the unit that  
13 were visiting the prisoner-handling facility."

14 Again by "members of the unit", what are you  
15 referring to?

16 A. The regiment.

17 Q. 1QLR?

18 A. Yes.

19 Q. "I can't remember exactly who now but there is one guy,  
20 a medic, that I definitely saw witness Corporal Payne  
21 kicking prisoners. It happened in room 3 at some point  
22 during the day."

23 Again, should the Inquiry understand that you would  
24 not have made this allegation, which you go into  
25 a little detail about, against a medic unless at the

1 time you knew it to be true?

2 A. Yes.

3 Q. You describe the medic as being a "... full corporal ...

4 5 foot 6 tall. He has brown hair and is slightly

5 balding on top ... small to medium build and has

6 a Lancashire accent. He was wearing combat 95 trousers

7 and a maroon coloured T-shirt with the QLR cap-badge

8 embroidered on it."

9 You say this about him:

10 "I've seen him before a lot and I know he's employed

11 as a medic in the medical centre at Battlegroup Main."

12 Were you, in 2003, then, Mr Graham, in a position to

13 name that medic?

14 A. I have no idea, to be honest. I don't know.

15 Q. Were you holding back on his name?

16 A. I doubt it.

17 Q. You describe him in great detail, don't you?

18 A. I do.

19 Q. You say you have known [sic] him before a lot. You knew

20 where he was employed, apparently. Were you holding

21 back in giving a name?

22 A. I don't think so. There's no point in not giving

23 a name, I suppose, after such a good description.

24 Q. Are you able to give a name now?

25 A. No.

1 Q. What you say about the medic is:  
2 "He didn't come to check on the prisoners in any  
3 kind of medical capacity. He just appeared in the  
4 entranceway ... and said to Corporal Payne, 'Go on, show  
5 us the choir' or words to that effect."  
6 I suppose that must have been quite dramatic too,  
7 mustn't it?  
8 A. Well, yes.  
9 Q. And you don't remember anything of it?  
10 A. Afraid not.  
11 Q. But it would have been true, would it?  
12 A. Yes.  
13 Q. We can take it this happened?  
14 A. Yes.  
15 Q. "I knew what Corporal Payne was about to do [your  
16 statement goes on] because before, at one point earlier  
17 in the day, Corporal Payne had shown Private Bentham and  
18 me."  
19 So he had shown the two of you "the choir", and you  
20 tell us you don't have any recollection of it?  
21 A. Yes.  
22 Q. "I'm not sure whether Private Aspinall was there ... The  
23 'choir' ... involved walking into room 3 and  
24 Corporal Payne kicking all six of the prisoners in the  
25 back in quick succession in order to make them cry out

1 in pain ... [resulting] in the prisoners crying out  
2 'argh' or similar responses, having been booted in the  
3 back by Corporal Payne."

4 A most extraordinary thing to happen, wasn't it, and  
5 something which, if you witnessed it, Mr Graham,  
6 I suggest you would never forget.

7 A. You would think so.

8 Q. Yes. It is true, isn't it? You would never forget it?

9 A. Well, obviously not.

10 Q. "As soon as he'd done this he would stand and laugh as  
11 though he was proud of what he'd achieved."

12 Do you not remember that?

13 A. No.

14 Q. "When Corporal Payne demonstrated this to the medic, the  
15 medic laughed with Corporal Payne and then, after  
16 chatting with him, left. I didn't see this medic  
17 ill-treat any of the prisoners himself."

18 You go on to say:

19 "I saw Corporal Payne demonstrate this choir routine  
20 two or three times in total and each time he found his  
21 actions funny."

22 So you saw "the choir" -- because this would have  
23 been the truth at the time, would it -- two or three  
24 times?

25 A. Yes.

1 Q. Do you remember even any feeling of disgust or horror or  
2 shock?

3 A. I really think I should, but I don't.

4 Q. Let's move on. The last paragraph on this page, still  
5 on your stag, some time around midday. This is on the  
6 Monday:

7 "... I recall there was a time when Corporal Payne  
8 was away, Private Bentham and I decided to move prisoner  
9 number 8 on my sketch plan ..."

10 Could we just have the sketch back again, please?  
11 Prisoner 8 was in what we are calling the left-hand  
12 room, wasn't he?

13 A. Yes.

14 Q. It seems, doesn't it, from this statement, that the  
15 decision to move prisoner 8 was yours and Bentham's,  
16 no one else's?

17 A. That's what it looks like.

18 Q. Presumably, if you had been instructed by somebody else,  
19 you would have said so in the statement?

20 A. Yes.

21 Q. Yes. You decided move number 8 out of room 3 into  
22 room 2. That's the toilet. Do you have any  
23 recollection of moving prisoner number 8?

24 A. No.

25 Q. He was a young man or young boy, wasn't he?

1 A. So it says, yes.

2 Q. Do you remember him?

3 A. I don't.

4 Q. You say that he was "... a young male who told me he was  
5 the son of prisoner 7". Do you remember that?

6 A. No.

7 Q. Then you give, do you, what seems to be the reason for  
8 you and Bentham deciding to move him?

9 "[Father and son] ... had a tendency to keep talking  
10 so me and Bentham decided to split them up."

11 Why would you have done that?

12 A. To stop them talking, more than likely.

13 Q. And why would the young boy, young man, have been put  
14 into the toilet?

15 A. To move him away from his father, I suppose.

16 Q. Why not into the right-hand room?

17 A. I don't know.

18 Q. Was that young boy held over the toilet, his head pushed  
19 down into it?

20 A. I've no idea.

21 Q. He could have been, could he?

22 A. He could have been.

23 Q. You say in this statement he was:

24 "... put in room 2 for a bit, sat facing the back  
25 wall, but then after about an hour we put him back in

1 room 1 with his father because his father had complained  
2 about chest pains."

3 Do you remember the father complaining --

4 A. No.

5 Q. -- of being ill?

6 A. No.

7 Q. Over the page:

8 "As a result ... it was necessary for someone ... to  
9 summon the doctor ..."

10 And a doctor coming, do you remember any of that?

11 A. I don't think so.

12 Q. If you said the doctor spent about 20 minutes with the  
13 father, as you do in the next paragraph, that would have  
14 been the truth, would it, to your recollection?

15 A. Yes.

16 Q. He spent time dealing with prisoner 8 as well, who was  
17 complaining about a shortness of breath. You remembered  
18 quite a lot of detail in 2003, didn't you? It is all  
19 wiped away from your memory, is it?

20 A. Yes.

21 Q. The next paragraph, do you remember taking prisoner  
22 number 4 -- that's from the right-hand room, as we are  
23 calling it; you have him in the corner -- for tactical  
24 questioning by a senior rank from the Intelligence  
25 Corps? Do you remember anything of that?

1 A. No.

2 Q. "At that time I was employed to record notes for the  
3 Intelligence Corps whilst he asked the prisoner a series  
4 of questions about himself. This ... lasted five or ten  
5 minutes ... The prisoner was kept handcuffed and  
6 sandbagged whilst taken to and returned ... but the  
7 sandbag was removed during questioning."

8 Does none of that come back to you?

9 A. No.

10 Q. "The questioning occurred fairly aggressively but the  
11 prisoner certainly wasn't hit or struck during it."

12 Was he hit or struck in any way either going to or  
13 from that questioning session?

14 A. Not that I know of.

15 Q. Mm-hm. Do you have any recollection of a generator on  
16 this site?

17 A. No.

18 Q. Or any prisoner being taken to a generator at any time?

19 A. No.

20 Q. Then we will go down just below halfway down the page,  
21 please:

22 "The next development I can describe I can only  
23 place timewise by working backwards."

24 Again, if I may say so, entirely understandably.

25 "Our stag on duty that day ended at about 9 o'clock

1           that evening, at which time I recall Private Aspinall,  
2           Private Bentham and I getting into the Saxon vehicle in  
3           preparation to leave."

4           But you say this:

5           "About four hours before this ..."

6           So that would place it at about 5 o'clock in the  
7           afternoon, would it?

8           "... I recall we experienced a lot of disruption  
9           with prisoner marked as number 3 on my sketch plan ..."

10          So in the right-hand corner of the right-hand room,  
11          do you follow?

12         A.   Yes.

13         Q.   At the time you were making this statement, in  
14             October 2003, you, of course, realised, didn't you, that  
15             prisoner number 3 that you were now referring to was in  
16             fact the man who died?

17         A.   Yes.

18         Q.   So no doubt you were being very careful about what you  
19             were saying about your handling of him?

20         A.   Well, possibly.

21         Q.   "... we experienced a lot of disruption with prisoner  
22             marked as number 3 on my sketch plan ... This prisoner,  
23             who I recall Corporal Payne nicknamed 'Fat boy' ..."

24             Does that name now mean anything to you?

25         A.   (Indistinct)

1 Q. Sorry?

2 A. I just mumbled.

3 Yes, I recognise the name now.

4 Q. You recognise the name "Fat boy" now, do you? What does  
5 it mean to you now?

6 A. Well, he was the man number 3.

7 Q. You can picture him now, can you?

8 A. I can now, yes.

9 THE CHAIRMAN: Sorry, what did you say?

10 MR ELIAS: I can now.

11 THE CHAIRMAN: You can now picture him? Yes.

12 MR ELIAS: "Fat boy" you describe as appearing to be  
13 overweight and you describe his conduct in this  
14 statement as "... kind of gave up doing what he was told  
15 to do after a while and despite being kicked and  
16 manhandled aggressively by Corporal Payne, kept taking  
17 his plasticuffs off and removing the sandbag from around  
18 his head".

19 Do you remember him doing that, "Fat boy"?

20 A. No.

21 Q. Removing his plasticuffs or taking his hood off?

22 A. Not really.

23 Q. What do you remember him doing?

24 A. It shouldn't really be possible to take your plasticuffs  
25 off, not that that matters. Well, nothing really.

1 I remember his face now, as I say, but not his conduct  
2 or what he was doing.

3 Q. Can you remember what you describe here as that man,  
4 whose face you now remember, being kicked and manhandled  
5 aggressively by Corporal Payne?

6 A. No.

7 Q. If you said it, we should take it it's true, should we?

8 A. Yes.

9 Q. You would not have made such a serious allegation if it  
10 were not, would you?

11 A. No.

12 Q. "As a result, after this had been going on for a couple  
13 of hours, Private Bentham and I lifted the prisoner  
14 number 3 [the man we know to be Baha Mousa] under his  
15 arms and walked him, with his feet dragging behind him,  
16 into room 2 where we placed him on the floor."

17 That's into the toilet. Why did you do that?

18 A. I don't know.

19 Q. Sorry?

20 A. Sorry, I don't know. I assume it's because he was --  
21 well, doing what he was doing.

22 Q. What was he doing?

23 A. He was taking his plasticuffs off and taking his sandbag  
24 off.

25 Q. That you read from your statement, do you, or do you

1           remember it?

2    A.   I'm reading it from here.

3    Q.   Do you remember it?

4    A.   No, I'm reading it from here.

5    Q.   Were prisoners put into what I will call the "toilet  
6        room", if you like, as a punishment?

7    A.   It looks like it, yes.

8    Q.   It does look like it?

9    A.   It does.

10   Q.   You say about that movement in this statement:

11                "I recall Corporal Payne wasn't about at that time.  
12        I am unsure whose idea it was to move him into the  
13        single room where he could be alone."

14                But presumably, if Corporal Payne wasn't about, it  
15        was either your idea or Bentham's or both?

16   A.   Yes.

17   Q.   Yes?

18   A.   Yes.

19   Q.   Thank you.

20                "The prisoner continued to make a complete nuisance  
21        of himself to the point where even I became quite angry  
22        with him."

23                Do you remember becoming quite angry with him?

24   A.   I don't.

25   Q.   When you say in this statement "even I became quite

1           angry with him", were you generally less angry than your  
2           colleagues about these detainees?

3    A.   I'm just quite placid, to be honest.  I don't often get  
4           angry.

5    Q.   You then go on in this statement to describe  
6           Corporal Payne coming back.  If we go over to the top of  
7           the page:  
8           "... [repositioning Baha Mousa] so that instead of  
9           him sitting cross-legged, he was now lay out on his  
10          front, elbows on the ground, with his cuffed hands  
11          supporting his chin."  
12          To describe that you must have seen him in that  
13          position, mustn't you?

14   A.   Yes.

15   Q.   "After a period, I don't how long, I remember being in  
16          the doorway of room 2 ..."

17          That is the doorway of the toilet, yes?

18   A.   Yes.

19   Q.   "... looking in and seeing Corporal Payne kicking  
20          prisoner 3 a couple of times in the legs and sides.  
21          Each of these kicks was met with prisoner 3 crying out  
22          as though suffering pain."  
23          This was an appalling picture, wasn't it?

24   A.   It sounds it, yes.

25   Q.   It was an appalling picture, wasn't it?

1 A. As I say, it sounds like it is now, yes.

2 Q. And you have forgotten it?

3 A. Yes. As I say it -- it sounds like something you  
4 shouldn't forget, but ...

5 Q. It does sound like something you shouldn't forget,  
6 doesn't it? Then your statement goes on. You refer to  
7 the clicking of the fingers, another thing that  
8 Mr Hughes, Aircraftman Hughes, was able to remember.  
9 You say Payne was doing it. He says it might have been  
10 another soldier.

11 Halfway down the page:

12 "At one point during the day I recall seeing  
13 bruising injuries to prisoners 1, 2 and 3, whilst they  
14 were sat facing the wall in room 3."

15 Do you have any recollection of that now?

16 A. No.

17 Q. The next paragraph describes different coloured bruising  
18 across the lower backs and sides of detainees.

19 "One of the guys, prisoner 2, appeared to have  
20 a large area of redness going across his whole stomach  
21 at the front."

22 I imagine to you, a young man, a soldier in an army,  
23 this must have been a shocking sight.

24 You don't say anything in this statement at the time  
25 or indeed, I think, later, about reporting what was

1 going on or what you saw to anybody. Did you report  
2 anything?

3 A. I don't really know. I assume not, considering that  
4 nothing seems to have been done about it.

5 Q. Sorry, I didn't quite catch what you said.

6 A. I said I assume not, considering that nothing seems to  
7 have been done about it.

8 Q. If you didn't report it -- if you didn't -- can you give  
9 this Inquiry any reason why you wouldn't have done if  
10 you saw what is set out in this statement so  
11 graphically?

12 A. I would like to. It would be better if I could, but  
13 I can't.

14 Q. Do you remember heavy objects being dropped to the floor  
15 of the TDF to keep detainees awake?

16 A. I remember -- I remember it was -- how do I say it?  
17 I remember it was something that we accepted as  
18 something we did. I do not remember actually doing it.

19 Q. You remember it being accepted as something you did.  
20 What was accepted as something you did?

21 A. Dropping heavy objects and stuff to frighten --

22 Q. So you remember that. What was being dropped on the  
23 floor, the heavy objects?

24 A. I don't really know. I think it's a piece of metal.

25 Q. A piece of metal. Who was dropping the heavy object on

1 the floor? You?

2 A. I don't really know, but I assume everyone was.

3 Q. Why would you assume that everyone was doing it?

4 A. Because it's something that we took for granted as

5 something that you did.

6 Q. You remember that, do you, that you took it for granted

7 as something that you did?

8 A. Well, it's something like putting sandbags on people's

9 heads -- on people's heads -- or putting them in stress

10 positions. It's just something that I assumed wasn't

11 wrong.

12 Q. So when your statement says, at the top of

13 page MOD000152 -- I think we can take the sketch away

14 now, please:

15 "... dropping heavy objects of metal like

16 a windowsill next to where a prisoner would be sat.

17 This was done by all of us I've mentioned even me, in

18 order to frighten the prisoners and keep them from

19 sleeping."

20 You can remember that as being one of the

21 procedures?

22 A. Well, yeah.

23 Q. The next paragraph you say this, in the second line:

24 "I certainly didn't get involved in kicking the

25 prisoners and I would have felt uncomfortable doing such

1 a thing anyway. As part of this shock culture Private  
2 Aspinall, Private Bentham and I all engaged in gently  
3 slapping the prisoners across the head occasionally ..."

4 Do you remember doing that?

5 A. I do, yes.

6 Q. Why were you slapping prisoners across the head?

7 A. Again, I just thought it was a -- the idea, like  
8 I thought it was something you did.

9 Q. For what purpose?

10 A. Just for the same as all the other things.

11 Q. What was that purpose?

12 A. To keep them awake and scared and -- well, yeah.

13 Q. Keep them awake and scared. So you can now remember  
14 slapping some of these detainees across the head. Can  
15 you remember Aspinall and Bentham doing the same?

16 A. I'm not sure if I saw them do it.

17 Q. But if you said it in this statement, presumably it  
18 would have been true, would it?

19 A. Yes.

20 Q. Was sometimes the slapping rather less gentle?

21 A. I don't know about it in that much detail, but --  
22 I can't explain it that way.

23 Q. I suppose, Mr Graham, it is in this area, isn't it, that  
24 we get into the fine line? Was sometimes the slapping  
25 a little heavier?

1 A. As I say, I couldn't really tell you.

2 Q. But at least you can remember doing that.

3           You then refer to feeding. I will not trouble with  
4 that. In the next paragraph you say that when you moved  
5 prisoner 3 into the toilet, the Intelligence Corps  
6 senior was present at the facility. Do you see that?

7 A. Yes.

8 Q. Is the reference to the Intelligence Corps senior  
9 a reference to one of the tactical questioners?

10 A. Sorry, say that again, please.

11 Q. The use of the term "Intelligence Corps senior" -- do  
12 you see that?

13 A. Yes.

14 Q. -- is that a reference to the tactical questioner?

15 A. I don't know.

16 Q. Sorry?

17 A. I don't know, sorry.

18 Q. You see, earlier in the statement, you talked about  
19 taking a detainee across for questioning and that you  
20 took notes to record notes for the Intelligence Corps  
21 senior rank. I simply want to know whether the  
22 reference to "Intelligence Corps senior" here is  
23 a reference to the questioner again.

24 A. Like I said, I don't really know. It might be, but I  
25 couldn't tell you for definite.

1 Q. You describe the person, anyway, as being about 5  
2 foot 6, light brown, almost fair hair, wearing glasses.  
3 You say about him:  
4 "I didn't see him ill-treat anyone, but he would  
5 have witnessed prisoner 3 move into room 2."  
6 Again, we can take it that would have been correct,  
7 can we, at the time?  
8 A. Yes.  
9 Q. Then you revert to what you say in the next paragraph.  
10 I mentioned earlier:  
11 "Throughout the day a stream of "unit personnel"  
12 ..."  
13 By "unit personnel", you mean 1QLR people, don't  
14 you?  
15 A. I do.  
16 Q. A stream of 1QLR people visited the facility to look at  
17 the prisoners throughout the day. Can you name any of  
18 them?  
19 A. Well, I've got the same problem. I can see what it says  
20 on the screen, but I couldn't tell you who I saw.  
21 Q. Can you recall any officer of 1QLR who visited when you  
22 were there?  
23 A. No.  
24 Q. Do you say that no officer visited or you just have no  
25 recollection at all?

1 A. I just don't know if any did.

2 Q. Because you go on in that paragraph -- as you will have  
3 read -- recalling distinctly that at one point some of  
4 the commanding officer's TAC group came in -- do you  
5 have a recollection of that now?

6 A. No.

7 Q. -- including Staff Sergeant Roberts. You knew Staff  
8 Sergeant Roberts, of course, didn't you?

9 A. I did.

10 Q. The PTI?

11 A. Yes.

12 Q. Did you get on well with him?

13 A. I never really spoke to him.

14 Q. You bore no grudge against him?

15 A. No.

16 Q. What you say about him was:

17 "He came in a couple of times to look around, but  
18 one occasion, whilst I was stood at the back of room 3,  
19 behind prisoner 4, I saw him kick prisoners 1, 2 and 6  
20 in the sides. He didn't appear to have been given any  
21 reason to kick them and I thought at the time he'd done  
22 it just for the sake of it."

23 You weren't making up that allegation against Staff  
24 Sergeant Roberts, were you?

25 A. I doubt it.

1 Q. "As a result, prisoners 1, 2 and 6 cried out in pain but  
2 didn't fall over. I was real close to Staff Sergeant  
3 Roberts when he did this. He kicked them within seconds  
4 of each other and then just walked out. There was  
5 no one between me and him obstructing my view. I saw it  
6 quite clearly."

7 Again, a most extraordinary thing to happen, wasn't  
8 it?

9 A. Yes.

10 Q. And you have no recollection of it?

11 A. No.

12 Q. Do you have any recollection of talking to anybody after  
13 the event about what you had seen Payne or Staff  
14 Sergeant Roberts or indeed anyone else do to any of  
15 these detainees?

16 A. I don't, no.

17 Q. Over the page, please, the last page of this statement.  
18 You refer to the RAF soldier. We have dealt with that  
19 in the first full paragraph.

20 You go on, halfway down the page, to say that:

21 "About 21.00 hours that evening I was relieved of my  
22 duty by Privates Reader, Appleby, MacKenzie, Cooper  
23 Kenny and Hunt ..."

24 That would have been the stag taking over again,  
25 would it, from you?

1 A. Yes.

2 Q. Then you say this, in the last paragraph of your  
3 statement:

4 "Prior to departing the scene by Saxon that evening,  
5 I learned that one of the prisoners had collapsed in  
6 custody."

7 Do you remember that?

8 A. I remember being -- being told that someone had, but  
9 I don't remember, like, the setting or where I was.

10 Q. "At that time I saw this prisoner being taken from the  
11 facility by stretcher."

12 Do you remember that?

13 A. No.

14 Q. "... I can confirm that I recognised him as being the  
15 prisoner with the green shirt on and black trousers."

16 So you must have been quite close to the action,  
17 mustn't you?

18 A. Yes.

19 Q. You realised, then, that he was the man that  
20 Corporal Payne had been referring to as "Fat boy".  
21 That's what you said. Do you have a picture of that,  
22 that man being taken -- that detainee?

23 A. Say again, sorry.

24 Q. Do you have a picture of that, that man being taken on  
25 a stretcher away from the TDF?

1 A. No.

2 Q. No?

3 A. No.

4 Q. Subsequently, after that had happened, Mr Graham, do you  
5 remember having any conversation with Private Reader  
6 some time later about the event, what had been going on  
7 in the TDF --

8 A. No. I know there was a conversation that took place  
9 because I've read the statement, but I don't remember it  
10 actually taking place.

11 Q. -- of you saying to Private Reader that what had been  
12 going on in the TDF was out of order or words to that  
13 effect?

14 A. No.

15 Q. You are not saying it wasn't said, you are just saying  
16 you don't remember it; is that the position?

17 A. Yes.

18 Q. Do you know a soldier by the name of Englefield?

19 A. An officer? Yes, I do.

20 Q. Do you recall having any conversation with him, perhaps  
21 in the company of Mr Aspinall, expressing concerns about  
22 what had gone on in the TDF?

23 A. No.

24 Q. Sorry?

25 A. No.

1 Q. You don't. Thank you.

2 Can you help about this? Was there talk, when you  
3 got back to Camp Stephen that night and the following  
4 day, amongst members of your multiple about what had  
5 happened in the TDF?

6 A. Well, there more than likely was, but I couldn't tell  
7 you what.

8 Q. Specifically, was there talk about how the detainee had  
9 died, what had happened to him?

10 A. Not that I know of.

11 Q. Because one thing you would have known at the time, if  
12 that statement that you made in October is true, is that  
13 not a few hours before his death, you had carried him  
14 into that small room, the toilet, and no doubt  
15 manhandled him quite roughly; correct?

16 THE CHAIRMAN: Sorry, you nodded. You have to answer.

17 A. Sorry, yes.

18 MR ELIAS: Yes. Did it occur to you that perhaps you might  
19 need to talk to Lieutenant Rodgers about what had  
20 happened and what you had seen?

21 A. He should have done if -- I don't know if he did or not.

22 Q. Again your position is you have no recollection of doing  
23 so; is that it?

24 A. Yes.

25 Q. Do you ever remember at the time -- at any stage --

1           seeing detainees leaving BG Main, being transported away  
2           to Um Qasr, as we know they were?

3    A.   Not really, no.

4    Q.   Did you ever see any film of the kind that we looked at  
5           this morning in Iraq before you left there?

6    A.   The video?

7    Q.   Yes.

8    A.   No.

9    THE CHAIRMAN:  I don't think you were being asked about  
10           seeing the video before, but did you see any video of  
11           a similar nature?

12   A.   No.

13   THE CHAIRMAN:  All right.  Thank you.

14   MR ELIAS:  Do you now have an impression of the conditions  
15           in that TDF when Corporal Payne was doing the things  
16           that you have described?

17   A.   An impression as of now?  What I think now?

18   Q.   From your memory.

19   A.   No.

20   Q.   Leaving those detainees, do you have any recollection of  
21           being out in action with other members of the multiple  
22           in the days and weeks that preceded it?

23   A.   I couldn't really tell you.

24   Q.   Sorry?

25   A.   I don't really know.  I don't know.

1 MR ELIAS: Yes, thank you very much.

2 THE CHAIRMAN: Yes, if you would be kind enough to wait  
3 there, there will be some other questions for you,  
4 I expect, Mr Graham.

5 Mr Friedman?

6 Questions by MR FRIEDMAN

7 MR FRIEDMAN: Mr Graham, I represent the detainees.

8 When you saw the TDF video earlier, you said that  
9 you felt that it was horrible --

10 A. Yes.

11 Q. -- not pleasant to look at.

12 A. No.

13 Q. What was it about the video that made you feel that?

14 A. Just the whole thing, really, the way that the people  
15 were being treated in it.

16 Q. The way the people were being treated?

17 A. Yes.

18 Q. What was it about the treatment that you found horrible?

19 A. Just the aggression, really.

20 Q. How did you feel after these events that you saw when  
21 you found out that man 3, Baha Mousa, had died?

22 A. I don't really know, to be honest. I can't remember my  
23 exact feelings.

24 Q. Try, please. How did you feel. Man 3, who was put into  
25 the toilet?

1 A. As I say, I can't -- I can't remember my feelings.  
2 I imagine that I was upset.

3 Q. Well, speaking of being upset, was it fair to say that  
4 when you were shown the photographs this afternoon by  
5 Mr Elias of the injuries to the man you knew as  
6 "Grandad", that was very upsetting to you, wasn't it?

7 A. It was.

8 Q. You were visibly moved.

9 A. Yes.

10 Q. Now, "Grandad" was a man called Kifah Al-Matairi and his  
11 brother, Ahmad Al-Matairi, was another detainee and he  
12 has been here listening to you give evidence. Do you  
13 understand that you are in a position to give him some  
14 sense of justice by assisting this Inquiry in the way  
15 that you can?

16 A. I do.

17 Q. You appreciate that?

18 A. Yes.

19 Q. I may be wrong, but it looks like you have got yourself  
20 in a real knot about this not remembering business.  
21 I am going to ask you in a minute about the court  
22 martial.

23 THE CHAIRMAN: Mr Friedman, I see the purpose of these  
24 questions and it is quite right, but they are a bit  
25 discursive, if you permit me to say so, and we might get

1 swifter to the point.

2 MR FRIEDMAN: Leave aside the "not" of not remembering  
3 things in the court martial, please. You can give this  
4 man justice if you just say now, "As I sit here,  
5 I remember everything that went on in there, the big  
6 details". You do, don't you? Just tell him.

7 A. It would be good if I could, but I am afraid I've told  
8 everything that I know.

9 Q. Now, when you gave your statement to the RMP in  
10 October 2003, that was an incredibly courageous thing  
11 that you did, wasn't it?

12 A. I don't know.

13 Q. Well, in that statement you named Payne, the provost  
14 sergeant, didn't you?

15 A. Yes.

16 Q. And you named Staff Sergeant Roberts, the CO's TAC team  
17 and the bodyguard to the CO; two very well-known people  
18 in 1QLR. That was courageous of you to do that, wasn't  
19 it?

20 A. I don't know.

21 Q. Pardon?

22 A. I don't know.

23 Q. You don't know.

24 One can well imagine the pressure, then, that was on  
25 you when you came to the court martial because it is

1 right, isn't it, that you were just about to go on  
2 another tour to Iraq when you came to give evidence at  
3 that court martial; is that correct?  
4 A. Well, I had just come back, actually.  
5 Q. You came back from Iraq?  
6 A. Yes.  
7 Q. Were you going to go back out to Iraq?  
8 A. Yes.  
9 Q. Did Aspinall come back with you?  
10 A. I don't think he was in the army by then.  
11 Q. Well, I will be corrected if I am wrong, but his  
12 situation is he had also come back from Iraq to give  
13 evidence in the court martial and then was going to go  
14 out to Iraq.  
15 A. Okay.  
16 Q. That was your situation, was it?  
17 A. It was, yes.  
18 Q. Did you have fear that giving evidence against serving  
19 soldiers would make your time back out in Iraq  
20 problematic?  
21 A. I don't think so.  
22 Q. Did you discuss the matter with Aspinall?  
23 A. No, we weren't allowed to, I don't think.  
24 Q. When you gave your statement to the RMP, naming Payne,  
25 naming Roberts and describing all those matters, did the

1 RMP give you any assurances as to how you might be  
2 protected as a consequence of giving that statement?

3 A. Not that I know of, no.

4 Q. I want to ask you just about Roberts. Do you have any  
5 knowledge about Roberts being moved away from Catterick  
6 when you all returned from tour in November of 2003?

7 A. No.

8 Q. Do you know that Roberts is now warrant officer 1 rank,  
9 a sergeant major?

10 A. No.

11 Q. Would it concern you that he is of that rank now?

12 A. I don't know -- no.

13 Q. No. Is it your view that soldiers who bully other  
14 soldiers to cover up very serious crimes should be in  
15 the army?

16 A. Say that again, please.

17 Q. Is it your view that soldiers who bully other soldiers  
18 to cover up very serious crimes should be in the army?

19 A. No.

20 Q. Why not?

21 A. Because it's a wrong thing to do.

22 Q. Now you were asked by Mr Elias about who you might have  
23 gone to while the ill-treatment was going on in the  
24 detention facility. You spoke about Redfearn and  
25 Rodgers being your normal chain of command, but you also

1           said this, "whoever was knocking around". I quote your  
2           words:

3                    "Whatever rank, whoever was close by."  
4                    What rank did you know to be close by when you were  
5           at that TDF in BG Main?

6   A. Well, I think there was all the rank, really.

7   Q. All the rank? Did you go to the stores while you were  
8           doing your guard duty or when you had a break?

9   A. I don't know.

10   Q. There was a quartermaster sergeant in 1QLR at the time.  
11           Do you know what his name was?

12   A. No.

13   Q. Huxley? Does that ring a bell?

14   A. It does after reading all this, yes.

15   Q. Well, I'll be corrected if I'm wrong, but you don't name  
16           Huxley in your statement, do you?

17   A. I don't think so, no.

18   Q. There are witnesses that give a description of a man  
19           that certainly corresponds with Huxley being in the TDF  
20           on the Monday afternoon when you and others were  
21           guarding it. Did you see him come into the TDF?

22   A. I don't think so, no.

23   Q. You were asked about talking to Major Englefield.  
24           I want to push that a little more. Major Englefield has  
25           given evidence that you and Aspinall came to him

1           concerned --

2   THE CHAIRMAN:  Just be a little careful.  He has not given

3           evidence yet.  He has made a witness statement.

4   MR FRIEDMAN:  I correct that.  He gave evidence in the court

5           martial that you and Aspinall came to him concerned that

6           you wanted to talk about the death and he referred you

7           to Mr Rodgers for your assistance.  Now do you recall

8           that conversation with --

9   A.  No, I don't.

10  Q.  Now Rodgers, like you, is now no longer in the army.

11           What kind of leader of the multiple was he?

12  A.  I didn't know he wasn't in the army anymore.

13  Q.  Right.  Well, he is no longer in the army.  What kind of

14           leader of the multiple was he?

15  A.  Good as far as I can remember -- yes, good.

16  Q.  Was he strong?

17  A.  Yes.

18  Q.  Imposing?

19  A.  Not really.

20  Q.  In control of things?

21  A.  Well, yes.

22  Q.  Were you afraid of him?

23  A.  No.

24  Q.  Did you want his respect?

25  A.  Well, yes.

1 Q. Now, other witnesses, some in statements, some already  
2 in this Inquiry, have said that Rodgers was present  
3 during some of the violence towards these detainees and  
4 that they understood him to know about the violence when  
5 it was going on. Now, can you assist us in any way as  
6 to whether you knew that Rodgers knew about this  
7 violence?

8 A. Not that I can recall, no.

9 Q. Well, just pause. You understand why it's important,  
10 don't you?

11 A. I do.

12 Q. Strong, in control. Did he know about the violence that  
13 was going on while it was going on?

14 A. As far as I know, he didn't.

15 Q. The hotel: you say in your Inquiry statement,  
16 paragraph 64 -- we needn't turn it up -- that out of  
17 pride for opening this safe, you had a camera and  
18 photographs were taken. What happened to the  
19 photographs?

20 A. I really don't know. I have explained in my statement  
21 that after moving different countries and different  
22 postings, that they just went missing.

23 Q. Also in the court martial Major Englefield has said that  
24 another soldier came to him a few days later and  
25 admitted also thieving some money, along with

1 Dinar Dave. Do you know anything about that?

2 A. No.

3 Q. It wasn't you?

4 A. No.

5 THE CHAIRMAN: Anything else, Mr Friedman?

6 MR FRIEDMAN: Moving just to the last section.

7 THE CHAIRMAN: Yes.

8 MR FRIEDMAN: Now you were asked about the RAF soldier and

9 he has given evidence and he has given statements. One

10 thing he does is describe a younger baby-faced soldier,

11 who arguably would fit your description, telling him

12 that the detainees were suspected of killing three RMPs.

13 First of all, did you know that these detainees were

14 suspected of killing three RMPs?

15 A. Again, it's -- I can't really answer that. I know --

16 I know it now and I learned it at some point, but

17 I don't know if at that point I knew.

18 Q. Did you discuss with the RAF witness --

19 A. I don't remember speaking to him, if I did.

20 Q. You say in your statement that Bentham's character would

21 mean that he wouldn't commit any violence towards these

22 detainees or words to that effect. What is it about his

23 character that makes you so certain?

24 A. Well, from knowing him afterwards and stuff and going

25 for a beer with him, he was a nice bloke. He had kids

1           and stuff, I think.

2    Q.   The final matter is this: you have said in your  
3           statement that you regarded the oversight by the chain  
4           of command of prisoner-handling as minimal during this  
5           episode.  Correct?

6    A.   Say that again.  Sorry.

7    Q.   You have said in your statement, paragraph 51, that you  
8           regarded the oversight by the higher chain of command of  
9           the prisoner-handling as minimal.  You said today you  
10          were effectively left to your own devices; correct?

11   A.   Yes.

12   Q.   Before you started the tour, do you recall  
13          Colonel Mendonca giving maybe one, maybe a number of  
14          speeches, where he impressed upon you the importance of  
15          treating Iraqi civilians properly, paying attention to  
16          hearts and minds, behaving humanely, those kind of  
17          things?

18   A.   I don't, to be honest.  It sounds like the kind of  
19          briefings a commanding officer might give, but I don't  
20          remember being there when he gave it.

21   Q.   Whether it was Colonel Mendonca or not, that type of  
22          thing was rammed down you quite solidly before the tour  
23          started, wasn't it?

24   A.   Yes, I think so, yes.

25   Q.   When all this was going on, as you describe it in your

1           2003 statement, what did you think the higher chain of  
2           command would do if they found out about it?

3    A.   Found out about ...?

4    Q.   Well, what you describe at one point as "torture".

5    MR ELIAS:  Is it a question that really this witness can  
6           answer?

7    THE CHAIRMAN:  There are a number of these.

8           Mr Friedman, it is not really any help to me to ask  
9           him questions which, on the premise that he knows and  
10          can't recall anything, will not get us any further at  
11          all.

12   MR FRIEDMAN:  I understand and move on to my last point --

13   THE CHAIRMAN:  You said now twice you are moving to your  
14          last point and this really will be the last one.

15   MR FRIEDMAN:  Yes.  After the detainee died and the other  
16          detainees were injured, Lieutenant Rodgers must have  
17          been furious about what had happened?

18   A.   You would think so.

19   Q.   You would think so.  Did he communicate his fury to his  
20          multiple?

21   A.   Again, I'm going to have to say that I've got no idea.

22   Q.   No lectures, no consequences for any of you?

23   A.   I'm not saying that there wasn't, but I don't know if  
24          there was.

25   MR FRIEDMAN:  Thank you, Sir.

1 THE CHAIRMAN: Mr Garnham?

2 Questions by MR GARNHAM

3 MR GARNHAM: Thank you, Sir.

4 Mr Graham, when people ask you about these events,  
5 you tell them what will best serve your interests at the  
6 time, don't you?

7 A. No.

8 Q. So you have lied today about having no memory of any of  
9 this because that seems the best way out of your  
10 position, haven't you?

11 A. No.

12 Q. You told Mr Elias, in answer to one of his early  
13 questions, that you didn't recall being at the TDF with  
14 detainees and you didn't recall the detainees being  
15 there at all. Now that was a lie, wasn't it?

16 A. No.

17 Q. How is it then that you were able to remember dropping  
18 a metal pole to wake them?

19 A. I didn't actually say that I dropped the pole in the  
20 room. I was saying that it's the type of thing that we  
21 took as what you are supposed to do.

22 Q. We can go back and check, page 100, line 24.

23 You said that you slapped people across the head.

24 A. I did.

25 Q. How can it be that you have a recollection of doing that

1           if you don't recollect the detainees being there?

2    A.   I can't really answer that.

3    Q.   Sorry, I didn't hear that.

4    A.   I said I can't really give you an answer to that.

5    Q.   The only possible answer is that you lied when you said

6           you had no recollection of this.  There's no other

7           answer, is there?

8    A.   Well, there is.  I have been asked a lot of questions

9           and -- what can I say?  I got one wrong.

10   Q.   You got one wrong?  What exactly do you mean by that?

11           You mean you got one that didn't fit with your plan of

12           saying nothing to this Inquiry?

13   A.   No, I just gave an incorrect answer.

14   Q.   Which one is incorrect?

15   A.   The first one.

16   Q.   The first one, when you said you had no recollection of

17           being there with detainees?

18   A.   Well, yes.

19   Q.   So you do have a recollection of being there with

20           detainees, do you?

21   A.   Yes.

22   Q.   Why then did you tell Mr Elias that you did not?

23   A.   Like I said, he was asking a lot of questions and I got

24           one wrong.  I was confused.

25   Q.   It was a pretty fundamental question, wasn't it, at the

1 start of your questions by Counsel to the Inquiry here,  
2 "Do you remember being at the TDF with detainees?"  
3 A. Yes, it is.  
4 Q. How, then, did you get the answer to that wrong?  
5 A. As I say, I was flapping a bit.  
6 Q. Sorry, you are dropping your voice.  
7 A. I said I was flapping a bit.  
8 Q. You were flapping a bit. Is that another way of saying  
9 you were lying?  
10 A. No.  
11 Q. "Yes" or "no"?  
12 A. No.  
13 Q. You were similarly careful in the way you gave your  
14 answers when you prepared your statement for this  
15 Inquiry, weren't you?  
16 A. Explain what you mean by "careful".  
17 Q. You were saying what you thought would best serve your  
18 interests when you prepared that statement, weren't you?  
19 A. No.  
20 Q. Could we have on the screen, please, paragraph 77,  
21 page BMI00995, of the BMI statement? Would you have  
22 a look with me, please, at the end of the first  
23 paragraph on that page now being highlighted, the bottom  
24 half of what is now on the screen:  
25 "I had been trained to obey orders without question

1 and in treating the prisoners in the way in which  
2 I treated them I would have understood that I was acting  
3 in the way in which my superiors wanted me to treat  
4 them."

5 That's what you say in May of this year.

6 A. Can you read that again?

7 Q. Yes, I wonder if we can just highlight the bottom eight  
8 lines. It is now being highlighted:

9 "I had been trained to obey orders without question  
10 and in treating the prisoners in the way in which I  
11 treated them I would have understood that I was acting  
12 in the way in which my superiors wanted me to treat  
13 them."

14 Do you see that?

15 A. Yes.

16 Q. Then you say this:

17 "I cannot now say how I would have got the  
18 impression that this was what was required but it would  
19 have been fairly obvious from what was already going on  
20 I expect."

21 What was already going on?

22 A. It's a bit of a non-statement, really. I have used  
23 a lot of words --

24 THE CHAIRMAN: I can't hear at the moment. You have to  
25 speak up.

1 A. I think it is knackered.

2 THE CHAIRMAN: It has gone off, has it?

3 A. Yes, I think so.

4 MR GARNHAM: Can we try again? What did you mean by the  
5 expression, "... but it would have been fairly obvious  
6 from what was already going on I expect"?

7 A. That from what was already going on, that I would have  
8 been expected to work in that way.

9 Q. So what was already going on?

10 A. I don't know. I didn't really say in this bit.

11 Q. No, it doesn't say in this bit. That's why I am asking  
12 you. What was already going on? Did you mean by that,  
13 in May of this year, the mistreatment of the detainees?

14 A. No.

15 Q. You didn't? Well, can you tell us, then, what you did  
16 mean by that?

17 A. Just what I have already gone through, I suppose. The  
18 things we were doing were what was already going on, so  
19 I carried on.

20 Q. So what was it that you are referring to when you say  
21 "the things that were going on"? What was going on?

22 A. I can't really give you an example. The things that  
23 I've described all the way through today.

24 Q. That you don't remember?

25 A. Well, not necessarily.

1 Q. So when you say "the things that were going on", you  
2 were referring to things that you don't remember?

3 A. No.

4 Q. You told the RMP, in October 2003, didn't you,  
5 Mr Graham, what seemed the best account to save your  
6 interests then?

7 A. No.

8 Q. And they were no more truthful than the evidence you  
9 have given in your statement or the evidence you have  
10 given to the Inquiry today, were they?

11 A. I don't agree with you.

12 Q. You were just saying what seemed the best thing to say  
13 at the time.

14 A. I still disagree with you.

15 Q. You identified people in your October 2003 statement as  
16 being involved because you thought the RMP wanted you to  
17 identify people, didn't you?

18 A. Um, I don't know. I don't think so.

19 Q. When you sought to identify a medic or when you referred  
20 to Staff Sergeant Roberts, you weren't saying that  
21 because it was the truth, were you? You were saying it  
22 because you wanted to satisfy the RMP at the time.

23 A. I still disagree with what you are saying.

24 Q. How do you know? How can you answer me in that way when  
25 you have no recollection of what actually went on?

1 A. Because I wouldn't have said it if it wasn't true in the  
2 statement.

3 Q. How do you know? How can you test what you said to the  
4 RMP if you have got no recollection of the events  
5 themselves?

6 A. Well, I suppose in that way I can't, but I have to --  
7 I have to believe in what I think I would have --

8 Q. Say that again?

9 A. I said I have to believe in what I think and would have  
10 thought at the time.

11 Q. So you have to rely on the fact that you would have  
12 intended to tell the truth at the time?

13 A. Yes.

14 Q. Like you intended to tell the truth here?

15 A. Yes.

16 Q. In exactly the same way?

17 A. Yes.

18 MR GARNHAM: Thank you very much.

19 THE CHAIRMAN: Thank you Mr Garnham. Ms Edington?

20 MS EDINGTON: No, thank you, Sir.

21 THE CHAIRMAN: You haven't any questions? I saw you get up  
22 and look down and you had disappeared before I noticed.  
23 Thank you. Mr Ashley?

24 MR ASHLEY: No, thank you, Sir.

25 THE CHAIRMAN: Mr Topolski?

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Questions by MR TOPOLSKI

MR TOPOLSKI: Mr Graham, I represent Corporal Payne. There are two topics I want to ask you about. First of all, memory loss.

Presumably, you do have some memories of Op Telic 2.

A. I do, yes.

Q. Good ones?

A. Some good ones, I suppose.

Q. And some bad ones?

A. Well, yes.

Q. Today you tell us time and time again that you can't remember events at the TDF. I want to develop the questions that Mr Garnham was just asking you, if I may, to a small extent. That's a pretence, isn't it? You are pretending?

A. Sorry, I missed what you said then.

Q. You are pretending time and again to tell us that you don't remember?

A. No.

Q. You are pretending, I suggest, because to admit that you do remember puts you there. Do you understand me?

A. I understand.

Q. And to admit that you were there is to admit you did bad things. That's right, isn't it?

A. Not necessarily.

1 Q. Not necessarily?

2 A. I am confused how to answer these questions. Do I just  
3 tell you that you are wrong or do I disagree?

4 Q. It is not my intention to confuse you, Mr Graham. What  
5 you have done, you see, I suggest, is you have wiped out  
6 or pretended to wipe out because Lee Graham is not the  
7 kind of guy who does these kinds of things, so you are  
8 pretending you can't remember because it's not the real  
9 you.

10 Am I getting close, Mr Graham, to the truth?

11 A. Again, I have to disagree with you.

12 Q. You have to disagree with me?

13 A. Yes.

14 Q. Let me just ask you one or two questions about your 2003  
15 statement, please. If I have understood your evidence  
16 correctly, what you say to us is that when it's talking  
17 about Donald Payne, it's true if it is in the statement.

18 A. Yes.

19 Q. It may well, that statement, not all be accurate,  
20 though, about Donald Payne, may it?

21 A. I think you are wrong again.

22 Q. Let me see if you can help us. You have not been asked  
23 about this: at the court martial and indeed in your  
24 statement to this Inquiry, you tell us that you were --  
25 your words -- heavily influenced by the RMP officer who

1           took the statement as to what went in it about  
2           Donald Payne.

3    A.   As to -- well, I don't know.  I think I was influenced  
4           with the wording.

5    Q.   Influenced with ...?

6    A.   The wording, sorry.

7    Q.   The wording.  Parts of the statement may have been  
8           directed -- your word -- by the RMP officer regarding  
9           Donald Payne.  Is that true?

10   A.   I don't really know.  I don't think so.

11   Q.   Well, then why is it in the statement that you make to  
12           this Inquiry if you don't think so?

13   A.   Because I assume that it is -- that it's my words, that  
14           it's my signature on it.

15   Q.   You just wanted to get that statement down, done and  
16           over with so that you could be let go by the RMP  
17           officer.  That's what you told the court martial; is  
18           that the truth?

19   A.   I don't really know.  I don't really know how to answer  
20           that, to be honest.

21   Q.   Well, truthfully would help, Mr Graham, if I may  
22           respectfully suggest.  Of course it may not be accurate,  
23           parts of that 2003 statement about Payne, for another  
24           reason that I must raise with you: because you and your  
25           multiple agreed to load it all onto Donald Payne.  That

1 is a possibility, isn't it?

2 A. It's a possibility. I disagree with the possibility,  
3 but it is.

4 Q. You disagree with it. So you remember that didn't  
5 happen, do you?

6 A. That's not what I said. I just said that I disagree  
7 with that possibility.

8 Q. You agreed today, quite clearly, that, if true, kicking  
9 "Grandad" 30 times -- and older hooded manacled man --  
10 would amount to torture?

11 A. Yes.

12 Q. Why did you back away from that word 19 months later in  
13 May 2005?

14 A. Because at the time, whether I was right or wrong,  
15 I didn't think that the word fit what had happened.

16 Q. Well it does fit. You have told us so on your oath  
17 today. It fits precisely, doesn't it?

18 A. As I said, at the time, right or wrong, I didn't think  
19 it did.

20 Q. Might I suggest a reason why, 19 months later in  
21 May 2005, you backed away from it? Might it be because  
22 Lee Graham's conscience was pricking him a little bit  
23 that he had grossly exaggerated what Donald Payne did?  
24 Might I be right, Mr Graham?

25 A. No.

1 Q. How did it come about that you made that statement in  
2 2005? Did you ask to or did they ask to see you?  
3 A. I asked to.  
4 Q. You asked to see them?  
5 A. Yes.  
6 Q. Lastly this: can I suggest that you did exaggerate  
7 Donald Payne's conduct to help try and cover up the fact  
8 that you and your multiple played a full part in  
9 attacking these detainees hour after hour, day after  
10 day?  
11 A. You can, but again I strongly disagree with you.  
12 MR TOPOLSKI: You strongly disagree. Thank you.  
13 THE CHAIRMAN: Mr Bourne? No questions.  
14 Mr Dingemans?  
15 Questions by MR DINGEMANS  
16 MR DINGEMANS: You have been asked about the court martial  
17 and where you were when you gave evidence. Can you just  
18 tell us, had you started your second tour of Iraq by  
19 then?  
20 A. Yes, I had. It was two or three weeks into it.  
21 Q. How many weeks into it?  
22 A. Two or three.  
23 Q. And you had to come back to give evidence at the court  
24 martial?  
25 A. Yes.

1 Q. And then you went back to Iraq?

2 A. Yes.

3 Q. How was that second tour of Iraq?

4 A. It was worse than the first one, I think.

5 Q. Why?

6 A. Because it was -- I don't know if it still is -- it was

7 classed as the bloodiest tour that was to date at that

8 time.

9 Q. Were you shot at?

10 A. Yes.

11 Q. Were grenades thrown at you?

12 A. Yes.

13 Q. You have been asked about a recollection in your

14 evidence and why you gave a different answer to Mr Elias

15 about detainees and a later answer. Did the name "Fat

16 boy" help your recollections today?

17 A. It did, I think, with the picture -- the picture of the

18 TDF, it helped.

19 MR DINGEMANS: Thank you.

20 THE CHAIRMAN: Mr Elias?

21 Further questions by MR ELIAS

22 MR ELIAS: Just one matter, Mr Graham. You have been asked

23 about the evidence you gave at the court martial.

24 I would just like to take you to five or six lines of

25 it, please. Could we have, from the court martial, the

1 transcript of Day 46, page 140, going down to line 20 or  
2 thereabouts. You were being asked about Sergeant Jay --  
3 you can see that at line 15 -- the sergeant who took  
4 your statement. Do you follow?

5 A. Yes.

6 Q. You were asked the question:

7 "... did it go something like that:

8 "'What did Corporal Payne do? What did Corporal  
9 Payne do next? What did Corporal Payne do then? When  
10 was Corporal Payne around?'

11 "Did a lot of the questions begin with 'Corporal  
12 Payne'?"

13 And you answered:

14 "Pretty much, yes."

15 Then this series of questions.

16 "Question: Did he ever suggest to you or tell you  
17 what other soldiers had been saying that Corporal Payne  
18 had done. Did he ever say to you -- I know this is not  
19 a real soldier, 'Private Smith has said Corporal Payne  
20 kicked Grandad'?"

21 "Did he ever lead you like that?"

22 "Answer: Not that I can remember, no."

23 "Question: Did he ever suggest that you should put  
24 things in your statement even if you were not certain as  
25 having seen them?"

1                   "Answer: I do not think so."  
2                   Were those true answers on your part?  
3    A.   Yes.  
4    MR ELIAS:   Thank you.  
5                   Thank you very much.  
6                   Questions by THE CHAIRMAN  
7    THE CHAIRMAN:  Just one matter I want to ask you about and  
8                   another thing I want to mention.  
9                   You are a student now, Mr Graham, is that right?  
10   A.  Well, I -- I didn't pass my second year of my degree, so  
11       I am working at the minute to get some money to go back.  
12   THE CHAIRMAN:  What were you studying?  
13   A.  Mechanical engineering.  
14   THE CHAIRMAN:  Was that at university or --  
15   A.  Yes, university, yes.  
16   THE CHAIRMAN:  One other matter I want to mention to you.  
17       I don't want you to go away from this Inquiry thinking  
18       that there is something that you perhaps ought to have  
19       said which you have not have had the opportunity to say  
20       and I give you that opportunity now, to tell me, the  
21       Inquiry, if there is anything that you want to say which  
22       you have not said up to now which you think will assist  
23       me.  
24   A.  Um, no.  
25   THE CHAIRMAN:  You thought for a long time, but the answer

1 is still "no"?

2 All right. Thank you very much.

3 THE CHAIRMAN: Very well. Well that is all for today.

4 MR ELIAS: Thank you, Sir. Tomorrow is Mr Hunt.

5 THE CHAIRMAN: Yes. Tomorrow at 10 o'clock.

6 Thank you very much. You are free to leave the  
7 Inquiry now. You can, of course, come back if you want  
8 to.

9 (3.27 pm)

10 (The Inquiry adjourned until 10.00 am, Thursday,  
11 22 October 2009)

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