

Thursday, 10 December 2009

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(10.00 am)

THE CHAIRMAN: Mr Moss, before you call your witness, just to say this: I would like, if it is possible, without going over too long, to go straight through, so far as this witness is concerned, even if it goes beyond the time of our usual break because the logistics of getting him in and out and everybody organised are such that it is simpler if we don't have a break in the middle. Now if it gets to the stage where we really have to have a break, we will have a break, but that's what I would like to do. All right?

MR MOSS: Sir, yes. Before I call S018, can I just mention a few matters? The first is that obviously, although it is not easy, I and all the other advocates must, of course, be careful to try to use only his cipher and the appropriate ciphers for other officers that may be relevant to his evidence.

The second matter is this -- and it this applies to all the soldiers who have anonymity: experience shows that mistakes from time to time will be made. If the name of an anonymous witness is used in the hearing room, the likelihood is that it will not appear on the transcript and, in any event, it must not be reported. This witness, as with other anonymous witnesses, has

1 a restriction order in place. I am not going to go
2 through, now, the terms of the restriction order, but it
3 is available for the media on the Inquiry's website, as
4 are the restriction orders for other witnesses who have
5 anonymity.

6 THE CHAIRMAN: Yes.

7 MR MOSS: So may I call S018 please.

8 THE CHAIRMAN: Yes.

9 S018 (sworn)

10 THE CHAIRMAN: Thank you very much. Please sit down. If
11 you would be kind enough to speak into and towards that
12 microphone, then we will all be able to hear. If you
13 are asked a question which you don't understand, I am
14 confident that you will say you don't understand; all
15 right?

16 A. Yes, Sir.

17 THE CHAIRMAN: Thank you.

18 Questions by MR MOSS

19 MR MOSS: Now the Inquiry is aware of your name, but of
20 course don't use it during this morning's proceedings.
21 You are known in the Inquiry's proceedings as "S018".
22 I would ask you just to have a look on the table to your
23 right. I think you will find a copy of your witness
24 statement to this Inquiry starting at BMI05383. Do you
25 see that there?

1 A. Yes, I do.

2 Q. If we turn to the final page, please, BMI05407 --

3 A. Yes.

4 Q. -- the signature is redacted, but are you able to
5 confirm that on 23 October of this year you signed that
6 statement to the Inquiry?

7 A. I can confirm I did.

8 Q. When you signed this statement, were you attesting that
9 the contents of the statement were true to the best of
10 your knowledge and belief?

11 A. Yes, I was.

12 Q. S018, everybody in this room has had an opportunity to
13 read your statements and the statements that you have
14 given on previous occasions. I am not going to go
15 through every aspect, but just ask you about some
16 topics. Do you understand?

17 A. I understand.

18 Q. Firstly, so far as your background is concerned, I think
19 it's right, isn't it, that you joined the Territorial
20 Army on the intelligence corps side back in 1986; is
21 that right?

22 A. That's correct, that's correct.

23 Q. And that you transferred to the naval reserve as an
24 interrogator in 1991/1992, at about that period?

25 A. That's correct.

1 Q. Did you then remain in the naval reserve until you went
2 to Iraq in 2003?

3 A. That's correct.

4 Q. By 2003, is it right that you would have risen to the
5 rank of lieutenant commander in the naval reserve?

6 A. That's correct.

7 Q. I think it is right that you are now on the retired
8 list, is that right, for the naval reserve --

9 A. That's right, yes.

10 Q. -- with an option to stay on which is exercisable for
11 two years?

12 A. That's correct, yes.

13 Q. Was your service on Operation Telic 2 in Iraq your first
14 operational deployment with the armed forces?

15 A. It was, yes.

16 Q. I would like to ask you some questions, please, about
17 the training that you had in tactical questioning,
18 prisoner-handling and interrogation. Can you help us
19 with when you were first trained in tactical questioning
20 and interrogation?

21 A. I was trained at JSIW, which was then located at
22 Ashford, which was then the headquarters of the
23 intelligence corps.

24 Q. Whenabouts did you first have training with them on
25 interrogation and tactical questioning matters?

1 A. It was a course which I attended around about
2 August 1987.

3 Q. The duration of that course?

4 A. Two weeks.

5 Q. This Inquiry, as you will be well aware, is particularly
6 concerned with what is sometimes called the "five
7 techniques". When you had that training in 1987, was
8 anything taught to you about the use, first of all, of
9 stress positions on those detained by British forces?

10 A. The course taught you what you couldn't do, but the
11 course was also very centric around the Geneva
12 Convention, so the course content revolved around that
13 as well as practical training scenarios. So you were
14 made aware of what wasn't acceptable practice during the
15 course.

16 Q. So general training on the obligations arising from the
17 Geneva Convention; would that be fair?

18 A. Yes. Yes.

19 Q. And as part of that, were you given to understand
20 whether or not the use of stress positions was or was
21 not permitted by British forces?

22 A. Stress positions was not permitted, no, that's correct.

23 Q. What about applying discomforting levels of noise or
24 white noise to British prisoners?

25 A. No, white noise was not permitted either.

1 Q. What about sight deprivation, depriving British
2 prisoners of their sight?

3 A. The course made it clear that a detainee or internee or
4 prisoner could have their sight -- could be blindfolded
5 if they were passing through a militarily sensitive area
6 from one point to another, but on completing that
7 journey the blindfold had to be removed. That was the
8 only time we were taught about sight deprivation on the
9 course.

10 Q. Was there any training to the effect that a side effect
11 of security blindfolding was disorientation?

12 A. Yes.

13 Q. What was said about that?

14 A. That all comes into the whole concept of shock of
15 capture, which is taught on the course.

16 Q. Were you taught that blindfolding for the primary
17 purpose of disorientation was permitted?

18 A. No. No.

19 Q. So you must correct me if I am wrong, but is the effect
20 of what you are saying about your training that if
21 blindfolding was permitted for security reasons, it
22 might have a side effect of disorientation and that's
23 okay, but you must not blindfold in order to
24 disorientate?

25 A. Yes. I think that's correct, yes. So you mustn't --

1 but things then get sort of muddled when you talk about
2 conduct after capture and interrogation and that's --

3 Q. Leave conduct after capture to one side for the moment.
4 I am dealing with the training that you had, not in
5 conduct after capture or training you gave in conduct
6 after capture -- we will come on to that -- but the
7 training at the TQ and PH course in what interrogators
8 could do to prisoners taken by British forces. Do you
9 understand?

10 A. Yes, but it is not a TQ and PH course I attended.
11 I attended an interrogation course, which is different
12 course --

13 Q. A two-week interrogation course.

14 A. -- which is different from a TQ and PH course.

15 Q. I follow. So you had a two-week course that was solely
16 on interrogation?

17 A. Yes.

18 Q. A slightly different aspect, please, about the
19 deprivation of sight. You used the phrase
20 "blindfolding". Was any training given one way or the
21 other on the means by which sight could be deprived,
22 whether hoods, blindfolds, other materials? Was there
23 any guidance at all on that?

24 A. The only thing we were taught was that blindfolds were
25 accepted, not hooding.

1 Q. Help us just a little bit further. Obviously it is
2 quite a long time ago, but do you recall being told that
3 you may not use hoods only blindfolds or were you told
4 that blindfolding is the way to do it and you should use
5 blindfolds?

6 A. I recall --

7 Q. If you can't remember --

8 A. No, I can't remember, to be honest with you.

9 Q. Thank you. So far as refresher training is concerned,
10 you mention in your statement that you had some
11 refresher training both, I think, in prisoner-handling
12 aspects and also in questioning techniques. Is that
13 right?

14 A. That's correct, yes.

15 Q. Just help the chairman with this: approximately how
16 often did you have refresher training on those matters?

17 A. It didn't happen very often and latterly, during my
18 service with the Royal Naval Reserves, it usually came
19 down to about one weekend a year. So in the last, say,
20 four to five years there was one weekend a year devoted
21 to that.

22 Q. So far as you were aware, was this refresher training
23 just given as a matter of practice and procedure or was
24 there some formal requirement that, in order to be
25 licensed, as it were -- I don't mean formally -- but

1 qualified to do interrogation operationally, you had to
2 have refresher training? Can you remember?

3 A. Yes, it was both actually. The weekends were mandatory
4 in order to maintain your place in the unit.

5 Q. During that refresher training, was anything that you
6 were taught different in any way on these five
7 techniques and particularly the ones I have asked you
8 about -- was anything in the subsequent refresher
9 training different from that original two-week
10 interrogation course that you had done?

11 A. No, no.

12 Q. I want to come on, if I may, to the conduct after
13 capture training aspects. Can I just make clear that
14 the Inquiry does not need to know -- and you should not
15 mention -- which particular troops had such training.
16 Just deal with the generalities first. Did you
17 sometimes teach on conduct after capture training
18 courses to British forces?

19 A. Yes.

20 Q. During the course of that teaching, was white noise
21 sometimes applied to the British trainees who were
22 undergoing the training?

23 A. Always applied.

24 Q. Were they sometimes hooded?

25 A. Blindfolded, never hooded.

1 Q. Were they sometimes put in stress positions?

2 A. They were put in -- yes.

3 Q. The Inquiry may be particularly interested in guidance
4 that may have been given to those attending the course
5 on the use of such techniques against prisoners taken by
6 the British. Do you understand?

7 A. Yes, I think I do, yes.

8 Q. Is this right: the training that we are now talking
9 about was designed to help British soldiers to know what
10 they might expect and to resist what they might expect
11 by an enemy -- is that right?

12 A. That's correct.

13 Q. -- and, in particular, an unscrupulous enemy who might
14 not follow the Geneva Conventions; would that be fair?

15 A. That would be fair.

16 Q. Doing the best that you can, can you remember whether
17 anything was said by way of warning about the use of
18 such techniques by British soldiers themselves when they
19 were on operational deployment?

20 A. Are you talking about on the exercise?

21 Q. On the conduct after capture exercise.

22 A. The conduct after capture exercise was solely focused on
23 British troops or forces being in a position of
24 receiving this training, so nothing was said about
25 British forces capturing foreign prisoners.

1 Q. Can we look at how you dealt with it in your statement,
2 please? BMI05388, paragraph 20.

3 A. Yes. I have read that.

4 Q. Thank you. Towards the end of paragraph 20, you say:
5 "The training sessions were not designed to teach
6 the individuals how to interrogate anyone else and
7 I recall that at the start of these training sessions
8 the individuals were always reminded that the purpose of
9 the training was how to resist various interrogation
10 techniques only."
11 Is that right?

12 A. That's correct, yes.

13 Q. Does it follow that they were not told in terms, "You
14 must not use these techniques on prisoners that you may
15 take on operations"?

16 A. No. The conduct after capture exercise would focus
17 solely on British forces, so nothing was ever said or
18 mentioned about British forces capturing foreign
19 prisoners. So, therefore, that never came into the
20 exercise briefs or anything to do with the exercise.

21 Q. So a warning of that kind didn't come into it because
22 that was not the focus of the training; would that be
23 fair?

24 A. That's correct, absolutely correct.

25 Q. Now let's turn, please, S018, to Operation Telic 2, your

1 role in theatre. Can we just go over the page in your
2 statement to paragraph 22. Aspects of this have been
3 redacted. It is right, isn't it, that initially, when
4 you deployed, you thought that you were going to be in
5 a role other than as an interrogator?

6 A. That's correct.

7 Q. Sir, can I indicate that the Inquiry knows what that
8 role is and it's not relevant to our terms of reference.
9 You were then told that you were going to be involved at
10 the TIF, the theatre internment facility; that's right,
11 isn't it?

12 A. That's correct, yes.

13 Q. At paragraph 25 of your statement you deal with the
14 chain of command once you are in theatre. On arrival at
15 the TIF, in taking up that post, were you taking over
16 from another intelligence organisation who had been
17 running the TIF at that stage?

18 A. That's correct, yes.

19 Q. We don't need to go into any names, but was that an RAF
20 organisation principally?

21 A. Yes.

22 Q. Do you recall having any kind of handover from them?

23 A. Yes, but it was in a very -- it wasn't until the arrival
24 of S017 that a more formal handover took place between
25 S017 and the RAF.

1 Q. Now the Inquiry has had evidence and will have more
2 evidence that earlier on in Operation Telic 2 there had
3 been some practice in the early stages of hooding at the
4 JFIT within the TIF, March/April of 2003, that sort of
5 time, which had caused some discussion, differences of
6 view, perhaps controversy. Was that mentioned at all in
7 the handover? Were you made aware of that?

8 A. No.

9 Q. Did you come to understand that that had been the case
10 at any stage during Operation Telic 2?

11 A. No. I recall only the following, that I was told by
12 people I knew, who are on that earlier deployment and
13 who had worked at the TIF, that on one occasion some
14 prisoners had been brought in who were hooded, but they
15 were already hooded on arrival. They weren't being
16 hooded or hoods were used in the JFIT. So that's my
17 only recollection of that.

18 Q. The chain of command for the TIF: just at a basic level,
19 what formation did the JFIT report to and belong to?
20 Where did it fit in in the structure in theatre?

21 A. JFIT had a direct chain of command to J2X and S015 was
22 in charge of J2X.

23 Q. When you say "S015" and "the J2X", that is the J2X at
24 a divisional level, is that right?

25 A. Correct, yes.

1 Q. Would it be fair to look at the JFIT as being
2 a divisional asset?

3 A. Yes.

4 Q. Your immediate OC, that was S017; is that right?

5 A. Yes.

6 Q. A female army captain?

7 A. Yes.

8 Q. And the J2X that you mentioned, just so that we
9 understand it -- there is perhaps no need to go into
10 details -- but essentially was the J2X's post one that
11 dealt with the human intelligence side of J2 matters?

12 A. Yes.

13 Q. Just help with this if you can, please. You have
14 explained the chain of command there going up to
15 division. Was there any kind of separate chain of
16 command back to intelligence formations in the UK for
17 certain matters for you?

18 A. No.

19 Q. If you had had concerns or queries about interrogation
20 matters, how interrogation matters could be conducted
21 and so on, to whom, other than your immediate OC, would
22 you have looked for guidance?

23 A. J2X, S015.

24 Q. While dealing with matters of guidance, did you have any
25 written guidance on the actual carrying out of

1 interrogations at the JFIT, what approaches and what
2 techniques could be used?

3 A. None, no.

4 Q. So what did you use as your bible, as it were, as to how
5 interrogation should be conducted when you were in
6 theatre?

7 A. The fact that I had been on the two-week course in 1987,
8 my experience in the sort of interrogation conduct after
9 capture world -- basically that. That's what it came
10 down to.

11 Q. We needn't turn it up, but you were asked in your
12 statement of whether you were aware of any kind of
13 detailed directive on interrogation matters. I think
14 you told us that you weren't. Is that right?

15 A. That's correct, yes.

16 Q. Could we just have on the screen, please, MOD049310?
17 This is a document that has been disclosed more recently
18 by the Ministry of Defence to the Inquiry. It is the
19 chief of joint operations directive to the commander of
20 British forces for HUMINT operations. If you just look
21 with me and may with have expanded paragraph 1, just to
22 get the context, we see there that it says:

23 "This HUMINT directive gives formal direction to the
24 commander of British forces for HUMINT operations ...",
25 and so on. This is a document dated 27 February 2003.

1 We weren't able to show you this when you were providing
2 your statement to the Inquiry. Having seen this, are
3 you able to say whether you had seen this directive
4 before?

5 A. No, I've never seen it before.

6 Q. I think it probably is common ground that the directive
7 itself is quite a high-level document, isn't it? It is
8 coming from the CJO and going to the commander of
9 British forces. Would you expect to have seen such
10 a document?

11 A. No.

12 Q. I would like to ask you, if I may, about the second
13 annex to this directive, perhaps dealing with more
14 detailed matters on interrogation matters. Could we
15 look, please, a few pages on at MOD049314? You will see
16 that this is entitled, "PJHQ, permanent joint
17 headquarters guidance on the handling of prisoners of
18 war and detainees", and references that may be familiar
19 to you, "JWP 1-10" and "Allied Joint Publication 2.5".
20 Do you see that?

21 A. Yes, I do.

22 Q. If we go down, please, to give you a flavour of this
23 screening procedures, paragraph 4, dealing specifically
24 with your area of work, I think, the interrogation
25 phase:

1 "Screening procedures. Throughout the interrogation
2 phase, CPERS shall be segregated by rank, sex,
3 nationality ...", and so on.

4 Over the page, just read through from B through to
5 E. At C in particular:

6 "... given no opportunity to observe sensitive and
7 critical activities, equipment and procedures involving
8 coalition or national forces."

9 Those sort of concepts, would they have been
10 familiar to you as guidance for interrogation
11 procedures?

12 A. Yes.

13 Q. This particular document, have you ever seen it before?

14 A. No.

15 Q. Over the page to 316, please. This annex sets out, in
16 paragraph 11, what interrogation units -- you were an
17 interrogation unit, weren't you?

18 A. Correct.

19 Q. -- should adopt in terms of procedures, in terms of
20 allocation of a serial number, identifying the common
21 capture report and so on.

22 Again, I imagine those procedures are all well
23 familiar to you --

24 A. Yes.

25 Q. -- but, again, not from seeing this particular document;

1 is that right?

2 A. That's correct, yes.

3 Q. Now, you were not involved, were you, S018, in the
4 exercise of tactical questioning in theatre?

5 A. That's correct yes.

6 Q. Did your role involve in any way an oversight or
7 a responsibility for those who were conducting TQ'ing at
8 battlegroup level?

9 A. No.

10 Q. I don't want you to speculate if you don't know, but are
11 you able to help us with who tactical questioners could
12 go to for advice and guidance in theatre? Did you have
13 an understanding of that?

14 A. No, I don't know, sorry.

15 Q. The Inquiry has seen quite a lot of evidence about the
16 role of what was called "BGIRO", the battlegroup
17 internment review officer. I think you tell us -- we
18 needn't turn it up -- that you didn't really know about
19 the BGIRO -- I am paraphrasing -- but that was not
20 something that was familiar to you; is that right?

21 A. No, it wasn't.

22 Q. Do you understand now, from your involvement in this
23 Inquiry, that the BGIRO was the officer at battlegroup
24 level who was making the decisions on whether or not
25 those who had been detained should be interned or handed

1 over to the Iraqi police or simply released?

2 A. Yes, I do now, yes, yes.

3 Q. And so the officers making the decision on whether those
4 who had been detained came your way at the TIF. Do you
5 follow?

6 A. Yes, I do. Yes, that's correct.

7 Q. I don't raise this in any sense critically of you, but
8 can you help us to understand how it came to be that you
9 didn't understand or have knowledge of the BGIRO role
10 when you were in post? How did that come about?

11 A. Because that acronym was never used. We just referred
12 to them as the "brigade internment officer".

13 Q. I understand. So you did know that there was someone
14 fulfilling that function -- would that be right?

15 A. Yes.

16 Q. -- but not that they were known as "BGIROs"?

17 A. Not that they were known as BGIROs, yes.

18 Q. I follow.

19 Now, hours of operation of the theatre internment
20 facility -- doing the best that you can now, what's your
21 recollection of what hours the TIF was open for?

22 A. It was 24/7.

23 Q. When you say "24/7", do you mean 24/7 so far as
24 receiving prisoners is concerned?

25 A. Either. It was reception of prisoners and/or, if

1 necessary, if an interrogation had to take place in the
2 small hours.

3 Q. Were you ever aware of any problem about the receipt of
4 prisoners into the TIF during night-time hours?

5 A. No, I wasn't, no.

6 Q. The Inquiry does have evidence -- including from your
7 OC -- that the Americans would not, in the way that they
8 worked, do the booking in, the administrative part of
9 the process of taking prisoners, after 21.00 hours, but
10 she says that nevertheless the British prisoners would
11 be booked in through the British system, but they
12 wouldn't be fully booked in overnight, but there was
13 that issue with the Americans overnight. Does that ring
14 any bells with you?

15 A. That does ring bells, that, yes.

16 Q. So far as you can recall, were there any occasions when
17 prisoners taken by British forces were physically turned
18 away from the TIF at night-time hours?

19 A. I am not aware of any cases.

20 Q. Whether or not arising from the American administrative
21 processes overnight, were you ever aware that there was
22 a perception at battlegroup level that the TIF was
23 closed for the admission of prisoners after 9 o'clock at
24 night?

25 A. No, I wasn't aware of that.

1 Q. Just helping a little bit with numbers. You give some
2 detail of this in your statement. There were, I think,
3 two holding areas -- is that right -- within the bigger
4 compound run by the Americans, where British prisoners
5 could be held? Is that right?

6 A. Yes, British prisoners were spread over two different
7 compounds in the compound area, that's correct.

8 Q. Within the compound area -- separate from the JFIT --
9 what sort of numbers of British prisoners could be
10 accommodated in the compound area?

11 A. We had facility to hold up to 200 British prisoners in
12 total, so one assumes, on that basis, spreading over two
13 compounds, about 100 each, but we never, when I was
14 there, got up to holding 200 prisoners that were
15 captured by British personnel.

16 Q. Within those compound areas, insofar as there were
17 British forces involved in the detention aspects in the
18 compound area, is it right that they were members of the
19 MPS?

20 A. That's correct.

21 Q. The military provost staff --

22 A. Staff corps, correct.

23 Q. Did you have much to do with that side of things?

24 A. We interacted with them all the time, yes.

25 Q. What sort of issues did you interact with them on?

1 A. The MPS were principally there to receive prisoners, to
2 process them and for their general welfare whilst they
3 were at Camp Bucca. So if there were any issues
4 arising, they would come to us, if there was something
5 they were concerned about or they wanted us to know
6 about, otherwise it was -- the relationship was a fairly
7 formal one. They did the processing and looking after;
8 we did the interrogation.

9 Q. And the JFIT part, separate from the compound, what was
10 the capacity of the JFIT number-wise?

11 A. I cannot recall exactly. I think it is somewhere in the
12 20/25 persons.

13 Q. Were capacity issues sometimes difficult for you in
14 terms of dealing with the numbers of prisoners?

15 A. Yes, they were.

16 Q. Did that ever lead, so far as you can recall, to
17 prisoners being turned away from the JFIT?

18 A. No.

19 Q. Let's move on now to look at prisoners arriving at the
20 JFIT and your experience of that, if we may. I am still
21 not onto the subject of the detainees with which this
22 Inquiry is principally concerned, but your general
23 experience first, if I may.

24 Prisoners arrive at the general area of the camp at
25 Camp Bucca. Would you necessarily have been there to

1 actually meet the battlegroup lorry arriving?

2 A. Not all the time. Only if we were up in the area which

3 they arrived in otherwise we weren't there. We were

4 down the other end of the camp. We wouldn't see them

5 arriving.

6 Q. If you weren't there on the reception of the lorry,

7 might it be that some prisoners would be taken through

8 by the MPS and processed with the initial processing

9 before you had even seen them?

10 A. That's correct, yes.

11 Q. Let's deal, then, with those that you may have seen on

12 arrival. When you did see prisoners arriving with

13 battlegroups, do you have any recollection of whether

14 prisoners arrived deprived of their sight one way or the

15 other?

16 A. Sometimes they did.

17 Q. When you saw that, how had they been deprived of their

18 sight?

19 A. Usually with a -- with a blindfold, in fact.

20 Q. Had you seen British forces arriving with blindfolded

21 prisoners?

22 A. Yes.

23 Q. So far as you can recall, was there any occasion when

24 you saw British soldiers arriving at the JFIT escorting

25 prisoners who were hooded with --

1 A. No.

2 Q. -- hessian sacks or cement bags?

3 A. No.

4 Q. How confident are you in that recollection?

5 A. Only if I was around the reception area when the
6 prisoners came in. So if I wasn't there and I was down
7 the other end of the camp and didn't see them arrive,
8 that's the situation. But at the times that I was in
9 the reception area, I don't recall seeing any prisoners
10 who were captured by British forces wearing anything
11 other than blindfolds.

12 Q. All right. If you had seen prisoners arriving, British
13 prisoners escorted by British troops arriving hooded,
14 what would your reaction have been?

15 A. "Why are they hooded?", to start with.

16 Q. Would you have asked questions or done something
17 about it, had you seen them arriving hooded?

18 A. I think I would have reported it, yes.

19 Q. To whom would you have reported it?

20 A. Initially to S017 and presumably -- and then S017 would
21 presumably have reported it up the chain of command to
22 S015.

23 Q. Everybody appreciates that these things are some time
24 ago. Is it possible that you did see hooded prisoners
25 arriving, but that you have subsequently forgotten about

1 it?

2 A. The only prisoner that I recall seeing with a hood on

3 was not captured by British forces, but captured by

4 Italian troops.

5 Q. That's the paper bag that you refer to in your

6 statement; is that right?

7 A. With a paper bag over his head, yes.

8 Q. Just this, then: do you have any recollection of your

9 OC, S017, raising repeated concerns about the arrival of

10 British prisoners who were hooded?

11 A. I don't recall, no.

12 Q. Of her raising that at divisional level, raising it with

13 Captain Ellis-Davies at legal?

14 A. I don't recall that.

15 Q. Raising it with S015, raising it with Colonel Barnett,

16 Colonel Le Fevre.

17 A. No, I don't know.

18 Q. If she did that, you don't have any recollection of it

19 at all?

20 A. No, I don't know.

21 Q. Plasticuffing more briefly. I think you tell us in your

22 statement, is this right, that you would see prisoners

23 arriving plasticuffed and that you do have

24 a recollection that on occasions the cuffs seemed to you

25 to be fastened very tightly?

1 A. Yes.

2 Q. Would it be normal for the blindfolds and plasticuffs,
3 if they had been applied, to be removed by the MPS as
4 part of the booking-in procedure?

5 A. Yes.

6 Q. And within the JFIT and the TIF more widely, were
7 British prisoners deprived of their sight, whether by
8 hoods or blindfolds, once they were inside and they had
9 been booked in?

10 A. No, never deprived of their sight once they were booked
11 in.

12 Q. Just dealing with matters a little bit more broadly and
13 more generally. So far as battlegroups were concerned,
14 did you have any knowledge that hooding was going on at
15 battlegroup level --

16 A. No.

17 Q. -- during Operation Telic 2?

18 A. No.

19 Q. You didn't hear rumour to that effect?

20 A. No.

21 Q. What about the use of stress positions as part of some
22 sort of conditioning process for tactical questioning?
23 Did you hear about that?

24 A. No.

25 Q. Know about it?

1 A. No, I didn't know anything about that.

2 Q. Your understanding, is this right, that hooding would
3 not be appropriate -- the use of hessian bags, cement
4 bags to deprive sight would not be appropriate -- came
5 from your understanding in training rather than from any
6 orders you had received in theatre? Would that be
7 right?

8 A. That's correct, yes.

9 Q. Had you, in fact, received any written orders, so far as
10 you can remember, about deprivation of sight or hooding?

11 A. No. I hadn't received anything.

12 Q. You are confident that you received no such order?

13 A. I hadn't received any such order.

14 Q. Now you tell us that you did have cause, on occasions,
15 to have concerns -- is this right -- about the tactical
16 questioning reports that came in to you at the TIF; is
17 that right?

18 A. That's correct.

19 Q. Just help the Inquiry, insofar as it may be relevant,
20 with what the difficulties were with the TQ reports that
21 you received.

22 A. The TQ reports in general were not very well written.
23 Everybody, without exception, was branded a liar. There
24 were lots of conclusions drawn on the basis not of
25 factual evidence, but more on personal conjecture by the

1 TQer. There were usually errors in the names, spelling
2 of names and other bio details. Those were the general
3 points.

4 Q. This was your first operational deployment. I suppose
5 you didn't have anything to measure that against as to
6 whether that was par for the course and the difficulties
7 in theatre --

8 A. Correct.

9 Q. -- or an indication of problems at battlegroup level;
10 would that be fair?

11 A. That would be fair.

12 Q. Did you in fact raise those sort of concerns with
13 anybody?

14 A. I raised them with S017, but we basically we put all the
15 TQers' reports to one side and we just started afresh
16 with each prisoner who had a TQ report. We started from
17 scratch and we went through our own way of interviewing
18 them.

19 Q. May we just look -- while we are on this subject -- at
20 a document which is MOD052574? If we just have the text
21 of that enlarged. So just look with me at the bottom
22 email. We see that this is before Baha Mousa's death.
23 It is an email that's being sent from Major Clifton. Do
24 you remember Major Clifton at all?

25 A. The name rings a bell, but I don't recall his face.

1 Q. Divisional legal, but posted at brigade?

2 A. I can't remember.

3 Q. All right. The email is going to Colonel Charles

4 Barnett, who I think you would have known.

5 A. Correct, yes.

6 Q. It is saying:

7 "Colonel, attached is the report. They were here
8 for nearly three hours. Any comment or further
9 questions, please let me know. On the subject of the
10 TIF, QLR have had difficulties with the new head of the
11 JFIT. I think a lieutenant commander ... [and then your
12 name which is redacted]. He is ... [and your name]
13 apparently, and when presented with five suspected IED
14 makers complained that the evidence hadn't been properly
15 collected. Each internee should have a separate arrest
16 statement, that the SIB should be investigating the
17 case.

18 "He then sent the evidence back with the QLR call
19 sign, who brought them down, thus depriving the JFIT of
20 any evidence on which to question the suspects. Whilst
21 he may have had a small point about the quality the
22 evidence gathered, he seems to be unaware of the
23 practicalities of the situation. I have his number and
24 will call him unless you think it should be done another
25 way."

1 I don't want to get into the detailed rights and
2 wrongs of that particular episode -- perhaps it doesn't
3 matter -- but is that indicative of some of the
4 difficulties over paperwork that you experienced?

5 A. Yes.

6 Q. Just this: because that deals with the QLR -- you will,
7 I am sure, be aware of the battlegroup involved with
8 Baha Mousa's death -- it is not the case, is it, that
9 you, in any sense, had run-ins with the QLR and that
10 that affected the way that you dealt with the Baha Mousa
11 detainees later on?

12 A. Not at all, no.

13 Q. So we have looked just now at, if you like, the TIF
14 concerns about TQ'ing. Can we just look for a moment at
15 the flipside? Were you aware of concerns at battlegroup
16 level that information derived from interrogations at
17 the TIF were very slow to be fed back into the
18 intelligence operations at battlegroup level?

19 A. No, I wasn't.

20 Q. You didn't hear complaints, concerns, whinges about that
21 at all?

22 A. None at all.

23 Q. Did you have any awareness, if it be the case, that at
24 battlegroup there might be a feeling that they had to
25 get just as much information as they could out of TQ'ing

1 because of the difficulties or failures of getting
2 information back from interrogation down at the TIF?

3 A. No, none at all.

4 Q. That's all, as it is, complete news to you, is it?

5 A. Absolutely.

6 Q. I think it is right, though, isn't it -- you will
7 correct me if I'm wrong -- that there were practical
8 on-the-ground difficulties with the operations at the
9 TIF in terms of secure communications and so on?

10 A. That's correct, yes.

11 Q. I think you tell us -- maybe in one of your earlier
12 statements -- that so far as the interrogation reports
13 were concerned, they had to be and were physically
14 delivered by you on a weekly basis, handed over to
15 division --

16 A. That's correct, yes.

17 Q. -- on a weekly visit up to Basra --

18 A. That's correct.

19 Q. -- rather than on any email system or anything like
20 that?

21 A. That's correct, yes.

22 Q. But, in any event, from those divisional visits, you
23 were never told, "We need to speed up the supply of TIF
24 interrogation product back down and fed through the
25 system"?

1 A. No.

2 Q. Moving on to the detainees on these days in September.

3 Can I just ask you this so far as the arrest and TQ

4 phase of the operation is concerned: do you have any

5 knowledge at all about any kind of request being issued

6 by the JFIT that the shock of capture ought to be

7 maintained for these particular detainees? Does that

8 mean anything to you at all?

9 A. Nothing at all.

10 Q. There was nothing said by you about that?

11 A. Nothing.

12 Q. Nothing you have heard others speaking about that within

13 the JFIT?

14 A. No, it is the first time I've heard that said.

15 Q. Now we know that the day of the arrival of the detainees

16 was 16 September, the Tuesday. I think you tell us that

17 you first learnt of these events when in fact,

18 coincidentally, you were in fact at Basra; is that

19 right?

20 A. That's right, yes.

21 Q. What were you doing in Basra?

22 A. S017 was leaving theatre for compassionate leave and so

23 we had driven up -- driven her to the airport and we --

24 whenever we were at the airport divisional headquarters,

25 we used to go to J2X, which is obviously our command,

1 and that's where we heard about it, in the J2X room.

2 Q. The Inquiry has heard evidence about phone calls the
3 previous night, the Monday night, involving your OC,
4 S017; all right?

5 A. Mm-hm.

6 Q. Did you know anything about phone calls between her and
7 the QLR on that Monday evening?

8 A. I don't -- I don't recall. I don't know.

9 Q. You are just dropping your voice a little.

10 A. I don't recall.

11 Q. So you may have known about those, but you just don't
12 remember?

13 A. I don't remember, sorry.

14 Q. What was the general thrust of what you were told when
15 you were in Basra about the detainees from the QLR?

16 A. Well, what we were told was simply that somebody had
17 died in custody and not to worry about it.

18 Q. Not to worry about it; how so?

19 A. It wasn't a JFIT problem and -- it was done in a very
20 offhand way. Somebody has died and not our problem.

21 Q. Did you understand, at that stage, that the surviving
22 detainees -- if I can put it in that way -- that had
23 been detained along with Baha Mousa, the man who had
24 died in custody, were going to be coming to the JFIT
25 that day?

1 A. A little bit later on we were -- I was told that there
2 would be a lorry arriving later that afternoon at
3 Camp Bucca.

4 Q. If it matters, can you remember where you got that
5 information from?

6 A. That would have come also from the J2X room.

7 Q. But in a separate conversation, is that right, to the
8 one with S015 about the death --

9 A. Quite possibly, but we weren't even told which unit was
10 involved so -- well, I wasn't aware of the unit involved
11 when that comment was made about somebody having died in
12 custody.

13 Q. When you got back to the TIF, what was your first
14 involvement with the detainees, please?

15 A. The lorry had already arrived. I cannot recall how long
16 it had been standing there, but the MPS were in
17 attendance and, in a convoy of MPS vehicles, the lorry,
18 the QLR lorry, and myself and the Land Rover, we drove
19 from the front of the camp -- if I can put it that
20 way -- to where the processing tent was at the rear of
21 the camp.

22 Q. Thank you. You mention in your witness statement --
23 I would like to ask you please -- about a man who you
24 noticed who was walking in a strange way.

25 A. Mm-hm.

1 Q. All right. Just about that please. Can you remember
2 now where it was that you first saw him and the fact
3 that he was apparently injured?

4 A. Yes, I do.

5 Q. Where was that?

6 A. We had already arrived at the processing area. The
7 lorry had parked up, the tailgate was down, the
8 internees were being off-loaded. I had parked my
9 Land Rover and, as I was walking from my Land Rover down
10 to --

11 Q. Slow down just a little bit.

12 A. Sorry. As I was walking from my parked Land Rover down
13 to the JFIT, in order to see how many people we would
14 need to take out of the JFIT holding area into the
15 compounds to make room for these new arrivals, that's
16 when I saw this gentleman walking in a funny way.

17 Q. The walking in a funny way, what did that involve?

18 A. Walking with his feet splayed out -- akin to walking
19 like a penguin is the best way I can describe it.

20 Q. Did he appear to be in pain, from what you could see, or
21 not?

22 A. Not pain. Maybe "discomfort" would be a better word.
23 I only saw him from, you know, a few feet away, so
24 I wasn't right next to him.

25 Q. What did you do as a result of seeing that man? Did you

1 speak to anybody or report it?

2 A. No. What happened was I was on my way to make room in
3 the JFIT and they were on their way to the processing
4 tent, so they were already in the system of being
5 processed by the MPS. But I clocked him because later
6 on I did go back to see him.

7 Q. Let's look at your witness statement, please, BMI05402,
8 paragraph 76, please. We see there you talk about
9 seeing this man:

10 "I noticed from where I was standing (... about 15
11 to 20 feet away) that one of the prisoners was having
12 difficulty walking, but I did not notice anything more
13 at this stage. I mentioned that this man was walking in
14 a strange way, and the provost sergeant said that the
15 prisoners were all pretending to be hurt."

16 Do you see that?

17 A. Yes.

18 Q. So it does seem, doesn't it, S018, that, as recently as
19 October of this year, you were telling the Inquiry that
20 you did have a conversation about this with a provost
21 sergeant?

22 A. With the provost sergeant, yes.

23 Q. Do you remember that now?

24 A. Yes, the provost sergeant, yes, but I didn't talk to the
25 man.

1 Q. No. All right. So the provost sergeant. He was
2 someone that you had encountered before, wasn't he?
3 A. Yes.
4 Q. Provost Sergeant Smith?
5 A. Yes, yes.
6 Q. He would often be the one who brought QLR prisoners to
7 the TIF; is that right?
8 A. That's correct, that's correct.
9 Q. What you say here is that the provost sergeant said that
10 the prisoners were all pretending to be hurt.
11 A. Yes.
12 Q. Do you see that?
13 A. Yes.
14 Q. Is that accurate?
15 A. Yes. Actually I think he -- that's exactly what he --
16 he said they were acting, you know, they were all actors
17 and they were acting as they kept -- but I was only
18 there momentarily before moving on to do other duties,
19 to receive them.
20 Q. May we just look at it, just to get your best
21 recollection if we may? Can we just look at MOD001425?
22 I am sure you have been shown this recently. This is
23 your statement closest to the time, 6 October 2003. Do
24 you see that there?
25 A. Yes.

1 Q. Take it from me that it's your signature for the moment,
2 but it has been redacted obviously. If we go on to
3 MOD001428 in that statement of 6 October 2003, if we
4 just have the top third of the page, please, you see
5 three lines down what you were saying at the time was:

6 "I saw one the detainees, whom I now know to be
7 Ahmad Taha Musa Raidi Matairi, walking assisted by
8 members of the MPS with his feet splayed outwards. He
9 looked in pain."

10 Then you say:

11 "In a discussion with Sergeant Smith QLR he
12 intimated to me that this man was playing up as he had
13 walked unaided to the vehicle at their QLR location."

14 Do you see that?

15 A. Yes.

16 Q. It may be thought that there is a bit of a difference
17 there and that, at the time, what you were saying was
18 that Sergeant Smith had indicated that it was his
19 perception that this individual prisoner had been
20 playing up and might be putting it on, rather than all
21 of the prisoners. Do you see that difference?

22 A. Yes, I do, yes.

23 Q. Do you think it might have been that Smith had only said
24 that it was the one prisoner who was playing up?

25 A. It might be, but I am happy to rely on my earlier

1 evidence which was made closer to the time.

2 Q. So you prefer that earlier account?

3 A. Yes, as it was made in theatre.

4 Q. All right. So that's the issue so far as injury is
5 concerned, I think, on the early part of the reception.
6 Is that right, that one man walking? Did you notice
7 injuries to any of the other prisoners at that stage?

8 A. No, I didn't see any of the others at that stage.

9 Q. You hadn't seen them all unloaded from the lorry, for
10 example?

11 A. No.

12 Q. It follows that presumably you can't help about their
13 general state, clothing and so on on arrival, the
14 prisoners generally?

15 A. No, but that would then be part of the processing by the
16 MPS to deal with that.

17 Q. I follow. Part of that processing -- is this right --
18 was a form of a medical check. Was that after the MPS
19 had done the booking in, do you know?

20 A. Yes. Generally the medical check took place after being
21 booked in by MPS and once they had already been booked
22 in by the Americans through their system.

23 Q. So what was your next involvement with these detainees?

24 A. I was in the JFIT holding area when somebody came up to
25 me saying that the doctor in the medical tent wanted to

1 see my straightaway. So I just went straight to the
2 American medical tent and I walked in. The doctor was
3 standing on the left-hand side of the tent. I was
4 vaguely aware of somebody on a stretcher to the right --
5 Q. Take it slowly.
6 A. On the right-hand side there was somebody on a stretcher
7 and the American paramedics who worked in the tent.
8 I went up to the doctor. I said, "You wanted to see me
9 urgently". He cocked his head back to the stretcher and
10 said, "I want to show you this".
11 Q. Just pause there. You say that the doctor had asked to
12 see you urgently; is that right?
13 A. He had asked me to come straightaway to the medical
14 tent -- words to that effect, yes.
15 Q. Had he come to get you or sent a runner to get you?
16 A. No, he sent a runner.
17 Q. So you had come over and you were told this by the
18 doctor. He says to you, "I want you to take a look at
19 this, I want to show you ..." --
20 A. "I want to show you this".
21 Q. What did he then show you?
22 A. He walked me to the stretcher, to the end of the
23 stretcher. He pulled back the blanket on the man who
24 was on the stretcher and it became apparent why he
25 wanted to show me what he wanted to show me.

1 Q. Why was that? What was that that you then saw?

2 A. There was a man lying on the stretcher and, from his
3 sternum to just below his navel, was just one colour
4 purple.

5 Q. Now that detainee -- I am just jumping ahead a little
6 bit, if I may, in the chronology.

7 A. Yes.

8 Q. Do you understand it to be that that detainee was one
9 the two who was casevac'd to hospital?

10 A. Yes, I do, yes.

11 Q. On that basis, can we look at MOD021828? This is
12 a picture, redacted just to protect his facial features,
13 of a man who is known in this Inquiry as "D003", who was
14 one of those who was casevac'd, showing bruising to the
15 area of the abdomen. It is a photograph which the
16 Inquiry is told was taken a few days later on the 21st,
17 but is that the sort of abdominal bruising that you saw?

18 A. My recollection is that it was a much deeper colour than
19 that.

20 Q. So you are saying, what, more obvious than that
21 bruising --

22 A. More obvious, yes.

23 Q. Thank you. So you see more obvious bruising than is
24 shown in that paragraph. What then passed between you
25 and the American doctor?

1 A. The American doctor said he had -- this man had a broken
2 rib. He was concerned about the broken rib in case it
3 had gone into his liver and he thought that his medical
4 condition at that point in time was quite serious.

5 Q. If we just look, please, at MOD000591. This is your
6 statement given in August 2005. At the bottom of the
7 page you were saying that at the time.

8 "The doctor informed me that this man had a broken
9 rib and he was concerned that it might have ruptured the
10 liver."

11 Did you gain any understanding of what had caused
12 the apparent injuries?

13 A. No.

14 Q. What did you think, insofar as it is relevant, had
15 happened?

16 A. We had been told -- going back to -- and it must have
17 been a conversation that took place in J2X before I came
18 back to the camp -- that there had been a scuffle during
19 the hotel raid. Those were the words used, "a scuffle".
20 So in my mind I associated the scuffle -- that the man's
21 bruises may have been attributed to this scuffle that
22 had taken place during the lift on the hotel.

23 Q. That's something you think you got from what, S015 at
24 the J2X or from --

25 A. It must have been S015 or somebody else who was in the

1 know about this operation, yes.

2 Q. Somebody on the J2 side at division?

3 A. Yes. I was aware that there has been this discussion
4 about a scuffle before I got back to Camp Bucca, so,
5 hence, when I saw this man's injury, in my mind
6 I thought that that was what had caused those injuries.

7 Q. Yes. If we go over the page, what do you remember --
8 just leaving the statement aside just for one moment --
9 about anything that you may have said to the detainee?

10 A. On the stretcher?

11 Q. Yes.

12 A. I went -- I went and spoke to him. He was obviously
13 very distressed. He said to me, through the Arabic
14 interpreter in the medical tent, that he wanted to let
15 me know about something. I asked him what was that. He
16 said that somebody had died. I said I was aware of that
17 and I was very sorry that somebody had died. I then
18 went on -- I think I said something to the words -- the
19 effect of, "I'll make sure that justice is done about
20 this". It was something along those lines.

21 Q. If we turn to this bit of your statement given in 2005,
22 you are also recorded as having said to the SIB that it
23 looked like he had received a good kicking.

24 A. Yes.

25 Q. Was that your impression at the time?

1 A. Well if you look -- it depends how -- I mean my
2 interpretation was that the scuffle in the hotel was not
3 a scuffle, it was obviously more than a scuffle, and
4 hence the man had probably received the injuries through
5 whatever had happened in that hotel lift.

6 Q. Whatever and how it had happened was -- whether it was
7 in the lift or in the hotel or it was a scuffle or
8 worse, your perception at the time --

9 A. My perception was he had a -- he had been -- well, yes.
10 At the time I said he had had a good kicking, yes.

11 Q. Was there a second man at that stage?

12 A. There was a second --

13 Q. Sorry, go on.

14 A. Yes, there was a second man who was sitting behind me as
15 I was speaking to the man on the stretcher. He was
16 sitting in a chair with an IV drip in his arm. He had
17 a neck brace around his neck. He was staring at the
18 floor. He was dressed in flip-flops, a vest and sort of
19 boxer shorts type thing. I never engaged him in
20 conversation. The doctor said that he had a suspected
21 broken vertebrae in his neck. I didn't want to disturb
22 him. I did not want him to move in case that injury was
23 compounded by him talking to me.

24 Q. I follow. It's those two prisoners, is this right, who
25 were casevac'd from the TIF that day?

1 A. Yes. Almost immediately after I stopped speaking to the
2 doctor, the ambulance arrived because the helicopter had
3 landed in the camp.

4 Q. So far as the other detainees -- I think seven in
5 number, after those who had been casevac'd -- just
6 sticking for the moment with that Tuesday, did you see
7 the other detainees, other than the two injured ones, on
8 the Tuesday?

9 A. Yes, I did.

10 Q. What did you see of them or any injuries to them on the
11 Tuesday?

12 A. I didn't. We -- they had all been processed and were
13 already in the JFIT holding area and were bedding down
14 for the night, except for the man who had the splayed
15 feet, was walking with the splayed feet, he was standing
16 up and doing his ablutions. And I noticed -- he had his
17 trousers off at that point and I noticed a lump was
18 hanging out of his intestine area or stomach area.

19 Q. Did you come to understand that that was a hernia?

20 A. I was later informed that that was a hernia, yes.

21 Q. Was he given medical treatment at that time, on the
22 Tuesday?

23 A. Yes, he was.

24 Q. The other detainees had bedded down, is that right, on
25 the Tuesday?

1 A. They had already bedded down. They were pretty much
2 asleep, yes.

3 Q. With the timing generally -- we are talking about them
4 bedding down by that stage and we know about the journey
5 times and so on, but the detainees had left Basra in the
6 Tuesday morning. What had taken that time? Is it
7 a lengthy process, the checking-in systems, if they were
8 being bedded down later on that day?

9 A. Well, they didn't arrive at the TIF until the late
10 afternoon.

11 Q. As you recall, it was the late afternoon?

12 A. As I recall it, yes.

13 Q. Thank you. I would like to come on to a different
14 matter now, which is the discussions that you had with
15 the lieutenant who was present from the QLR. You know
16 what I mean, I think.

17 A. Yes, yes.

18 Q. I mentioned that.

19 A. Yes.

20 Q. Now I think it is right -- because you say it in all
21 your statements -- that you were angered by what you had
22 seen; is that right?

23 A. That's correct.

24 Q. What can you recall now of the lieutenant and how you
25 came to speak to him?

1 A. I recall that he was loitering in the hospital tent
2 around the entrance and I called him over because he was
3 the patrol commander, I guess, or in charge of bringing
4 the detainees to camp and I asked him what had happened.
5 Q. Did you understand him to be the senior QLR man present?
6 A. Yes. He was the only officer I saw.
7 Q. So you asked him what had happened?
8 A. Yes.
9 Q. Did you remember what the essence of his reply was?
10 A. I put it to him that I was of the understanding that
11 there had been a scuffle in the hotel during the lift
12 and I -- I think I put it to him that the injuries
13 sustained by these two gentlemen were as a result of
14 that and he denied that was the case. He said there
15 hadn't been a scuffle and then made a comment about the
16 whole thing having been filmed on a TV camera.
17 Q. So he was denying to you that there had been any scuffle
18 at the point of arrest?
19 A. That's correct, yes.
20 Q. Did he mention to you, one way or the other, anything
21 about how they had come by the injuries?
22 A. No.
23 Q. Did he say anything to you about the course of detention
24 subsequent to the actual arrest at the hotel?
25 A. No.

1 Q. What was the tone of the exchange between you and the
2 lieutenant?

3 A. Frosty.

4 Q. I would just like you to look with me, if you would, at
5 MOD001428, towards the very bottom of the page, please.
6 This is your earliest statement, the October 2003 one.
7 Towards the bottom of the page we see:
8 "Because of their injuries I summoned the officer,
9 a lieutenant ..." and so on.
10 You recall that he denied they had been assaulted at
11 the hotel, as you just told us, where they were lifted.
12 You then said this:
13 "As it was unlikely he was able or going to identify
14 any assailants or how they had been injured I dismissed
15 him."
16 What caused you to phrase things in that way in your
17 statement?

18 A. I don't know.

19 Q. Did you get any impression as to whether the officer was
20 being straight with you?

21 A. I think he probably wasn't being straight with me, yes.

22 Q. He wasn't?

23 A. He wasn't being straight with me.

24 Q. Likewise -- perhaps we don't need to turn it up -- but
25 in your subsequent statement, 2005, the phrase you used

1 was that the lieutenant appeared to want to stay in the
2 background of things. Was that just a matter of
3 impression?

4 A. That was my impression. As I said earlier, he was
5 loitering around the entrance to the hospital tent, not
6 wishing to engage with either myself or the doctors or
7 the -- when we were looking at them -- the men who were
8 injured.

9 Q. All right. Let's just look, if we may, just so the
10 Inquiry has your help and assistance on it, at the
11 account of that lieutenant -- now captain -- whose name
12 was Rodgers. MOD016096, please. Perhaps we could just
13 start with the middle third. Pick it up with "I made my
14 way ..." about six or seven lines down:

15 "I made my way with Sergeant Smith ..."

16 Just put a highlight that.

17 THE CHAIRMAN: Have you seen this before?

18 A. I was shown it previously by --

19 THE CHAIRMAN: Yes, I see.

20 MR MOSS: Just to get the context. I will go through this
21 fairly quickly:

22 "I made my way with Sergeant Smith to the detention
23 camp ...", and so on. You see that.

24 He says:

25 "I was instructed to wait until the drips had been

1 removed before I returned to Basra."

2 This is the statement that is being given very early
3 because it was forwarded on 17 September. He says:

4 "After approximately seven hours a doctor arrived."

5 Pausing there, do you see why I was mentioning to
6 you earlier on about what had caused the long wait? Do
7 you have any recollection, if it matters, of a long wait
8 in the processing for medical attention at all?

9 A. None whatsoever. They were processed pretty quickly and
10 in the hospital tent pretty quickly.

11 Q. "He found some injuries on the males including severe
12 bruising and a cracked rib on one male and abdominal
13 pains on the other."

14 I think in general terms you would agree with that.

15 A. Yes.

16 Q. At this point a lieutenant commander [obviously you]
17 arrived and introduced himself as the man running the
18 JFIT."

19 It is right, isn't it, that S017 was on leave at
20 that stage, so you were, in fact, at that stage, the man
21 running the JFIT?

22 A. That's correct.

23 Q. You spoke to the doctor about the injuries and asked
24 when they were sustained and then Rodgers says this:

25 "I recall clearly the doctor saying probably within

1 the last week."

2 Do you remember the American doctor saying anything

3 like that?

4 A. He never said it. When he summoned me to look at the

5 male on the stretcher, he just lifted the blanket and

6 never said anything. Nothing needed to be said.

7 Q. "At this point, the lieutenant commander [that is you]

8 got on his phone and started making phone calls to

9 someone he called 'legal'."

10 I think you did make phone calls to division at

11 various stages. Did you, at that very stage, while

12 there with the injured detainees?

13 A. I don't recall at that stage, but it's six years ago, so

14 I'm ...

15 Q. So that is possible, but you don't recall it; would that

16 be fair?

17 A. Yes, that would be fair.

18 Q. "He then turned to me in front of a full medical tent

19 and accused IQLR of keeping the prisoners an illegal

20 length of time ..."

21 Did that happen?

22 A. No.

23 Q. "... under the incorrect conditions ..."

24 Did you say that?

25 A. No.

1 Q. "... and then asked if I was the arresting officer."
2 A. I never asked him that.
3 Q. Did you not ask him, if he was involved in the scuffle
4 in the hotel, if he was the arresting officer? Might
5 that have been something you said?
6 A. No, I don't think. I think I referred to this scuffle
7 in the hotel and generally what had happened. I didn't
8 point fingers at any particular individual who may or
9 may not have been involved.
10 Q. "When I told him I was he took an aggressive stance and
11 tone using his size to try and intimidate me ..."
12 Is that right?
13 A. Probably.
14 Q. Probably?
15 A. I probably did use my size.
16 Q. How tall are you?
17 A. [Redacted].
18 THE CHAIRMAN: We saw him walk in.
19 MR MOSS: We had that bit there. I thought I had better
20 ask.
21 "... and said, 'I heard about the fight in the
22 hotel, what happened?'"
23 Might you have asked him about the fight in the
24 hotel?
25 A. Yes, yes.

1 Q. "I responded 'There was no fight in the hotel sir' and
2 went on to describe how the men came to be arrested, the
3 way they were detained and who witnessed the condition
4 they were in upon leaving my custody, including being
5 filmed by associated press walking to the Bedford for
6 transport."

7 I think you agree that he did say something about
8 the fact that they were filmed during the course of the
9 arrest; is that right?

10 A. Yes, he did say there was a TV camera during the hotel
11 lift.

12 Q. You are then reported by Rodgers as having said:

13 "Don't lie to me this is very serious you will be
14 dealt with by the highest authority when legal get hold
15 of this."

16 Did you say that or something along those lines?

17 A. I don't recall, no.

18 Q. Might you have done?

19 A. I might have done, but I don't recall those words.

20 Q. He then says that he responded about not minding about
21 that. Then he says:

22 "I then went on to tell him that the men were
23 not even plasticuffed until they were leaving the
24 building ..."

25 Do you remember him saying anything to that effect?

1 A. No, this was a very short sharp conversation I had with
2 Rodgers which didn't go into any detail.

3 Q. Right.

4 "... and that they were given water and the two
5 older men were sat up instead of lying face down."

6 A. I don't remember him saying that at all.

7 Q. Rodgers then says that you had said that you seen the
8 baton on the back of the Bedford. Do you remember
9 raising the baton?

10 A. I don't even know what a baton is in this context.

11 Q. Rodgers responded:

12 "That is because there are nine prisoners who had
13 already tried to escape twice and only two soldiers
14 guarding them and the baton would be a much better
15 method of trying to control a prisoner than shooting
16 them."

17 Did he say that?

18 A. No.

19 Q. If he had said that, would you have remembered?

20 A. Yes.

21 Q. If we go to the previous page, please, MOD016095, we see
22 the short memorandum, if that's the right word -- it is
23 probably not -- to which that was annexed, 17 September.
24 Take it from me for the moment that the signatory is the
25 battalion battlegroup 2IC, Major Suss-Francksen, going

1 to HQ 19 Mech Brigade for the chief of staff, with
2 a copy to the CO 1QLR. In paragraph 2, Major
3 Sus-Francksen was saying to brigade:
4 "Anything other than a full discussion of fact could
5 jeopardise the RMP investigation."
6 This is on 17 September.
7 He says a little onwards:
8 "To that end the attitude and actions of the JFIT
9 commander towards the officer who accompanied
10 the internees to the JFIT and his subsequent allegations
11 ..."
12 Just help with that if you can. Do you know what he
13 is referring to when he says "subsequent allegations"
14 from you?
15 A. No.
16 Q. Might that have been things that you had said on the
17 phone to divisional legal people?
18 A. I don't think so, no.
19 Q. You can't help with subsequent allegations coming from
20 you?
21 A. No, I am afraid not, no.
22 THE CHAIRMAN: Put it this way, when you saw
23 Lieutenant Rodgers, you were pretty cross, were you?
24 A. I was seething with anger.
25 THE CHAIRMAN: Well I suspect that's how that may come

1 about.

2 MR MOSS: "A copy of the statement by the officer [we have
3 looked at that] is attached regarding the manner of the
4 JFIT commander."

5 Just this, then: were you aware that that matter was
6 raised up the chain of command by QLR to brigade?

7 A. No.

8 Q. You didn't hear anything more about that side of things?

9 A. No.

10 Q. If it matters, was there, in fact, some formal way that
11 concerns or even a complaint such as those that you had
12 ought to have been raised?

13 A. Well, in theory it would be through the chain of command
14 from either myself or S017 right up to J2X through to
15 the lieutenant colonel who was in charge of J2X.

16 Q. So far as you are concerned -- again if it matters --
17 did you see anything wrong with you raising the matters
18 directly with Rodgers on the spot?

19 A. None whatsoever. I didn't see a problem with that.

20 Q. Just a couple more matters, if I may, about events on
21 the Tuesday. An interaction with the Provost Sergeant
22 Smith. Do you remember now anything about a logbook
23 from QLR being handed over?

24 A. No.

25 Q. Would you look with me, please, S018, at MOD000592. If

1 we could have the lower quarter of the page, please.

2 This is your 2005 statement.

3 A. Yes.

4 Q. After dealing with reports to divisional level, and

5 "14 hours", it said:

6 "... I personally had never experienced these

7 problems with 1QLR, until Sergeant Smith told me that on

8 the day of Mousa's death, his unit 1QLR hadn't completed

9 the logbook concerning the detainees and it had to be

10 filled in from memory."

11 Do you see that?

12 A. Yes.

13 Q. Does that mean anything to you now at all?

14 A. Yes, that's correct. But that conversation took place

15 after the event. That took place two or three days

16 later.

17 Q. That was on a subsequent --

18 A. On a subsequent visit, yes, in the lunch queue.

19 I remember it very well.

20 Q. All right. So was that another time that Sergeant Smith

21 had come to the JFIT?

22 A. It must have been, yes.

23 Q. When you say the "lunch queue", you mean he was getting

24 food with you at the JFIT?

25 A. Yes, normally we used the American facilities if they

1 were in camp.

2 Q. Were you used to receiving a logbook from battlegroup?

3 A. No, not to the best of my recollection. I don't recall

4 any logbooks being handed over.

5 Q. So what did Smith say to you on this occasion about the

6 logbook, so far as you remember it now?

7 A. Exactly as I put in my statement. He said that he had

8 been away from camp when this incident had taken place.

9 He had come back. He said that the first thing he asked

10 to see was the logbook. He had been told there wasn't

11 a logbook, and he said, "Well, there needs to be

12 a logbook" and they then had to retrospectively write

13 it.

14 Q. So there was no logbook and one had been retrospectively

15 written up?

16 A. That's what he told me, yes.

17 Q. Did he have the logbook with him to hand over as part of

18 the papers?

19 A. No -- well, no.

20 Q. So far as you recall, what, you had never seen the

21 logbook?

22 A. I had never seen the logbook, no.

23 Q. Just finally this, then, so far as Sergeant Smith is

24 concerned: did you remember now anything at all about

25 a phone call that he was making on arrival that had to

1 do with whether these detainees needed to be interned at
2 all?

3 A. Well, he -- he received a phone call on his mobile phone
4 as we were making our way from the front of the camp
5 down to the holding -- to the compounds and the holding
6 area.

7 Q. Yes.

8 A. In fact we had to stop all three vehicles and we stood
9 there for, I'm guessing, around about three or four
10 minutes whilst he spoke on a mobile phone whilst he was
11 in the lorry. I could quite clearly see him from my
12 Land Rover.

13 Q. All right. Just pausing there, you had the difficulty,
14 presumably, of hearing only half of this conversation?

15 A. I didn't hear any of the conversation. I only saw him
16 receive a call.

17 Q. Allowing for that, what did you understand that he was
18 talking about on this call, if anything?

19 A. I have no idea.

20 Q. Just look, if you would, at MOD001426, your earlier
21 statement, the October 2003 one. In the middle of the
22 page, you say:

23 "I went [I think it is] to speak to the passenger in
24 the CAB of the vehicle Sergeant Smith, 1QLR, who is the
25 detainee escort, my having seen him on a number of

1 occasions at our location."

2 We have dealt with that.

3 "The SNCO was on a mobile phone and during his
4 conversation, of which I only heard his side,
5 I understood that the detainees may not require to be
6 interned."

7 You then went on to say:

8 "The matter was resolved on the telephone after
9 which I asked Sergeant Smith if the detainees had been
10 watered and fed ...", and so on.

11 All right?

12 A. Yes.

13 Q. Do you have a recollection now of that phone call
14 involving the question of whether or not they even
15 needed to be interned?

16 A. Well, I prefer to rely on my earlier evidence.

17 Q. So, if you said it then, it would have been --

18 A. Yes.

19 Q. I would like to turn now to the Wednesday, the following
20 day, the 17th. Did it come to be that you went to visit
21 the other detainees the following morning?

22 A. Yes.

23 Q. Why did you do that?

24 A. Having seen the two detainees in the hospital tent and
25 the injuries they had received, I was concerned and

1 I decided that I would go down very early the following
2 day, just about daybreak, just after the sun had come
3 up, to see how the other detainees were.

4 Q. When you made that visit, how did you find the other
5 detainees to be?

6 A. They were all sleeping fairly soundly on the sand, and
7 we -- myself and my interpreter -- were checking they
8 all had the items they were supposed to be issued with.
9 So that would be a toothbrush, a T-shirt, Qur'an, things
10 like that -- because we were short of some equipment, as
11 I recall, so I was making sure that everybody had the
12 requisite items.

13 Q. Did there come a time when you were able to talk to some
14 of them and see whether or not they were injured?

15 A. I -- what happened was one of them then woke up and
16 beckoned me over to where he was sitting, and then he
17 lifted -- he said something in Arabic which -- and then
18 I got my interpreter over and then he lifted up his
19 shirt to show me his bruising.

20 Q. What was that bruising like?

21 A. The bruising was predominantly over both the kidney
22 areas.

23 Q. What about the other detainees who had been asleep?

24 A. They then started to wake up, obviously hearing Arabic
25 being spoken, I guess, and then another one beckoned me

1 over to where he was sort of lying and lifted up his
2 shirt and the same thing, he showed me there was
3 bruising over both the kidneys.

4 Q. Yes. So that was the next one you spoke to. What about
5 other detainees?

6 A. We then woke them all up after that.

7 Q. What was the generality, then, of injuries that you saw
8 to the detainees that morning?

9 A. Every single one of them, as I recall, had bruising over
10 their kidney areas.

11 Q. There are various photographs. They are not taken on
12 that day so I am not going to run through them.

13 How obvious was the bruising to you once the shirts
14 were lifted?

15 A. Very obvious.

16 Q. You said it a moment ago, you said it in your statement,
17 indeed, in 2005, your words "every single one of them
18 had bruising around the kidneys". Do you mean that
19 literally, that there was not a detainee there who did
20 not have bruising over their kidneys?

21 A. No, they all had bruising on their kidneys.

22 Q. You say in your statement -- I think perhaps the detail
23 may not matter -- that thereafter there was what you say
24 was a flurry of telephone calls made after that had been
25 noticed; is that right?

1 A. Yes, that's correct.

2 Q. You also say in your statement that, as part of the
3 instructions that followed, some of it was about making
4 facilities at the JFIT for the SIB and for the
5 investigation. I don't think I need to trouble you with
6 that. But there was an instruction, also, that you
7 should interrogate -- you, the JFIT -- those detainees
8 who had not been casevac'd. You said in your statement
9 that you did as you were instructed and interrogated the
10 prisoners.

11 I just wanted to ask you about that. Did you mean
12 that you had some reservations about interrogating them?

13 A. Not reservation, but I think we basically interviewed
14 them. We didn't interrogate them. We sat them down and
15 we just interviewed them for their potential
16 intelligence value, bearing in mind they had been back
17 to the medical tent for -- to be re-examined by the
18 doctors and the medics.

19 Q. You understand why I ask. The phrase that you use in
20 your statement, if it matters, is "I did as I was
21 instructed", but you weren't meaning to say you had some
22 reservations about the instruction you had received --

23 A. No, no, I was told, instructed.

24 Q. All right. The Inquiry has some -- quite a few, but by
25 no means all -- of the interrogation reports. You will

1 be pleased to know that I am by no means going to go
2 through all of them. Just so that we get the flavour of
3 it, can we look, please, at MOD047996? I take it, S018,
4 that this type of form would be pretty familiar to you.
5 A. Yes.
6 Q. Yes. We see the name there of Taha Al-Matairi, one of
7 the detainees whose name we can use. Over the page,
8 I think, we can see that this was a TQ interrogation, I
9 think in fact an interrogation, on 19 September.
10 A. Yes.
11 Q. Do you see that at the top?
12 A. Yes.
13 Q. Then there would be an interrogator. That would just be
14 a number. It has been redacted, but a number would be
15 there to indicate who had done it?
16 A. That's correct.
17 Q. And the number of interrogations or TQs that had taken
18 place at that stage, three, is that right?
19 A. Yes, if it is written there, yes.
20 Q. I am not going to go through all of this, obviously, but
21 may we just turn to MOD047999, a few pages on. In the
22 middle there, it is right, isn't it, that the standard
23 format for an interrogation report would contain a brief
24 assessment of how the interrogation had gone.
25 A. As best as I recall, yes.

1 Q. In paragraph 10 -- it may not matter -- but this one
2 states what type of approach, it has been redacted,
3 perhaps it doesn't matter, but "What approach was used?"
4 Then for this detainee, we have "Detainee answered all
5 questions put to him and was open throughout and is
6 probably telling the truth". Do you see that?

7 A. Yes.

8 Q. "He has clearly become bitter towards the coalition
9 forces, in particular the British, due to the death of
10 a friend and employee."

11 That is a reference to Baha Mousa, I take it, is
12 that right?

13 A. I assume, yes.

14 Q. The type of recommendations:

15 "There is no information or evidence to show the
16 detainee has any involvement in anti-coalition forces or
17 former regime loyalist activities, however being
18 concerned, albeit by association, to procuring
19 fraudulent documents is no doubt a criminal matter, as
20 is possession of weapons other than those for personal
21 protection, and as such these matters should be dealt
22 with by the appropriate authorities."

23 Just pausing there, I am not going to go through
24 them for every detainee, obviously, but for this
25 detainee that appears to be showing that from the

1 interrogation that had been carried out, the assessment
2 was that this detainee was probably telling the truth
3 and that it was criminal matters rather than internee
4 security matters that appeared to be emerging. Would
5 that be fair?

6 A. That would be fair, yes.

7 Q. Are those the type of reports that you and S017
8 physically took up to division once a week?

9 A. Yes.

10 Q. Very finally then this, please, matters relating to the
11 Red Cross. May we have on the screen MOD000590? This
12 is your statement from 2005. We see in the middle of
13 the page, please, you were saying that there had been --
14 do you see that longer paragraph, three lines down:

15 "In Sep 03 Red Cross visited our location and
16 recommended that Camp Bucca didn't come up to Geneva
17 Convention standards as there were a wide variety of
18 concerns relating to the running of the camp and also
19 concerning the holding of the internees and detainees."

20 Do you see that?

21 A. Yes.

22 Q. Now the Inquiry has received some evidence from sources
23 other than the Red Cross about physical problems with
24 the site of the camp. Do you remember anything about
25 those?

1 A. I'm not sure what "physical problems" means in this
2 context.

3 Q. About the siting of it and hygiene problems and things
4 of that nature.

5 A. Certainly they raised concerns about the hygiene.

6 Q. I don't want to go into issues that the Red Cross raised
7 with you directly, but can we look, please, at
8 MOD012244? Have you seen this document before? This is
9 the February 2004 Red Cross report, including into
10 Camp Bucca.

11 A. No.

12 Q. We can deal with this because this report is in the
13 public domain, but I want to take this very briefly, if
14 I may, by looking at MOD012256, which is the section of
15 the report which deals with, as you see at the top,
16 Um Qasr, the JFIT and Camp Bucca. Do you see that
17 there?

18 A. Yes.

19 Q. 3.3.

20 A. Yes.

21 Q. I'm sorry it is difficult. Can we enlarge paragraphs 29
22 and 30, please? I am taking this shortly so may
23 I emphasise, before I ask you questions about this, do
24 you see at paragraph 29 that it says "coalition forces",
25 "CF"?

1 A. Yes.

2 Q. So this report -- take it from me -- is dealing without,
3 in these sections, distinguishing the Americans from the
4 British or other coalition partners and coalition forces
5 as a whole. Do you understand?

6 A. Yes, I do.

7 Q. I do not want you to deal with US forces, just with what
8 you can help us with about British forces. Do you
9 understand?

10 A. I understand.

11 Q. If we look together at paragraph 30:

12 "Initially, inmates were routinely treated by their
13 guards with general contempt, with petty violence such
14 as having orders screamed at them and being cursed,
15 kicked, struck with rifle butts, roughed up or pushed
16 around."

17 Did you see anything of that kind from British
18 forces at the JFIT or at the compound at Camp Bucca?

19 A. No, I didn't.

20 Q. Then this:

21 "They were reportedly handcuffed in the back ..."

22 Did you see handcuffs being used by British forces?

23 A. No.

24 Q. "... and hooded for the duration of the interrogation."
25 Did you see hooding being used by interrogation by

1 British forces?

2 A. No.

3 Q. It follows that when it goes on to say, "Hooding
4 appeared to be" -- this is based on interviews in
5 September 2003 -- "motivated by security concerns as
6 well as to be part of standard intimidation techniques
7 ...", and so on, you say you just did not see hooding
8 being used in interrogation at all. Would that be
9 right?

10 A. We didn't use hooding at all.

11 Q. Paragraph 31:

12 "Persons deprived of their liberty undergoing
13 interrogation by the CF were allegedly subjected to
14 frequent cursing, insults and threats, both physical and
15 verbal, such as having rifles aimed at them in a general
16 way or directly against the temple, the back of the
17 head, or the stomach ... [and so on] ... and threatened
18 with transfer to Guantanamo."

19 So far as British forces were concerned, was that
20 any part of the way that your unit conducted operations
21 at the JFIT?

22 A. No, absolutely not.

23 MR MOSS: If you wait there, there will be some more
24 questions for you.

25 THE CHAIRMAN: Gentlemen, I am in your hands. I would like

1 to think that we can finish by midday. If we can't, we
2 may have to have a break. How do you feel?

3 MR FRIEDMAN: I feel I will finish within my normal time.

4 I don't feel it. I am certain of it.

5 THE CHAIRMAN: I don't know. If there is a risk of going
6 over, it is awkward, but we will break.

7 Questions by MR FRIEDMAN

8 MR FRIEDMAN: S018, I represent the detainees and the father
9 of the man, Baha Mousa. Can I start with conduct after
10 capture and ask you about the exercises that you were
11 involve in to this extent? Were medics and senior
12 officers on hand at all times invigilating what was
13 going on?

14 A. Correct, yes.

15 Q. Moving to Iraq and the tour, I just want to ask you
16 a few questions in order to see whether shortcomings or
17 perceived shortcomings of available intelligence had any
18 impact on inspiring coercive practices against detainees
19 at battlegroup or brigade level, so that is the context.

20 Would you agree with the general assessment that
21 intelligence in Iraq available to the British forces at
22 this time was necessarily immature?

23 A. Yes, I would agree.

24 Q. Having told us today that you weren't aware of brigade
25 or battlegroup level criticisms of the JFIT, did you,

1 either personally or as part of JFIT, have concerns that
2 effectively there was a layer of interrogation of
3 detainees going on below you at battlegroup or brigade
4 level beyond mere TQ?

5 A. No. We were aware that each brigade had its own TQers
6 and that's all we knew.

7 Q. It is just we have heard your criticism of the TQ
8 reports. What I really want to get at is was there any
9 concern that TQ was something of an expanding empire
10 beyond lowest common denominator questioning and more
11 in-depth interrogation?

12 A. No, I wasn't aware of that at all.

13 Q. Now, in terms of your personal experience -- and I ask
14 you generally without details -- over the tour, during
15 your own interrogations, did you find that prisoners
16 were prepared to talk?

17 A. Absolutely.

18 Q. Were you aware of a different view from your colleagues
19 or corporately that there were problems in persuading
20 Iraqi prisoners to give information if one was
21 effectively operating under Geneva Convention standards?

22 A. Sorry, just repeat that question?

23 Q. Yes, I'm sorry. It was long. Were you aware that
24 others took the view that there were problems in
25 persuading detainees to talk if one was operating under

1 Geneva Convention standards?

2 A. I wasn't aware of that, no.

3 Q. I emphasise that because there are some views -- and
4 I will not necessarily take you to them -- that some
5 people thought that Iraqis were used to harder
6 interrogation experiences from the previous regime.

7 A. Well, that might or might not be the case, I don't know.

8 Q. But there was no discussions about that being the
9 case --

10 A. None whatsoever, none whatsoever.

11 Q. When asked about the experience you brought to bear in
12 terms of the way you approached interrogation, you
13 referred to your course in 1987 and your time of being
14 around, as you put it, the conduct after capture world.

15 A. Yes.

16 Q. We have had your answers -- clear if I may say so --
17 about the purpose of the course was what it was. There
18 were no warnings about using it in other contexts
19 because that would have been outside the purpose. What
20 I want to ask is this: during the courses that you were
21 involved in, without going into detail, did you see what
22 we have heard in the Inquiry as the harsh technique of
23 interrogation being used?

24 A. Yes, yes.

25 Q. In terms of what the Inquiry has heard about how that

1 harsh technique was imported into the theatre in Iraq,
2 did you understand that there was no limit to the verbal
3 threat that harsh technique could include?

4 A. Harsh technique is -- it still comes under Geneva
5 Conventions. You are not allowed to insult anybody
6 verbally -- can you hear me? Under the Geneva
7 Convention, you are not allowed to belittle anybody
8 verbally, you are not allowed to make accusations of
9 a personal nature, if you like. But under the conduct
10 after capture world, you can say what you like because
11 it is an opt-out for British forces going through that
12 sort of training. So when the harsh is used in that
13 environment, there is no bar to what you can say or what
14 abuse you might like to shout at the person standing in
15 front of you.

16 Q. So if we split that answer down. First of all Geneva
17 Convention compatible verbal: your position from
18 training and experience is making threats to a detainee
19 that they would never be released unless they answered
20 questions, would that be something that training would
21 say was permissible?

22 A. No, it's not permissible.

23 Q. What about indicating to a person that if they were
24 detained, their family would be at threat because of the
25 dangers in Basra and Iraq from other forces?

1 A. No.

2 THE CHAIRMAN: You are shaking your head. That means, "No,
3 it is not permitted".

4 A. No, it is not permitted and I have never heard that
5 statement made either. That's the first time I've heard
6 it.

7 MR FRIEDMAN: And the last one, suggesting that it would be
8 leaked to the local community that if you did not answer
9 questions, you would be branded a collaborator.

10 A. That is absolutely not permissible.

11 Q. You are shaking your head -- not permitted. Did you
12 ever hear of those techniques, verbal techniques, being
13 used in interrogation, whether in JFIT or anywhere else?

14 A. I am not aware of them being used, no.

15 Q. Then moving to the conduct after capture --

16 A. Yes.

17 Q. -- where, in that special environment, you saw what you
18 are saying, as I understand, to be illegal techniques
19 being used for the purposes of training. Did you come
20 to a view about whether those techniques used in that
21 controlled environment were effective?

22 A. Generally speaking, no.

23 Q. Why do you say that?

24 A. Because the whole conduct after capture world is
25 designed just to provide training to certain military

1 units, to give them a flavour of what might come their
2 way were they to be captured by an enemy, and so, for
3 the whole -- the whole spectrum of ploys and approaches
4 is given to them during the exercise, but it doesn't,
5 actually, at the end of the day, list anything because,
6 particularly in a military scenario, where somebody has
7 been shouting at you since the day you joined, standing
8 there taking verbal abuse isn't really going to do
9 much --

10 Q. Can I interrupt you? You are saying you could not come
11 to a view because it was not being scientifically
12 analysed enough?

13 A. Absolutely correct. Absolutely correct, yes.

14 Q. Moving then to general matters at the Camp Bucca base.
15 Briefly, first of all, you were shown the copy of an
16 open access ICRC report. I just want to ask you this:
17 prior to these events, did detainees arrive at the base
18 already with injuries in your experience?

19 A. Occasionally -- prior to this --

20 Q. Yes.

21 A. -- there was certainly one operation I am aware of where
22 detainees did arrive with injuries, yes.

23 Q. Those were British forces -- in all these questions one
24 is assuming it is British forces we are talking about.

25 A. Yes.

1 Q. Yes, you nod. Did those injuries give you cause for
2 concern?

3 A. Yes.

4 Q. Are you able to say whether it was 1QLR who brought the
5 detainees or another battlegroup?

6 A. I think we are getting into realms of sort of sensitive
7 areas.

8 MR MOSS: If it is not QLR, I am not sure that it really
9 helps.

10 MR FRIEDMAN: I am guided by that.

11 THE CHAIRMAN: You did say in your normal time. We are
12 getting close to your normal time, Mr Friedman.

13 MR FRIEDMAN: With regard to the system of simultaneous
14 reception -- the US and the UK side by side -- in your
15 statement at paragraph 41 you say that the United
16 States, in their reception, would take the fingerprints
17 of the detainees.

18 A. That's correct.

19 Q. Can we take it that the British side did not?

20 A. We did not, no.

21 Q. Was there some protocol where, if the British side
22 wanted fingerprints, they could get them from the United
23 States?

24 A. No, not to the best of my knowledge.

25 Q. Just in terms of the previous experience of 1QLR, was it

1 common that 1QLR broke the 14-hour time limit for
2 delivery to the TIF?

3 A. No, I mean, 1QLR were generally a very good unit when it
4 came to bringing prisoners in and taking them away, so
5 this whole incident rather came as a shock that it was
6 1QLR because, up to that point, we had had very good
7 relations with them. They had always seemed, when they
8 arrived at the TIF, to be a well-disciplined unit with
9 their provost sergeant in charge, so --

10 Q. To be specific, there wasn't a common problem with the
11 time limits?

12 A. No, I am not aware of any problems with the time limits
13 from QLR, no.

14 Q. In terms of the other documentation beyond the TQ
15 reports, was it common that people came with general
16 medical problems -- I don't mean injuries -- where you
17 had not been notified of them by 1QLR?

18 A. I can't recall. I'm sorry.

19 Q. Okay. Just on cuffs, you said that people arrived in
20 cuffs. Were cuffs used when moving people around the
21 compound at JFIT --

22 A. When they arrived and they had plasticuffs, they were
23 taken off and proper handcuffs were applied by the MPS
24 whilst they were in the vehicle going down to the
25 processing tent. But once they were there, those

1 handcuffs were taken off.

2 Q. So plasticuffs were never used in your --

3 A. No, no.

4 THE CHAIRMAN: Now Mr Friedman.

5 MR FRIEDMAN: Just a few short questions on Operation

6 Salerno then.

7 THE CHAIRMAN: Very short.

8 MR FRIEDMAN: Just this, please, S018. You explained that

9 you interviewed these detainees.

10 A. Yes.

11 Q. You were shown an interrogation report in relation to

12 one detainee, Mr Al-Matairi. In fact, with regard to

13 Mr Al-Matairi and another man we know as D006, they were

14 interviewed again in October. Do you recall that? You

15 can take it from me to save time.

16 A. Okay.

17 Q. There were reports ranging over September and October.

18 You have been taken to one reference. I just want to

19 take you, if I may, to one other reference in relation

20 to another detainee, D006. It is at MOD047982, please.

21 That is the front page of the interview for D006.

22 If you go to the next page at MOD047983, it took place

23 on 19 September. If I could take you to the

24 interrogation summary and recommendations at the end,

25 which is at page MOD047985, a similar exercise as

1 before, and it is blacked-out approach was used at
2 paragraph 11, it says:

3 "Detainees were calm throughout the interview and
4 smiled a lot. Initially this was thought to be
5 cockiness, but was more likely to be nerves. He was
6 tense and obtuse at first because he thought he was
7 protecting his family. He later relaxed and became more
8 open with his answers. It was assessed that he was
9 telling the truth."

10 THE CHAIRMAN: Then I have read the next paragraph.

11 MR FRIEDMAN: We have already read the next paragraph,
12 which is in the same terms as the one we saw for
13 Mr Al-Matairi.

14 Thank you very much, Sir.

15 THE CHAIRMAN: Thank you. Mr Dingemans? He is not here.

16 Do you want to ask some questions?

17 Questions by MS DOBBIN

18 MS DOBBIN: May I, Sir. I have a couple of things, I will
19 put them as quickly as I can.

20 S018, when you first saw these detainees at the JFIT
21 you formed the impression from the first detainee that
22 the injuries had been sustained during arrest.

23 THE CHAIRMAN: Forgive me, could you speak up a bit or shout
24 into the microphone.

25 MS DOBBIN: Thank you, Sir. Shall I put it again, would

1 that help?

2 THE CHAIRMAN: For my benefit, not for his, I expect.

3 MS DOBBIN: S018, when you first came across the detainees

4 in the JFIT you had plainly formed the impression from

5 the first detainee that he had been assaulted upon

6 arrest.

7 A. You mean the man on the stretcher?

8 Q. Yes.

9 A. Yes, correct.

10 Q. And indeed you plainly formed the impression as well

11 that the injuries had been sustained in a lift; is that

12 right?

13 A. That was my -- yes, correct, yes.

14 Q. Can I just establish that that was from the first

15 detainee that you saw who was on the stretcher?

16 A. Yes.

17 Q. Thank you. You were plainly moved and angered by this

18 and -- I hope this is a fair way of putting it -- you

19 took Lieutenant Rodgers to task about the injuries?

20 A. Yes. That would be a fair way of putting it, yes.

21 Q. And again, just to be clear about it, you established

22 with him that he had been present at, or was certainly

23 knowledgeable about, the arrest?

24 A. Yes.

25 Q. And again, as far as you were concerned, when you refer

1 to him, or you forming the impression that he was hiding
2 something, it was on the basis that he had been present
3 at the arrest yet was denying that these injuries had
4 taken place at the arrest?

5 A. I don't know what his motivation for not saying anything
6 to me was. But my impression was he was loitering and
7 didn't want to come into the general conversation I was
8 having with the doctor and therefore when I challenged
9 him he was a bit reticent in answering, you know, what
10 had happened.

11 Q. Yes. Certainly as regards the basis of your
12 understanding, it was that he was denying that anything
13 had happened at arrest?

14 A. Yes.

15 Q. And your understanding was that these injuries had been
16 sustained at arrest?

17 A. Yes, yes.

18 Q. Thank you.

19 Indeed, so angry were you -- or moved -- at that
20 stage, that you accept that you may have been
21 intimidatory towards him?

22 A. I would probably put it that I pulled rank on him and
23 pulled him up, as it were, in military terms. So --
24 I mean, I was seething with anger, yes.

25 Q. Yes. And indeed I think you accept that it's possible

1 when I saw the other injuries, I reported the matter up
2 to J2X, and that's when they told me, "SIB are coming
3 down the following morning. Make facilities available
4 for interview".

5 MS EDINGTON: Thank you very much.

6 THE CHAIRMAN: Thank you. Mr Clark?

7 MR CLARK: No thank you, Sir.

8 THE CHAIRMAN: Mr Topolski?

9 Questions by MR TOPOLSKI

10 MR TOPOLSKI: Sir, I represent Corporal Payne. Two matters
11 very briefly, if I may. Are we to understand that up to
12 this point, certainly, insofar as you could judge it,
13 lQLR and the provost staff -- with which I am
14 particularly concerned -- seemed to be functioning well
15 and appropriately so far as detainees and bringing them
16 to you and so on.

17 A. Yes, that was my impression, yes.

18 Q. Thank you very much. Secondly this -- I don't know if
19 you can assist -- the provost corporal has told this
20 Inquiry of being required to continue conditioning,
21 stress positions and so on, after TQ'ing because,
22 according to him, he was told JFIT wanted to maintain
23 the shock of capture. Now, of course, I recognise you
24 can't speak as to what the provost corporal was or was
25 not told, but perhaps you can help: were you aware of

1 anyone from your end of the woods, as it were,
2 expressing such a wish to IQLR in relation to these
3 detainees?

4 A. Absolutely not.

5 Q. Absolutely not. Does it follow, from the emphatic way
6 you answered that question, that you would also say that
7 any such general wish expressed by JFIT to battlegroups
8 would simply not have been the case?

9 A. Absolutely. We --

10 MR TOPOLSKI: Thank you very much.

11 THE CHAIRMAN: Mr Beer?

12 Questions by MR BEER

13 MR BEER: Thank you. I ask questions on behalf of
14 Sergeant Smith. You had plenty of experience of dealing
15 with Sergeant Smith because it was he who generally
16 brought detainees to the JFIT.

17 A. That's correct, yes.

18 Q. Invariably it was him?

19 A. Invariably he was in charge of the patrol or whatever
20 you want to call it that brought them.

21 Q. And your general experience of him was that he behaved
22 appropriately, sensitively and compassionately towards
23 the detainees?

24 A. That was my impression, yes.

25 Q. Can I turn to the hours during which prisoners could be

1 brought to the JFIT? You started off saying today it
2 was a 24/7 operation and you said, when S017's evidence
3 was put to you, that it rang a bell that there was
4 a 9 o'clock cut-off for the Americans, but the British
5 could still receive people after 9 o'clock.

6 A. Yes, yes.

7 Q. Could you have a look, please, at MOD017101? Thank you
8 very much. We can see that this is a FRAGO --
9 a fragmentary order -- dated 30 May 2003. It follows
10 that this was issued before your arrival in theatre
11 because that was mid-July.

12 A. That's correct, yes.

13 Q. Do I take it from that that you would not have seen this
14 FRAGO?

15 A. I have never seen this FRAGO.

16 Q. Can we scroll on one page, please?

17 Do you see the third paragraph, under the
18 cross-heading, "Internee handover actions to be taken by
19 battlegroup"?

20 A. Yes.

21 Q. It has been highlighted. Thank you. The second bullet
22 point:

23 "Upon arrival at the Um Qasr go directly to the
24 registration unit."

25 Then a grid is given.

1 "Open daily 08.00-21.00 hours. UK personnel will
2 man the registration unit when open."

3 You describe in your witness statement in detail the
4 process of getting people to you. Which part of the
5 process is the registration unit referred to there?

6 A. That, I'm thinking, would be the MPS, the provost staff
7 corps.

8 Q. Was that unit before you in the chain?

9 A. Yes, they -- that's correct, yes.

10 Q. Were you aware, as according to this document, that that
11 unit was only open between 8 o'clock in the morning and
12 9 o'clock at night?

13 A. No, but they didn't operate on those hours. We were
14 24/7, both units.

15 Q. So your experience is different to what is written here?

16 A. Correct.

17 Q. Can I turn to the conversation with Sergeant Smith? You
18 said today that this was in the lunch queue --

19 A. Yes.

20 Q. -- days after the events?

21 A. Some days after. I don't recall how many days after.

22 Q. Can we look at MOD000597, please? Thank you.

23 This is a part of the witness statement of S017.
24 You explained your professional relationship with her
25 already. Can we look at the third paragraph, please,

1 starting "I sent"? Thank you very much. She is here
2 dealing, to put it in context for you, with the events
3 of Tuesday 16 September.

4 A. Yes.

5 Q. Then four lines in, she says:

6 "Some time that day I spoke with S018. He informed
7 me that QLR had supplied a logbook with regards to the
8 Baha Mousa operation which detailed feeding, watering,
9 et cetera. We would not ordinarily have one."

10 Firstly, did anyone hand you a logbook?

11 A. I don't recall receiving a logbook.

12 Q. If you had received a logbook, what would you have done
13 with it?

14 A. That's a good question because we never received
15 logbooks.

16 Q. Do you remember speaking with S018? I think she's still
17 waiting, at this point, at the airport --

18 A. Yes.

19 Q. -- reading the context of her statement, waiting to go
20 off on R and R, telling S018 that you had received
21 a logbook from QLR.

22 A. I do not recall that.

23 THE CHAIRMAN: Mr Beer, I don't think we are going to get
24 any further with that. You have the statement.

25 MR BEER: Yes. Can I just press you on the conversation

1 subsequently?

2 A. Mm-hm.

3 Q. Might it be that Sergeant Smith had said that there were

4 rumours circulating as to the creation of a logbook

5 rather than one had actually been created?

6 A. It is testing my memory. I don't know.

7 Q. You don't know. Is it possible that that might have

8 happened? In fairness to you --

9 A. It is possible.

10 Q. In fairness to you, you made a full witness statement in

11 October 2003 and you didn't include this conversation in

12 it, did you?

13 A. No.

14 THE CHAIRMAN: As I said a moment ago, I don't think you are

15 going to get any further on this that is going to help

16 me in any way.

17 MR BEER: No, thank you, Sir.

18 THE CHAIRMAN: Mr Bourne?

19 Questions by MR BOURNE

20 MR BOURNE: S018, you have described seeing bruising on all

21 the detainees on the Wednesday morning. That is in your

22 statement in August 2005, but not mentioned in the one

23 in October 2003. Can you tell us why that is?

24 A. I've no idea.

25 Q. Now, in 2009, would you say you have individual memories

1 of what you saw on each detainee or is it more a memory
2 of them as a group?

3 A. Of the ones who had the kidney bruising, it is a memory
4 of them as a group.

5 Q. Do you remember there being much variation between those
6 individuals as regards their bruising?

7 A. No.

8 THE CHAIRMAN: We have got the medical reports which deal
9 largely with that anyway, haven't we, Mr Bourne?

10 MR BOURNE: Sir, that is right. I just wanted to put this
11 to the witness, that we have heard from one of them, for
12 example, in this Inquiry, who has said that he did not
13 have extensive bruising -- as he put it, "just the trace
14 of some bruises".

15 THE CHAIRMAN: I am well aware of that.

16 MR BOURNE: Would you agree, S018, that you did not see
17 extensive bruising on every single individual?

18 A. I certainly saw visible bruising on all the individuals
19 to the best of my knowledge.

20 Q. But not extensive?

21 A. Define "extensive". I mean, across the kidney area.

22 THE CHAIRMAN: Mr Bourne, I see the point.

23 MR BOURNE: I am grateful. Thank you.

24 THE CHAIRMAN: This is not really at the forefront of this
25 man's evidence.

1 MR BOURNE: Sir indeed, and I have no more questions.

2 THE CHAIRMAN: Thank you. Yes, Mr Evans?

3 Questions by MR EVANS

4 MR EVANS: One matter, please, Sir.

5 S018, you had considerable experience in conduct
6 after capture training between 1987 and 2005. Before
7 that training commenced, was a briefing given to
8 everybody who attended the course?

9 A. Yes.

10 Q. Who gave that briefing?

11 A. The briefing was given by the centre controller for the
12 exercise.

13 Q. Was the briefing a mandatory briefing for all the
14 attendees?

15 A. Correct. It was mandatory.

16 Q. First of all, what was the purpose of the briefing as
17 regards the course in general?

18 A. The purpose of the briefing was to remind those taking
19 part in the exercise that this was an exercise, that
20 certain techniques were permitted on this exercise, and
21 they were detailed as being stress positions, use of
22 white noise, blindfolding of prisoners, also reminders
23 of no touching prisoners, what to do if a prisoner
24 collapsed in a cell, SOPs and thing like that.

25 Q. In your experience, therefore, during experience in

1 conduct after capture training over that period, was
2 there always a clear distinction drawn between the
3 techniques that were legal and the techniques that were
4 not legal?

5 A. Correct.

6 MR EVANS: Thank you very much.

7 THE CHAIRMAN: Yes, Mr Moss.

8 Further questions by MR MOSS

9 MR MOSS: A few very short matters. The first just one for
10 the transcript. I think that there was a number of
11 questions from my learned friend Mr Beer referring to
12 "S018" when it should have been "S017", just for the
13 transcript and the ciphers so they don't get confused.

14 S018, the only other matter is this please: you have
15 a cipher list, I think, there. Could you look at it for
16 a moment?

17 Your training right back in 1987, the two-week
18 interrogation course, as regards the training aspects of
19 the Geneva Convention, stress positions and so on, do
20 you recognise anywhere on that cipher list the person
21 who gave you that training? Obviously don't use the
22 name.

23 A. No.

24 Q. Do you know the name? Don't use it, but do you know the
25 name of the person who did give you that training?

1 A. Yes.

2 Q. Would a piece of paper just be handed up to this
3 witness, please?

4 THE CHAIRMAN: Just hand it to the witness.

5 MR MOSS: Could you just write down, please, the name of
6 anybody involved in that training in 1987 on the Geneva
7 Convention matters?

8 A. The course or just the Geneva --

9 Q. On the Geneva Convention matters and the matters
10 relating to the techniques, not the course generally.

11 A. I can give you two names. I mean, I can't remember how
12 this course divided --

13 Q. Give the names that you can remember. It may not
14 matter, but so that we have them. Could you then just
15 draw a line under those names?

16 Do you remember -- again don't use the names -- but
17 when you have been talking about harsh techniques and
18 what the limit was and questions about threats and
19 so on -- you remember my learned friend Mr Friedman
20 asking you questions about that -- during refresher
21 training that you have had, can you remember the names
22 of any instructors who gave you refresher training on
23 those sorts of matters, the limit of the harsh
24 technique? Can you remember the names?

25 A. Sorry, I can't, no.

1 MR MOSS: Thank you very much. Please just hand that to my
2 colleague there. Sir, those were my questions.

3 THE CHAIRMAN: Thank you very much.

4 We will stop now and have a ten-minute break. Thank
5 you very much for coming. I am grateful to you for your
6 evidence. What will happen now is I think, if you will
7 be kind enough to go with Ben here, he will remove you
8 from the hearing room in an appropriate manner.

9 MR MOSS: Sir, the next witness will be Mr Briscoe, but
10 obviously we have run over this morning.

11 THE CHAIRMAN: We will break off now. We will break off for
12 ten minutes.

13 (12.02 pm)

14 (A short break)

15 (12.10 pm)

16 MR ELIAS: Sir, I call George Briscoe, please.

17 THE CHAIRMAN: Yes. Mr Briscoe, I am going to ask that you
18 be sworn, please.

19 GEORGE HENRY BRISCOE (sworn)

20 THE CHAIRMAN: Please sit down a moment, Mr Briscoe. You
21 are Captain Briscoe, is that right?

22 A. Yes, Sir.

23 THE CHAIRMAN: If you would be kind enough to speak into the
24 microphone so that we can all hear you. As I say to
25 every witness, if there is any question that you don't

1 understand, I hope you will say so at once.

2 Yes, thank you.

3 Questions by MR ELIAS

4 MR ELIAS: Captain Briscoe, would you give the Inquiry your
5 full name, please?

6 A. George Henry Briscoe, sir.

7 Q. Would you look, please, at a folder which is in front of
8 you to your right, where I hope you will find a copy of
9 your statement to this Inquiry. Would you please
10 confirm that on the last page, BMI07741, your signature
11 appears above the date of 22 May of this year?

12 A. Yes, sir.

13 Q. When you signed that statement, Captain Briscoe, did you
14 do so on the basis that the contents of it were true to
15 the best of your knowledge and belief?

16 A. Yes, sir.

17 Q. Thank you very much. We have all read that statement
18 and indeed documents that relate, as it were, to you
19 covering matters that this Inquiry is particularly
20 interested in, and I am by no means going to take you to
21 every aspect of that statement or indeed every previous
22 statement or document that you may have completed. Do
23 you follow?

24 A. Yes, sir.

25 Q. Can I begin by just briefly asking you about your army

1 career? You joined the army in 1983?

2 A. Yes, sir.

3 Q. You joined the Queen's Lancashire Regiment?

4 A. Yes, sir.

5 Q. And have always been with that regiment through until

6 the present time?

7 A. Yes, sir.

8 Q. You were appointed to the post, were you, of regimental

9 sergeant major in November 2001?

10 A. Yes, sir.

11 Q. You were deployed to Iraq in 2003?

12 A. Yes, sir.

13 Q. What was your rank and role in Iraq in 2003?

14 A. I was warrant officer class 1, regimental sergeant

15 major.

16 THE CHAIRMAN: Could you pull a microphone a little closer

17 to you, please? Thank you.

18 A. Sir.

19 MR ELIAS: Regimental sergeant major in Iraq?

20 A. Yes, sir.

21 Q. You now hold the rank of captain in the army?

22 A. Yes, sir.

23 Q. I won't ask any more detail than that.

24 I want to ask you just a little, please, about your

25 training prior to going to Iraq, either pre-deployment

1 or indeed earlier training. Do you follow?

2 A. Yes, sir.

3 Q. Did you receive training in prisoner-handling?

4 A. Yes, sir.

5 Q. Would that have included prisoners of war and civilian
6 detainees?

7 A. Yes, sir.

8 Q. In essence, can you tell us about that training? What
9 fundamental principles were instilled in you through
10 training as to prisoner-handling?

11 A. Yes, sir. The training consisted of the law of armed
12 conflict, which is an infantry training directive that
13 all soldiers receive annually, which outlines the way
14 that prisoners of war should be treated, which is to say
15 that they should be given shelter and treated humanely
16 at all times, sir, and, if injured, should be taken to
17 a medical area to be seen and administered first aid,
18 sir.

19 Q. That was something you say you received annually. Was
20 it usually by way of a video?

21 A. By way of a video, sir, and followed by questions after.

22 Q. Was there any distinction to be drawn, did you
23 understand, between the treatment of prisoners of war or
24 civilian detainees?

25 A. No, sir.

1 Q. Specifically, training before Iraq, were you told
2 anything about the use of hoods, hooding of detainees?
3 A. I was aware, sir, of hooding taking place prior to the
4 deployment on Telic 2, sir.
5 Q. Before going to Iraq, you were aware of it taking place.
6 Were you given any training, Captain Briscoe, as to
7 whether it should or should not be used?
8 A. No, sir.
9 Q. You had joined the army in 1983. Had you ever received
10 information or instruction as to what this Inquiry is
11 calling the "Heath rulings", Prime Minister Heath's
12 rulings in the early 1970s?
13 A. No, sir.
14 Q. You know what I mean by the use of stress positions?
15 A. Yes, sir.
16 Q. Were you given any training in the use of stress
17 positions before going to Iraq at any time?
18 A. No, sir.
19 Q. Were you given any instruction as to whether stress
20 positions could or could not properly be used with
21 prisoners?
22 A. No, sir.
23 Q. Had you seen or been involved in the use of stress
24 positions in any aspect of your training?
25 A. No, sir.

1 Q. Not something, for example, that had been used or
2 practised on you or by you on other trainees?

3 A. No, sir.

4 Q. Did the word, before going to Iraq, "conditioning" mean
5 anything to you?

6 A. Yes, sir.

7 Q. What did it mean?

8 A. I had previously been on an intelligence course, sir, in
9 the early 1990s, where some conduct after capture
10 training or TQ training was taking place concurrently,
11 which wasn't -- which was not the course that I was on,
12 but I heard in the -- in one of the meal timings over
13 a weekend, when some people that were on that course
14 came out of what they called "the compound", that they
15 had been subjected to sleep deprivation and referred
16 to it as "conditioning", sir.

17 Q. So you understood sleep deprivation, at least, to be
18 a part, did you, of conditioning?

19 A. Yes, sir.

20 Q. But only as a result of what you were told?

21 A. Of what I had heard, sir.

22 Q. I understand. You never received any specific
23 instruction or training in the use of conditioning
24 techniques such as sleep deprivation, did you?

25 A. No, sir.

1 Q. Specifically, before going to Iraq, did you attend
2 a course or lecture in relation to prisoner-handling and
3 tactical questioning?
4 A. Prisoner-handling, sir, not tactical questioning.
5 Q. Was that part of your pre-deployment training?
6 A. Yes, sir.
7 Q. What, if anything, did you learn at that time -- before
8 going to Iraq -- which added to your sum of knowledge of
9 prisoner-handling?
10 A. Nothing, sir.
11 Q. Perhaps one of the important reasons that you are here
12 to give evidence to this Inquiry, as I think you
13 appreciate, Captain Briscoe, is to consider issues
14 relating to the chain of command for the regimental
15 sergeant major and his responsibilities.
16 A. Yes, sir.
17 Q. Before going to Iraq and -- if I can put it this way --
18 within the normal chain of command, would the provost
19 staff have been your responsibility as regimental
20 sergeant major?
21 A. Yes, sir.
22 Q. Would you therefore have had responsibility for the
23 guarding of prisoners?
24 A. No, sir.
25 Q. Would you have had overall responsibility for such

1 function?

2 A. No, sir.

3 Q. You had responsibility for the provost staff?

4 A. Yes, sir.

5 Q. And their function in relation to prisoners?

6 A. Prisoners, sir -- they would hold prisoners for a period

7 of up to seven days under the custody procedures that

8 were in place dictated by MCTC, sir.

9 Q. When you were deployed to Iraq, what was your role

10 there?

11 A. When we initially deployed, sir, I believed that I would

12 be responsible for prisoners of war and that I was part

13 of the commanding officer's TAC.

14 Q. So were you part of the commanding officer's TAC group

15 from the beginning of your deployment to Iraq?

16 A. Yes, sir.

17 Q. But at that stage, as you understood it, you had

18 responsibility for detainees?

19 A. Yes, sir.

20 Q. And through what chain was that responsibility exercised

21 by you in Iraq?

22 A. It only initially, sir, was my responsibility for the

23 first week on arrival up in Basra as orders contrary to

24 what I believed to be my role were issued, sir.

25 Q. We will come to that in a minute. Before we do, can you

1 help please? What was the chain down from you to
2 exercise responsibility over detainees when you first
3 arrived in Basra?

4 A. It would have been, sir, through myself, through the
5 provost sergeants and the provost staff, sir.

6 Q. And the provost sergeant at that time was?

7 A. Sergeant Smith, sir.

8 Q. And the staff under him that you recall?

9 A. Corporal Payne, sir.

10 Q. So initially, at least -- is this your evidence --
11 Corporal Payne through Sergeant Smith, answerable to
12 you?

13 A. Yes, sir.

14 Q. For how long do you say that that situation pertained?

15 A. The first week, sir --

16 Q. The first week.

17 A. -- which would have been the latter end of June, sir.

18 Q. What happened to change that?

19 A. Orders had been received, sir. There was the
20 introduction of what would come to be known as the
21 "battlegroup internment review officer", sir.

22 Q. We are calling him the "BGIRO". Correctly or
23 incorrectly, that is how he has been referred to in this
24 Inquiry, the "BGIRO". It was the appointment, was it, of
25 a BGIRO which you say changed matters?

1 A. Yes.

2 Q. Had you ever heard of a BGIRO before knowing of this
3 appointment?

4 A. No, sir.

5 Q. I don't think there is any issue but that it was
6 a Mr Royce who was appointed.

7 A. Yes, sir.

8 Q. Major Royce, is that right?

9 A. Yes, sir.

10 Q. In essence, Captain Briscoe, can you tell us, please,
11 what was the change that was brought about at the end of
12 that first week, as you say, in terms of the chain of
13 command?

14 A. A FRAGO arrived, sir. I believe it to be FRAGO 29.

15 Q. Forgive me, but I think -- are you looking at some
16 documents while you --

17 A. No, sir, just the notes, sir.

18 Q. It is a document then. I would like you just to put it
19 aside, if you will. If you need to refer to anything,
20 I am sure you can ask the chairman. But, for the
21 moment, anyway -- I will try to help you by taking you
22 to your Inquiry statement and other documents as we need
23 to and I am sure, at the end, the chairman will invite
24 you to say anything else that you may want to say that I
25 haven't or we haven't covered between us, but I think it

1 is better that you don't refer to notes at the moment.

2 At the end of the week that you say this -- what
3 I might call the "normal system" -- pertained, it
4 changed by the appointment of a BGIRO, you say?

5 A. Yes, sir.

6 Q. What were the changes that were brought about in the
7 chain of command?

8 A. The battlegroup -- the BGIRO, as you refer to him, sir
9 held a meeting with all the company sergeant majors,
10 myself -- Sergeant Smith was present. Others may have
11 been present, but I can't remember who, sir -- where
12 Major Royce outlined the way forward from the point of
13 capture of detainees to the final destination of the TIF
14 or release, who was to guard them and where the
15 responsibilities sat, sir.

16 Q. Forgive me. I think we understand that from your
17 statement. What I am really asking you to do, if you
18 will, is to tell the Inquiry what were the changes that
19 were actually brought about at that stage in the chain
20 of command.

21 A. The changes, sir, were that Sergeant Smith would be
22 attached to the intelligence staff, so that he would be
23 available in battlegroup headquarters' location 24/7, to
24 be available to process the detainees when they arrived
25 at that location, and Corporal Payne would also be

1 attached to the company quartermaster sergeant's stores
2 for the same purpose, so that he would be available in
3 the location to deal with detainees, as opposed to being
4 anywhere else, sir.

5 Q. Who was Sergeant Smith now to be answerable to, in
6 relation to detainees?

7 A. The BGIRO, sir.

8 Q. And Corporal Payne?

9 A. The same sir.

10 Q. Through Sergeant Smith in the same way?

11 A. Yes, sir.

12 Q. What responsibility did you have for either
13 Sergeant Smith or Corporal Payne under the new regime?

14 A. From that point, sir, I believe that I was taken out of
15 the chain of command with regards to Sergeant Smith and
16 Corporal Payne, although they could still report to me
17 should they require to do so on any matter for advice or
18 concern, sir.

19 Q. If you will forgive me saying so, that sound a little --
20 I don't mean your answer -- the system sounds a little
21 woolly, does it?

22 A. No, sir. The regimental sergeant major is available to
23 anyone who is within his direct chain of command, from
24 private soldier upwards, sir, to be approachable and to
25 be able to have an open door policy whereas actually

1 advice could be given, sir.

2 Q. That I think we understand, but you tell us that, from
3 having direct responsibility yourself through the chain
4 down for detainees, you were now simply taken out of
5 that chain, although Sergeant Smith and Corporal Payne
6 and the other provost staff could still have access to
7 you to raise any issues that they wished to --

8 A. Yes, sir.

9 Q. -- which could include, could it, issues relating to
10 their job of dealing with and handling detainees?

11 A. If they wished to, sir, yes.

12 Q. Can we have a look, please, at FRAGO 70? It is
13 MOD017101. You refer to it in your statement to this
14 Inquiry. If we can just keep it all on the screen for
15 a moment.

16 You will know of FRAGO 70. You have seen it,
17 Captain Briscoe?

18 A. Yes, sir.

19 Q. I think you tell the Inquiry, in your statement, that
20 this is a document emanating from you.

21 A. No, sir.

22 Q. What part did you have in creating or disseminating --

23 A. I received this document from the operations officer
24 shortly before deployment and I shrunk it down to
25 A5 size, laminated it and distributed it amongst the

1 warrant officers, sir.

2 Q. Thank you very much. If we look at the top, can we just
3 enlarge the top left-hand side, please -- the top
4 left-hand quarter. Thank you very much. Just to get
5 the date, we can see it is May 2003, setting out
6 internment and detention procedures. The scope of the
7 order specifies the procedure to be implemented when
8 detaining or interning civilians.

9 If we go to the right-hand column and to the bottom
10 quarter of it, under "Internment procedures", do you see
11 this, Captain Briscoe?

12 "The [battlegroup] RP staff ..."

13 It is about halfway through that internment
14 procedures paragraph.

15 "The BG RP staff are responsible for the care of the
16 suspects when in battlegroup custody."

17 A. Yes, sir.

18 Q. That, then, would have included you?

19 A. At that point, sir, yes.

20 Q. At that point. So that order was clear, wasn't it, in,
21 as it were, giving you -- and others, of course -- but
22 you the responsibility?

23 A. Yes, sir.

24 Q. Let me ask you first of all, did you see that order?

25 A. Yes, sir.

1 Q. Did you ever see any order which countermanded it?
2 A. Yes, sir.
3 Q. A written order?
4 A. Yes, sir.
5 Q. From whom did that come?
6 A. Major Royce, sir.
7 Q. You speak of a meeting that Major Royce, what, summoned
8 himself?
9 A. Yes, sir.
10 Q. Apart from yourself and other officers --
11 A. Yes, sir.
12 Q. -- how high or low --
13 A. Warrant officers, sir.
14 Q. Warrant officers were present. The meeting convened by
15 Major Royce?
16 A. Yes, sir.
17 Q. Was the new system -- the BGIRO system -- then explained
18 to you?
19 A. Yes, sir.
20 Q. Do you say that you were told at that meeting that you
21 were, as I think you put it, being removed from the
22 loop?
23 A. Yes, sir.
24 Q. By whom?
25 A. Major Royce, sir.

1 Q. Do you know -- I don't want you to speculate on it --
2 whether, at that time, the CO was aware of that meeting?

3 A. Yes, sir.

4 Q. How do you know that?

5 A. He would have received the orders from the commanding
6 officer, sir.

7 Q. He would have received the order. In paragraph 22 of
8 your statement to this Inquiry at BMI00729, you refer to
9 the CO receiving orders from brigade at the start of the
10 tour relating to a BGIRO and Major Royce appointed. You
11 say this:

12 "It was clear at this stage who was in charge of
13 detainees and responsible for all procedures relating to
14 them."

15 Why did you take the view that the BGIRO was
16 responsible for all procedures relating to them?

17 A. Major Royce outlined it, sir, during the meeting.

18 Q. That's what he told you?

19 A. Yes, sir.

20 Q. Are you sure there was a meeting to explain these
21 matters --

22 A. Very certain, sir.

23 Q. -- at which these other officers were present?

24 A. Yes, sir.

25 Q. So, on the appointment of Major Royce as BGIRO, you were

1 withdrawn from the loop. Did that mean that you then
2 had no responsibility for the TDF and detainees?

3 A. I still had an interest in the TDF, sir, and the
4 internees that were passing through the location,
5 although my primary task was out with the commanding
6 officer's TAC.

7 Q. So you still had an interest, as you put it, in the TDF
8 and in detainees?

9 A. Yes, sir.

10 Q. Do you mean that you were still required to have an
11 interest?

12 A. No, sir. As regimental sergeant major, I would have an
13 interest in all aspects of battalion -- aspects of the
14 operations that were ongoing, sir.

15 Q. But it was not specifically part of your job?

16 A. No, sir.

17 Q. Is that what you are saying?

18 A. Yes, sir.

19 Q. So, having an interest, did you visit the TDF from time
20 to time after this meeting where Major Royce had taken
21 over?

22 A. Yes, sir.

23 Q. The time before Operation Salerno, did you make visits
24 to the TDF and ever see detainees hooded?

25 A. Yes, sir.

1 Q. On how many occasions did you see detainees hooded?

2 A. I don't remember, sir.

3 Q. Was it once or more than once?

4 A. More than once, sir.

5 Q. What did you understand was the purpose of hooding

6 detainees?

7 A. Security, sir.

8 Q. So where did you see detainees hooded?

9 A. In the TDF, sir.

10 Q. In the building itself?

11 A. Yes, sir.

12 Q. What was the purpose of hooding them for security within

13 the building itself, as you understood it?

14 A. They would have -- I assume, sir, to be moved across to

15 the tactical questioning area, sir, on arrival. There

16 were also detainees that weren't hooded, sir, on

17 occasion, also.

18 Q. Did you have any view as to whether hooding was proper

19 or improper, correct or otherwise?

20 A. With hindsight, I now know it to be improper, however,

21 at the time, I believed it to be an acceptable practice

22 for security reasons.

23 Q. Why did you believe it to be so?

24 A. So that the detainees, certainly when they initially

25 came into the base, could not examine the layout of the

1 key locations within it, sir, for security reasons.

2 Q. Forgive me. I think we understand why there may have
3 been a reason -- said that there is a reason for it.
4 I want you to tell us, if you can, why you understood
5 that it was approved that it should be used for that
6 purpose.

7 A. Basically sir, so that they -- the detainees -- wouldn't
8 be able to identify the layout of the --

9 Q. Forgive me. It is my fault for my question to you. We
10 understand that, what is said to be the reason for doing
11 it. You have told us that you understood it was proper
12 at the time, although you now realise it wasn't;
13 correct?

14 A. Yes, sir.

15 Q. I am simply asking you this, Captain Briscoe. From whom
16 did you understand it was proper?

17 A. It was a practice, sir, that we had inherited from the
18 Black Watch, sir, and a procedure that I understood to
19 be commonplace, sir.

20 Q. So it was a standard operating procedure, was it,
21 effectively, as you believed it?

22 A. Yes, sir.

23 Q. So does it follow, Captain Briscoe, that when you saw
24 it, you didn't question it?

25 A. I didn't, sir.

1 Q. When you visited the TDF, did you ever see detainees in
2 stress positions?

3 A. No, sir.

4 Q. Did you ever see any violence used by any of the guards
5 or the provost staff on detainees?

6 A. No, sir.

7 Q. When the change was made and you were told of it by
8 Major Royce, did you have any misgivings about the new
9 system?

10 A. No, sir.

11 Q. You accepted it. Did it seem to be a sensible
12 alteration to what I think may have been practice for
13 donkeys' years?

14 A. It seemed to complement the procedures that would have
15 already been in place anyway, sir.

16 Q. By complementing the procedures, which ones are you
17 thinking specifically?

18 A. The specific ones of practicality, sir, are to do with
19 the guarding.

20 Q. Why did the appointment of the BGIRO assist with any
21 problems there?

22 A. Initially, sir, on arrival, Burma Company were the ones
23 that picked up the burden, if you like, of guarding all
24 detainees that came to the location. Their manpower was
25 then pretty much fixed for the majority of the time and

1 couldn't conduct their own operations. It was also for
2 the preservation of evidence that the soldiers that
3 brought in the detainees would actually have to produce
4 some form of documentation and evidence to support any
5 likely internment, sir.

6 Q. Do you recall being interviewed under caution by the
7 SIB --

8 A. Yes, sir.

9 Q. -- in March of 2005, 21 March. I just want to take you
10 to one or two passages from that interview. Can we
11 look, please, at MOD004911? Towards the foot of the
12 page, you are being asked questions by Warrant Officer 2
13 Spence. "Let us talk about the holding area ..." Do
14 you see that, Captain?

15 A. Yes, sir.

16 Q. "... let's talk about the holding area then, or other
17 area that was available or used for the processing of
18 detainees. Where did [your] responsibility lie in
19 respect of that establishment?

20 "Answer: I had an interest, with regards to being
21 the regimental sergeant major ..."

22 Yes?

23 A. Yes, sir.

24 Q. "... As to regards to and ensuring that what I saw in
25 there was of the acceptable standard."

1 A. Yes, sir.

2 Q. You said in the next answer:

3 "Well with regards to the detainees that were in
4 there, which were infrequent as opposed to frequent,
5 I understand that, that I would have a passing interest
6 as opposed to a direct role of running this particular
7 processing location, due to Major Royce taking on that
8 role for the coordination of the, the detainees and the
9 movement of those between that location and the TIF, and
10 it, it was, certainly my understanding of the situation
11 that he ran and looked after that facility with the
12 provost staff ..."

13 A. Yes, sir.

14 Q. "... so I would have a passing interest as opposed to
15 a direct role ...", were you meaning to say that you
16 believed that you still had some oversight, some
17 overseeing role?

18 A. Yes, sir.

19 Q. Did that overseeing role include any responsibility for
20 the conduct of the provost staff in relation to
21 detainees?

22 A. No, sir.

23 Q. So what was it to oversee, Captain Briscoe?

24 A. To oversee that procedures were implemented, sir,
25 correctly.

1 Q. What procedures in particular?

2 A. That the timelines were being met of the transportation
3 and that the detainees were being treated correctly,
4 sir.

5 Q. If we move on a few pages in the interview at
6 page MOD04915, you were asked halfway down the page:
7 "Was there any formal written orders or verbal
8 orders with regards to what your responsibility towards
9 that facility was?
10 "Answer: No, no.
11 "Question: Right, and the passing interest you had
12 of it was that just you personally taking on that
13 interest or were you directed to have a passing interest
14 of it?
15 "Answer: I, I take the passing interest as I would
16 in all locations as to what's going on and a passing
17 interest in a sanger would resulted in walls being
18 thicker and upgraded, and in a similar fashion if I'd
19 have thought something that wasn't right, based on my
20 prior experience I would certainly have brought to the,
21 you know, the attention of the chain of command and we
22 would have done some remedial action ..."
23 A. Yes, sir.
24 Q. You seem to be saying that you were not aware of any
25 written change, albeit you had had a meeting with

1 Major Royce.

2 A. Yes, sir.

3 Q. I mean, is that the position?

4 A. Yes, sir.

5 Q. You were not aware of any written change, but it was

6 Major Royce who told you of the change?

7 A. He told me of the change, sir, and he referred to orders

8 that had come down from a higher level, sir, when being

9 appointed the BGIRO, sir.

10 Q. At page MOD04917 -- I think you reflect this in your

11 statement to this Inquiry -- if we just look at what you

12 were saying then, in the second half the page:

13 "... would you say Major Royce or Major Peebles were

14 in, had the authority to override provost staff?

15 "Answer: Yes."

16 A. Yes, sir.

17 Q. Over the page, you were asked this question, second

18 question:

19 "... so were you present at a briefing chaired by

20 the commanding officer at which, obviously the key

21 appointments were present whereby he identified that

22 Major Royce was the coordinator for that facility and

23 detainees?"

24 You said:

25 "Major Royce had a meeting soon after arrival ..."

1 That's the meeting to which you refer, is it?

2 A. Yes, sir.

3 Q. So the commanding officer was not present at that

4 meeting?

5 A. No, sir.

6 Q. So, from that meeting, did you, in fact, exercise any

7 authority over Sergeant Smith or Corporal Payne in

8 relation to their duties for detainees?

9 A. No, sir. Major Royce outlined the responsibilities for

10 the provost within his role as the BGIRO, sir.

11 Q. Between that time and time that the Operation Salerno

12 detainees were brought in, was there, in your -- as I

13 understand it -- casual visits to the TDF and no doubt

14 your coming into contact with the provost staff from

15 time to time -- would that be right?

16 A. That's right, sir.

17 Q. -- was there anything that caused you concerned about

18 the way in which detainees were being handled or any

19 other aspect of the TDF procedures?

20 A. None whatsoever, sir.

21 Q. What was your day-to-day role, then, from that time on?

22 A. I was out, sir, with the commanding officer's TAC group

23 on all operations, sir, and other business.

24 Q. How much of your time did that in practice take up?

25 A. The majority of it, sir. In excess of 18 hours a day,

1 sir.

2 Q. What was your role within the TAC group?

3 A. I commanded the second vehicle, sir.

4 Q. You commanded the second vehicle. Presumably on a daily

5 basis, therefore, you were talking with the commanding

6 officer?

7 A. Yes, sir.

8 Q. The change from the RSM's historical control over

9 provost staff to the BGIRO, was that a change that you

10 ever discussed with the CO?

11 A. No, sir.

12 Q. Never?

13 A. No, sir.

14 Q. And he never discussed it with you?

15 A. No, sir.

16 Q. No conversation as to how it was running?

17 A. No, sir.

18 Q. Whether the change had gone smoothly?

19 A. No, sir. If it hadn't, sir, I would have reported it to

20 the commanding officer, if there had been an issue, sir.

21 Q. If there had been any issue, you would have reported it?

22 A. Yes, sir.

23 Q. There were concerns, were there, about the TDF itself in

24 your mind?

25 A. No, sir.

1 Q. It was a building that was fit for the purpose of
2 housing detainees, as you saw it?

3 A. It was the only building available, sir.

4 Q. I follow. So it was a needs must?

5 A. Yes, sir, and an improvement on what it had previously
6 been under the Black Watch, sir.

7 Q. The Black Watch had used another building on the site,
8 is that right?

9 A. Yes, sir.

10 Q. Nevertheless, hearing what you say, was the TDF in fact
11 a building which was less than ideal?

12 A. Less than ideal, sir, but suitable for short-term
13 holding as opposed to detention, sir.

14 Q. Did you have any concerns about the security that it
15 provided, either for detainees or for troops themselves?

16 A. None, sir. We did organise doors, through the
17 quartermasters, to be organised -- to be put up, but
18 they came after Baha Mousa's death, sir.

19 Q. How long before that had they been ordered, do you know?

20 A. Up near the beginning of the tour, sir, a statement of
21 requirement had gone in, once that building was being
22 used for this purpose, sir.

23 Q. So they didn't come through for many months?

24 A. They didn't, sir, no.

25 Q. Do you recall a time when there had been beds or cots

1 put into the TDF?

2 A. Yes, sir.

3 Q. Were they subsequently removed?

4 A. I don't know, sir.

5 Q. Who ordered that beds or cots should be put in there in

6 the first place?

7 A. I don't know.

8 Q. Had the placing of them into the TDF and the removal of

9 them -- both things -- both happened before the

10 Operation Salerno detainees had come?

11 A. I don't know, sir.

12 Q. Were you aware of any documentation that was kept at the

13 TDF in relation to logging in or logging out detainees

14 as they came and went?

15 A. Yes, sir.

16 Q. What documentation was kept?

17 A. The BGIRO role, sir, collated information on the arrival

18 with the provost, generally, of all of the detainees,

19 sir.

20 Q. So the BGIRO kept the documentation, as you understood

21 it, did he?

22 A. Yes, sir.

23 Q. He kept a record of who came and when and so on?

24 A. Yes, sir.

25 Q. And when they were shipped out again to the TIF or

1 released or whatever it might be?

2 A. Yes, sir.

3 Q. Was there any system in place, as far as you were aware,
4 that logged, on a minute-by-minute basis, if you like,
5 the movement of detainees being taken from the TDF, for
6 example, for tactical questioning or to the medical --
7 the RAP?

8 A. I don't know, sir.

9 Q. You were not aware of such a document, were you?

10 A. No, sir.

11 Q. In your previous experience as RSM -- perhaps in the
12 UK -- would there have been such logs kept, movement of
13 prisoners?

14 A. Yes, sir.

15 Q. Sergeant Smith, how did you regard him as a soldier?

16 A. Sergeant Smith was competent, sir. He was well
17 experienced. He was a very good instructor. He worked
18 within the intelligence cell previously on other
19 operational tours and I had no concerns about his
20 competency to perform this task, sir.

21 Q. So you had no concerns about leaving him, as it were,
22 under the BGIRO in charge of detainee --

23 A. No, sir.

24 Q. -- handling and the TDF?

25 A. No, sir.

1 Q. Did Sergeant Smith at any time indicate to you, after
2 you had relinquished, as it were, this responsibility,
3 that he had concerns about, if you like, the volume of
4 work that he was being required to carry out?

5 A. No, sir. However I remember an occasion where
6 Captain Seaman came to me and asked where Sergeant Smith
7 was, to which I applied, "Well, he works for you", and
8 Sergeant Smith couldn't be found and Captain Seaman went
9 then -- having myself outlined that he was reporting to
10 the BGIRO and himself, as far as his work and duties
11 go -- so that he could be found. He was found in the
12 accommodation on his bed, sir.

13 Q. Were you aware that Sergeant Smith predominantly, if not
14 always, was part of the team of soldiers who took
15 detainees to Um Qasr?

16 A. I understood that he did take --

17 Q. Did you know that at the time?

18 A. No, sir.

19 Q. So he never complained to you, not necessarily that the
20 work was getting on top of him, but that he had a larger
21 workload, if you like, than he could cope with?

22 A. No, sir.

23 Q. Corporal Payne, how did you regard him as the provost
24 corporal?

25 A. Again, Corporal Payne was qualified. He was competent

1 and I had no concerns with Corporal Payne, sir.

2 Q. Did he, at any stage, raise any issue with you about the

3 job that he had to do in the TDF?

4 A. None, sir.

5 Q. You said a little while ago that you had

6 a responsibility for ensuring that detainees were sent

7 to the TIF in a timely fashion.

8 A. Yes, sir.

9 Q. You were aware, were you, of the 14-hour rule?

10 A. It was six hours, sir, when I initially arrived, sir,

11 when it was my responsibility.

12 Q. So you were not responsible, what, after the first week

13 for that?

14 A. Correct, sir.

15 Q. That was your responsibility only in the first week, was

16 it?

17 A. Yes, sir.

18 Q. It wasn't an ongoing responsibility?

19 A. No, sir.

20 Q. I want to ask you about the Operation Salerno detainees.

21 Did you visit the TDF at any time when they were housed

22 there?

23 A. No, sir.

24 Q. But you were aware, were you, of their arrival?

25 A. Yes, sir.

1 Q. Did you know of Operation Salerno before it took place?

2 A. Yes, sir.

3 Q. Did you participate on that morning when the arrests
4 were made?

5 A. I was on the ground, sir, with the commanding officer's
6 TAC, sir.

7 Q. Part of the TAC group?

8 A. Yes, sir.

9 Q. Did you ever see any of the detainees at BG Main after
10 their arrest?

11 A. On the Monday morning, sir, I spoke with Corporal Payne
12 from the area of the CQMS's and I could see the TDF from
13 that location as to where there were detainees actually
14 within there, sir.

15 Q. So you spoke with Payne. You could see the TDF from
16 where you were speaking with him. What did you speak to
17 him about?

18 A. After Operation Salerno, sir. We had arrested -- that
19 is the CO's TAC had arrested a Garamsche tribesman that
20 had shot in the vicinity of our Land Rovers, which
21 turned out to be criminal, and he was apprising me of
22 what had actually occurred with the release of that
23 particular detainee, sir.

24 Q. So that conversation with Payne was about the release of
25 a Garamsche?

1 A. Yes, sir.

2 Q. Could you see into the TDF at that stage?

3 A. Only vaguely, sir.

4 Q. What could you see?

5 A. I saw some detainees crouched in there, sir. I could
6 see that there were a couple hooded and I could see that
7 there were others unhooded, sir, and that was it.

8 Q. This was on the Monday morning?

9 A. It was, sir.

10 Q. Was anything said about those detainees by either you or
11 Corporal Payne?

12 A. Nothing, sir.

13 Q. Did you expect that detainees would remain hooded,
14 having been placed in the TDF?

15 A. No, sir.

16 Q. When you saw these detainees on the Monday morning --
17 some with hoods on their heads, as you say -- did you
18 raise any question about it?

19 A. No, sir. I expected them to be being moved in the very
20 near time, sir, probably across to the TQers, which was
21 normal procedure, sir.

22 Q. All right. Was that your only sight of these detainees?

23 A. Yes, sir.

24 Q. That Monday morning?

25 A. Yes, sir.

1 Q. About what time was that, do you recall?

2 A. I have no idea, sir. Early, I would expect, sir, as we
3 were going on the ground most days directly after
4 breakfast, which started from 05.00 hours onwards, sir.
5 It would have been any time in the early morning
6 bracket.

7 Q. You would have been out or be going out, in all
8 probability, with the TAC group and the CO that Monday
9 morning, would you?

10 A. Yes, sir. We were going out, I believe, on an
11 operation, sir, that morning early.

12 Q. Did you go with the CO to see -- or to view, if you
13 like -- the detainees in the TDF at any stage on that
14 Monday morning?

15 A. No, sir.

16 Q. You are sure about that, are you?

17 A. Positive, sir.

18 THE CHAIRMAN: We are getting quite close to -- if not on --
19 1 o'clock.

20 MR ELIAS: I don't have a lot more, but I will deal with it,
21 if I may, at 2 o'clock.

22 THE CHAIRMAN: I think that is probably better.

23 Just before we go -- because it is in my mind and
24 I want to get it clear and I think I am probably not
25 clear on it -- you said there was a written order making

1 the change from your responsibility for the detainees to
2 the BGIRO.

3 Is the written order that you are referring to the
4 FRAGO 70 which had come down from brigade?

5 A. There was a divisional order, Sir, or a brigade order
6 that had come down, Sir, yes.

7 THE CHAIRMAN: But not a battalion order?

8 A. I haven't seen a battalion order, Sir, no.

9 THE CHAIRMAN: That's what I understood --

10 A. I subsequently saw the IQLR internment procedures order,
11 Sir, later.

12 THE CHAIRMAN: Later?

13 A. Yes, sir.

14 THE CHAIRMAN: When?

15 A. After the meeting had been convened. Which I assumed
16 that Major Royce had gone from the meeting and
17 consolidated his notes, Sir, to produce that particular
18 document.

19 THE CHAIRMAN: I see. So at the meeting no order was
20 produced; it was subsequently that that procedure
21 document was produced?

22 A. Yes, Sir. I think Major Royce had extracted from the
23 main orders, which is normal, the information that he
24 required to actually get it started very quickly, sir.

25 THE CHAIRMAN: All right, thank you.

1 Q. All right. Let's just have a look, please, at
2 MOD0015432, dated 9 July. I think we all familiar with
3 this now, "1QLR internment procedure". Under "General"
4 paragraph 1, the last sentence:
5 "The CO has appointed Major Royce to be the BGIRO."
6 This is the document that you saw, is it?
7 A. Yes, sir.
8 Q. Nothing set out in this document specifically, as it
9 were, indicates that the BGIRO is put into the RSM's
10 position or indeed that you are specifically taken out
11 of the loop. Do you agree?
12 A. No, sir.
13 Q. Can you point, then, to anything in this document?
14 A. It says in paragraph 4, sir, if I'm correct, "This is
15 a Battalion Main responsibility under the direction of
16 the BGIRO conducted by the provost sergeant", sir.
17 Q. "... under the direction of the BGIRO", I accept that.
18 It is there to be seen, "... conducted by the provost
19 sergeant"?
20 A. Yes, sir.
21 Q. Your interpretation of that was that you were taken out
22 of the loop?
23 A. Yes, sir.
24 Q. Or does it go further, that you say you were told that
25 by Major Royce specifically?

1 A. Yes, sir.

2 Q. You were?

3 A. Yes, sir.

4 Q. I follow. Were you aware of changes after the death of
5 Baha Mousa?

6 A. Yes, sir.

7 Q. I think you had actually been out with the TAC group
8 when the death of a detainee was reported to the CO; is
9 that right?

10 A. That's right, sir.

11 Q. And you came back that night, did you, with the TAC
12 group?

13 A. Yes, sir.

14 Q. You say in your statement that when you got back to
15 BG Main, you simply went straight to your room.

16 A. Yes, sir.

17 Q. Did you not go to the TDF?

18 A. No, sir.

19 Q. Not even to see Sergeant Smith or Corporal Payne?

20 A. No, sir.

21 Q. Why not?

22 A. The adjutant was already in camp, sir. It was a number
23 of hours before we returned back to camp after the
24 reported death, sir. The commanding officer was going
25 to get apprised of the situation and he would obviously

1 back-brief me at a later date, sir.

2 Q. But not even, if you like, from a more welfare point of
3 view for men who operated under you, you didn't go to
4 see that everyone was --

5 A. No, sir, I was aware that an ongoing investigation would
6 follow and normal protocol is not to follow that up by
7 questioning the individuals that might or might not have
8 been concerned, sir.

9 Q. Although, under the normal command structures and
10 protocols, the RSM would be available, wouldn't he, to
11 assist any soldier who may need any help?

12 A. Yes, sir, as would everyone else in the chain of
13 command, sir.

14 Q. All right. Following the death of Baha Mousa, changes
15 were again made to the system, were they?

16 A. A number of weeks later, sir, yes.

17 Q. Did that, as it were, re-insert you back into the
18 system?

19 A. The commanding officer had spoken to me about the death
20 of Baha Mousa in his office, sir, and outlined the way
21 forward, if you like. Major Peebles had also spoken to
22 me impromptu-ly prior to this meeting of some changes
23 that he specifically wanted to occur.

24 Q. So if we look, please, at a document we find at
25 MOD016200 -- that's a document you have seen before.

1 A. No, sir.

2 Q. If you have a look at the date of it, 18 September, at
3 the top --

4 A. Yes, sir.

5 Q. -- can you see, running down from CO, those to whom it
6 appears to have been distributed?

7 A. Yes, sir.

8 Q. Does it include you?

9 A. It -- my name is there, sir, yes, or my appointment.

10 Q. It is "Recommendations on battlegroup internment
11 procedures".

12 A. Yes, sir.

13 Q. This document appears to have been sent to you. Did you
14 see it?

15 A. I didn't see it, sir, no.

16 Q. Sorry, you did not?

17 A. I did not see that document, sir, no.

18 Q. Were you aware of new recommendations that were made?

19 A. Yes, sir.

20 Q. How did you become made aware of those?

21 A. Major Peebles spoke to me about them, which I assumed
22 were outlined in this document. I see that it mentions
23 the proper restraints with the door, sir, with the
24 quartermasters, which would suggest that this is the
25 document that he was referring to when he spoke to me as

1 that was one of the implementations that he wanted to
2 speed up that process, sir.

3 Q. If we go through to paragraph 9, please, under the
4 heading "Responsibility for detainee/prisoner
5 handling" -- under 9:
6 "The responsibility for the handling and welfare of
7 prisoners will go to the sub-units who made the arrest
8 and who are to provide the guard. The guard force will
9 come under the command of the RP staff and the
10 normal chain of command adopted in a UK military
11 establishment."

12 A. Yes, sir.

13 Q. Does that mean that you, as RSM, were now back in the
14 loop?

15 A. Yes, sir.

16 Q. Was that what Major Peebles explained to you?

17 A. No, sir, but the commanding officer did, sir.

18 Q. The CO?

19 A. Yes, sir.

20 Q. I thought you were telling us a minute or two ago that
21 you had a conversation with Major Peebles.

22 A. I did, sir, but the commanding officer had spoken to me
23 after the death of Baha Mousa, which put me back in the
24 loop, sir, with this.

25 Q. Were you told why you were being put back in the loop?

1 A. Because obviously something had drastically gone wrong
2 over this period, sir --

3 Q. Is that what the CO said to you?

4 A. No, sir, he didn't.

5 Q. Why do you say that?

6 A. Because there was a death, sir.

7 Q. Yes. What had drastically gone wrong?

8 A. I don't know, sir. Initially the death was attributed
9 to natural causes and raised no further suspicions than
10 that, and then the SIB were going to follow it up with
11 an investigation which suggested that something just
12 wasn't quite right, sir, and I had heard, at that stage,
13 from the commanding officer, that there were other
14 injuries to the other detainees that suggested certainly
15 the soldiers, somewhere along the lines, sir, had
16 overstepped the line with regards to their robustness --

17 Q. Putting it plainly, it was perfectly obvious within
18 a day or two, wasn't it, from photographs and other
19 information, that detainees -- some of them anyway --
20 had received a very severe beating --

21 A. Yes, sir.

22 Q. -- whilst in the TDF?

23 A. Yes, sir.

24 Q. That's what the CO was talking to you about, was it?

25 A. Yes, sir.

1 Q. Therefore he changed the system back, did he, and put
2 you back into the loop?

3 A. Yes, sir.

4 Q. And he expressly told you that? Is that what you are
5 saying?

6 A. Yes, sir.

7 Q. Was anyone else present when he told you that?

8 A. No, sir.

9 Q. Did the CO explain what had gone wrong such that he now
10 wanted to put you back into the loop?

11 A. No, sir.

12 Q. Did you ask?

13 A. Yes, sir. It was -- the record-keeping in particular
14 was one of the areas that he wanted me to address.

15 Q. Although I hear what you say, that you didn't see the
16 document, in that paragraph 9, which says that the
17 normal chain of command would be adopted as in a UK
18 military establishment, you say that that was restoring
19 the position to what it had been when it was changed in
20 June --

21 A. Yes, sir.

22 Q. -- on your arrival; is that right?

23 A. Yes, sir.

24 Q. Looking quickly and briefly, if we may, at paragraphs 10
25 and 11, "Process and guard procedures", Major Peebles'

1 document:

2 "On each occasion the guard will be formally briefed
3 on the treatment of prisoners using a set format
4 provided by the RP staff."

5 Were you told about that?

6 A. Yes, sir.

7 Q. Did that come from the CO or from Major Peebles?

8 A. Major Peebles, sir.

9 Q. "Each member of the guard will sign the occurrence
10 book."

11 So there was now to be an occurrence book.

12 A. Yes, sir.

13 Q. Were you to bring that into operation?

14 A. Yes, sir.

15 Q. Again, was that an instruction from Major Peebles or the
16 CO?

17 A. Major Peebles, sir.

18 Q. "The BGIRO will be present for this brief and
19 countersign the book."

20 Under 11, as part of the new procedure:

21 "A log will be kept in the occurrence book held by
22 the RP staff and kept in the holding area when in use.
23 All visitors will be recorded. All prisoners' movements
24 recorded. The BGIRO will be required to sign for each
25 prisoner in turn when taken away for questioning or TQ."

1 There is provision for the adjutant also to inspect
2 that documentation.

3 A. Yes, sir.

4 Q. Two things about that: who, if anyone, gave you that
5 instruction that it is encompassed in paragraph 11?

6 A. The commanding officer certainly spoke to me about the
7 occurrence book, sir, on at least one occasion, and
8 Major Peebles spoke to me about it as well, sir.

9 Q. Did you bring that system -- may I call it that -- into
10 operation? That's what's set out in paragraph 10 and
11 11.

12 A. There was no need to, sir. Sergeant Smith had already
13 implemented it, sir.

14 Q. It was already there, was it?

15 A. Yes, sir.

16 Q. Looking back now on what you know must have occurred in
17 the TDF in that period when the Operation Salerno
18 detainees were there and having regard to the change in
19 command structure that had been made and the change
20 back, was it, in your view, a good thing to put this in
21 the hands of a BGIRO, as opposed to leaving it with the
22 RSM?

23 A. It was a bad thing, sir, with hindsight.

24 Q. Was it a bad thing for any particular reason? I mean,
25 in other words, was it merely a personality matter?

1 A. Personality, sir. I've been in the army 27 years. I am
2 much more experienced than most of the officers and I am
3 familiar with most aspects and processes.

4 Q. Forgive me for putting it this way. You have been
5 around a long time. In Iraq, did you witness, from time
6 to time -- not in relation to only to these detainees
7 but to others -- any what I might call casual violence
8 being used towards detainees arrested?

9 A. No, sir.

10 Q. The odd slap or kick or punch?

11 A. No, sir.

12 Q. Never aware of any such thing?

13 A. No, sir.

14 Q. Would you regard yourself, as the RSM, as being a man
15 who was respected?

16 A. Yes, sir.

17 Q. By soldiers beneath you?

18 A. Yes, sir.

19 Q. On the CO's TAC group, the Inquiry has heard some
20 evidence describing the CO's conduct sometimes in that
21 TAC group as being gung-ho, for example shooting out the
22 blacked-out windows of Iraqi vehicles.

23 A. That's untrue, sir.

24 Q. If I can put it generally, using his pistol to threaten
25 or in other unnecessary ways?

1 A. No, sir.

2 Q. Did you ever see any such things?

3 A. No, sir.

4 MR ELIAS: Thank you.

5 THE CHAIRMAN: Now, if you just wait there, there will be
6 some more questions, I expect.

7 Mr Friedman?

8 Questions by MR FRIEDMAN

9 MR FRIEDMAN: Thank you.

10 Captain Briscoe, I represent the detainees and the
11 father of Baha Mousa. Can I just ask you about the
12 attitudes and the manner in which soldiers in the
13 battalion may have dealt with Iraqi civilians during the
14 tour? I think you say in your statement that the
15 emphasis in your pre-deployment training and preparation
16 was war fighting, but once the battlegroup was deployed,
17 you had to do something slightly different. Is that
18 correct?

19 A. Yes, sir.

20 Q. It was a hybrid of peace-keeping and dealing with
21 a range of civil disturbance?

22 A. Yes, sir.

23 Q. Do you regard the adjustment from the war fighting
24 training to this hybrid mission as something that was
25 difficult for people -- soldiers -- to achieve,

1 particularly infantry soldiers?

2 A. No, sir.

3 Q. We've heard quite a lot of evidence that, during August

4 2003, there was terrible violence during that month,

5 with escalating problems, including casualties, key

6 casualties, for the British troops; yes?

7 A. Yes, sir.

8 Q. Do you think that affected discipline of soldiers in the

9 battlegroup?

10 A. No, sir.

11 Q. Did you hold the view that Iraqis on the street needed

12 to be dealt with firmly, otherwise they would perceive

13 British soldiers as weak?

14 A. No, sir.

15 Q. Did you ever hear anyone else express that view?

16 A. No, sir.

17 Q. Did you ever hear yourself or hear of from others that

18 racist language was being used toward Iraqis?

19 A. No, sir.

20 Q. Are you sure about that?

21 A. I'm positive, sir.

22 Q. Just in relation to the CO's TAC group, what was its

23 nickname?

24 A. It's nickname was the "Viper Squad", sir.

25 Q. Why was that?

1 A. That was because of a spoof magazine, sir, that was
2 produced by the regimental media officer at the very
3 beginning of the tour, sir, and the name sort of stuck
4 with them for no particular reason, which was almost
5 immediately on arrival in Iraq, sir.

6 Q. Very well. If you look at the cipher list -- you are
7 going to have a list, I should have said. It is someone
8 we are calling "S038".

9 I'm sorry, Sir, I assumed it was still there.
10 Perhaps it can be written down on a piece of paper.

11 I apologise. I am going to ask you about a cipher,
12 "S038", in a list that is being passed up to you. Don't
13 use his name out aloud, please. Can you see "S038"?

14 A. It's not on the list, sir.

15 Q. It is going to be handed up. The name of this person
16 that we are calling "S038" is being handed up to you.

17 THE CHAIRMAN: Perhaps we can have this back, please.

18 MR FRIEDMAN: Do you recognise the name of that soldier?

19 A. I do, sir, yes.

20 Q. He has described to the Inquiry, in his statement, an
21 incident where an Iraqi civilian was being handled by
22 members of the CO's TAC team, including Staff Sergeant
23 Roberts, suspected of stealing some kind of metal and he
24 was being beaten -- that's what S038 says he saw -- and
25 he recalls having a conversation with you about it. Do

1 you know the account that S038 has given to the Inquiry?
2 Do you know of it from your lawyers?

3 A. I know of it from counsel, sir, yes.

4 Q. Do you accept any feature of the description that S038
5 has described?

6 A. It is completely untrue, sir.

7 Q. Positively untrue, as opposed to you don't recall it?

8 A. Positively untrue, sir.

9 Q. I want to ask you now about hooding. During your
10 evidence this afternoon, you told Mr Elias that you had
11 no training regarding hooding before coming to Iraq.

12 A. No, sir.

13 THE CHAIRMAN: You mean, yes, you had no training?

14 A. Yes, I had no training, sir.

15 MR FRIEDMAN: Can I just can you then to go to paragraph 8
16 of your BMI statement? It is BMI00724. Here you are
17 talking about the fact that sandbagging was undertaken
18 for security purposes and you say:

19 "I learnt this prior to my first deployment to
20 Northern Ireland in 1987, though I never did it when
21 I was there and never saw it done."

22 So you learnt of it or were briefed of it before
23 that tour, were you?

24 A. I knew of it, sir. I had never been trained on it, sir.

25 Q. Can I ask you, then, to look at paragraph 10 where you

1 are explaining OPTAG training that you had.

2 A. Yes, sir.

3 Q. You don't remember the names of the trainers -- it is
4 about eight lines down -- but you do speak of:

5 "The specific training I referred to lasted
6 approximately four hours. We were told prisoners were
7 to be treated as prisoners of war with sandbagging and
8 plasticuffing. They did not show us anything different
9 to the ITD training in my view but talked about hooding
10 for security purposes and talked about securing the
11 prisoner."

12 A. Yes, sir.

13 Q. So you were trained in hooding?

14 A. Not trained, sir. It was mentioned, sir.

15 Q. Mentioned in the course of a training exercise, training
16 lecture?

17 A. Yes, sir.

18 Q. Just in terms of Black Watch, in your direct experience,
19 when you were in handover with them, they were using
20 hooding; that's correct?

21 A. Correct, sir.

22 Q. Are you aware that a number of members of the chain of
23 command have given statements to this Inquiry saying
24 that hooding wasn't used?

25 A. No, sir.

1 Q. Have you read Tam Henderson's book on the Black Watch?

2 A. No, sir.

3 Q. Just with regard to taking you out of the loop, I just
4 want to ask about the meeting. The company sergeant
5 majors were there, you say?

6 A. Yes, sir.

7 Q. Why were they brought to that meeting?

8 A. The company sergeant majors would normally be the facet
9 that would link up prisoners of war, sir, at the
10 sub-unit level, sir.

11 Q. And something slightly or somewhat novel was going to
12 happen because the arresting multiples were now going to
13 be linked into the process?

14 A. Yes, sir.

15 Q. Was there, at that meeting or at some other meeting,
16 discussion about techniques such as hooding and other
17 forms of discipline that were going to be used for the
18 purposes of assisting the TQ process?

19 A. No, sir.

20 Q. Was there ever a meeting of any kind that you were
21 present at or heard about where those techniques that
22 these multiples were going to have to use as guards were
23 discussed?

24 A. No, sir.

25 Q. Just in terms of the key personnel that were to be

1 involved with the prisoners, you were asked about Smith
2 and Payne. You describe both of them, in your view at
3 the time, as "competent".

4 A. Yes, sir.

5 Q. I would imagine you would agree now that, in relation to
6 these matters, neither of them were competent.

7 A. Payne certainly, sir, for his actions that we now know
8 to be why he was convicted.

9 Q. Right. What about Smith?

10 A. Smith, sir, as far as I could see, fulfilled his duties
11 and was absent over that period.

12 Q. Okay. So different answers for Payne and Smith. Can sI
13 ask you then about Smith? You said you had no concerns
14 with him. Did you think Smith was lazy at the time?

15 A. No, sir.

16 Q. Did you think that he was trying to avoid his
17 prisoner-handling role for whatever reason?

18 A. No, sir.

19 Q. With regard to Payne, again you said you had no
20 concerns. We understand provost soldiers need to be
21 assertive, but you did have some reason for concern that
22 Payne could get violent when he was in drink; is that
23 correct?

24 A. Yes, sir.

25 Q. And that was at the time you held that?

1 A. No, sir.

2 Q. Well, there's a 2002 incident that you have described to
3 Colonel Mendonca's lawyers in the past --

4 A. Yes, sir.

5 Q. -- about Payne being drunk --

6 A. It was several months or years earlier, sir.

7 Q. But had you also heard that in the rugby context he
8 could have drink and become violent?

9 A. Yes, sir.

10 Q. And that was before these events?

11 A. Yes, sir.

12 Q. Any other matters you had heard about Payne engaging in
13 excessive violence before --

14 A. No, sir.

15 Q. Just after the death of Baha Mousa, within some days,
16 you must have realised that some terrible things had
17 gone on during the days when the detainees were there
18 that you just didn't know anything about.

19 A. Yes, sir.

20 Q. So the idea of the RSM having his ear close to the
21 ground had totally not worked in those two or three
22 days?

23 A. No, sir.

24 Q. Presumably, afterwards, you got your ear very close to
25 the ground for any matters relating to that similar type

1 of indiscipline?

2 A. Yes, sir.

3 Q. What did you find out about specific people who had been
4 involved in attacking these detainees?

5 A. Nothing, sir, at the time.

6 Q. No rumours or any indications about specific names came
7 to you?

8 A. No, sir.

9 Q. Can I ask you then just this? It is quite clear that
10 not just Payne, but several members of IQLR, must have
11 acted in a violent fashion in those few days. Do you
12 now accept that, having looked at this case over the
13 years?

14 A. I accept that, sir.

15 Q. Why do you think that happened?

16 A. I don't know, sir. All I can say is that over this
17 particular period certainly something was different than
18 all the previous occasions, whereas everything, as far
19 as I was concerned, was running smoothly and deadlines
20 were being met and the treatment of detainees was as
21 I would have expected it to be and was satisfied up to
22 that point, sir.

23 MR FRIEDMAN: Thank you, Sir.

24 THE CHAIRMAN: Thank you. Ms Dobbin?

25 Questions by MS DOBBIN

1 MS DOBBIN: One question, please. You mentioned the
2 question of personality and said that, with hindsight,
3 you would have certainly had the personality to have
4 received things and make sure things were done properly;
5 is that right.
6 A. That's right, ma'am.
7 Q. Can we presume that, certainly whenever Major Royce was
8 in position, that you never had any concerns about his
9 ability to exercise effective control --
10 A. None --
11 Q. -- of what went on at the TDF?
12 A. None, ma'am.
13 Q. Thank you.
14 THE CHAIRMAN: Ms Edington?
15 MS EDINGTON: No thank you.
16 THE CHAIRMAN: Mr Summers?
17 Questions by MR SUMMERS
18 MR SUMMERS: Captain Briscoe, some questions on behalf of
19 Colonel Mendonca. You were asked a statement which you
20 provided to his solicitors in the run-up to the court
21 martial. Do you recall giving that statement?
22 A. Yes, sir.
23 Q. Have you been shown it recently, perhaps today or in the
24 days leading up to today's evidence?
25 A. Yes, sir.

1 Q. Do you recall that you described him as an outstanding
2 leader, that he was very professional and knowledgeable,
3 he was very intelligent --

4 THE CHAIRMAN: I shall take your silence to each of these
5 things being put as assent.

6 A. Yes, sir.

7 THE CHAIRMAN: Do you understand?

8 A. Yes, sir.

9 THE CHAIRMAN: So far you agree with all of that, do you?

10 A. Yes, sir.

11 THE CHAIRMAN: I am sure you do.

12 MR SUMMERS: That he was very hard working at a tempo that
13 was beyond belief?

14 A. Yes, sir.

15 Q. He was firm but fair with his troops?

16 A. Yes, sir.

17 Q. He would not hesitate to pull a soldier up for incorrect
18 behaviour?

19 A. Yes, sir.

20 Q. And he would never turn a blind eye to any sort of
21 incorrect behaviour?

22 A. Yes, sir.

23 Q. You agree with all those statements about him now?

24 A. Yes, sir.

25 Q. Indeed, you give an example of him pulling soldiers up

1 in relation to a address which he gave to Corunna --
2 I do not think you are able to say exactly when it
3 was -- about theft of monies.

4 A. Yes, sir.

5 Q. Do you recall that address he gave?

6 A. I do, sir.

7 Q. You described him -- do you still describe him -- as
8 being very angry about what was alleged about Corunna?

9 A. He was, sir.

10 Q. In summary I think you said that he would not hesitate
11 to take a grip on bad behaviour and confront it.

12 A. Yes, sir.

13 Q. But, of course, the pace of operations which the
14 battalion as a whole faced in Basra was such that he
15 could not be everywhere all of the time.

16 A. Yes, sir.

17 Q. And, therefore, would you agree that he had to rely
18 on -- as all COs do -- the senior NCOs to maintain
19 discipline down through the chain of command?

20 A. Yes, sir.

21 Q. That meant senior NCOs playing their part as provost
22 staff?

23 A. Yes, sir.

24 Q. Company sergeant majors?

25 A. Yes, sir.

1 Q. And indeed you as RSM?

2 A. Yes, sir.

3 Q. Each had a part to play in maintaining discipline
4 throughout the battalion?

5 A. Yes, sir.

6 Q. Part of that was reinforcing, for the troops, core
7 values such as moral courage?

8 A. Yes, sir.

9 Q. The next topic: I don't think you have been asked about
10 this period at all, but is it right that, having made
11 the arrest -- the TAC group having made an arrest post
12 Operation Salerno -- when you took your detainee back to
13 BG Main and dropped him off at the TDF, that was before
14 the detainees from Operation Salerno had arrived?

15 A. That's correct, sir.

16 Q. Lastly, you have been asked about a particular
17 allegation that S038 has made about Staff Sergeant
18 Roberts and you say that is positively untrue.
19 Can I ask you about another allegation that he made?
20 Have you read the whole of his statement?

21 A. I haven't read his statement at all, sir.

22 Q. But you have been informed of allegations that he makes?

23 A. Yes, sir.

24 Q. Have you been informed about an allegation he makes that
25 Colonel Mendonca, along with -- and he does not specify,

1 but he says "a number of other people" -- arrived at
2 Burma's HQ after an operation, when some detainees had
3 been picked up, and that he, Colonel Mendonca, went up
4 to a detainee, called him a "terrorist fucker" and
5 punched him in the side of the head. Was that something
6 you witnessed?

7 A. I didn't witness, sir.

8 Q. I appreciate is a very brief description. Are you able
9 to isolate in your own memory when that might have been?
10 Were you aware of an operation Burma carried out and
11 there was a large haul of weaponry and ammunition?

12 A. I have no recollection, sir, of that or that incident
13 occurring at all, sir, and I would believe it to be
14 untrue.

15 MR SUMMERS: Thank you.

16 THE CHAIRMAN: Yes. Mr Ashley?

17 MR ASHLEY: No, thank you, Sir.

18 THE CHAIRMAN: Mr Clark?

19 Questions by MR CLARK

20 MR CLARK: Captain Briscoe, did you attend, in May 2003,
21 before deployment, a half-day training course at the
22 Alma Barracks in Catterick?

23 A. Yes, sir.

24 Q. Did that deal with prisoner of war handling?

25 A. It did, sir.

1 Q. So when you went on deployment, you were expecting to
2 play the traditional role of the regimental sergeant
3 major to deal with prisoners of war and detainees?
4 A. That's correct, sir.
5 Q. As soon as you arrived, I think it's correct to say that
6 three members of the provost staff were removed, Barlow,
7 McDermott and Hancock; is that correct?
8 A. Yes, sir.
9 Q. Who made that decision that they were no longer to be
10 attached to the provost staff?
11 A. Hancock didn't deploy at all, sir, to Iraq, in 2002, and
12 Barlow and McDermott were the drivers of the second and
13 first vehicle of the TAC on occasion and the top cover,
14 sir. In answer to your question, I delegated Smith and
15 Payne to perform the duties with the BGIRO rota.
16 Q. Was that decision made before the BGIRO post was
17 created, because there is a week, isn't there, when you
18 were in Iraq before the BGIRO post was created, wasn't
19 there?
20 A. There was a week, sir, yes.
21 Q. When did Barlow and McDermott leave the provost staff?
22 A. They didn't leave the provost staff. They could still
23 conduct some of the duties from there, sir.
24 Q. They could have, but in fact they didn't throughout the
25 tour, did they?

1 A. They didn't, sir, no.

2 THE CHAIRMAN: What's the relevance of this, Mr Clark, if
3 any?

4 MR CLARK: The relevance, sir, is that the provost staff
5 were short.

6 THE CHAIRMAN: Well you could put that pretty crisply,
7 couldn't you?

8 MR CLARK: Perhaps I could have.

9 Were you content that the provost staff were reduced
10 effectively from five to two?

11 A. No, sir.

12 Q. So you were --

13 A. Sir --

14 THE CHAIRMAN: I'm sorry, you said "no" in a way that
15 suggested you did not think that was right.

16 A. No, sir. What I was going to say, sir, is that the
17 provost sergeant and the provost corporal were there to
18 deal with the detainees. When the -- in peacetime, when
19 it would have been five, they would have rotated through
20 duties, sir. That would be the only distinction between
21 them. There was normally only one of them on duty at
22 any one particular time, sir.

23 MR CLARK: You have told us that both Smith and Payne were
24 competent. In fact, Smith was only made up to be
25 a sergeant after the end of the tour. He was acting up,

1 wasn't he, during the tour?

2 A. I believe he was acting rank, sir, yes.

3 Q. Was that a matter of concern to you?

4 A. No, sir, normal.

5 Q. Now you said that as RSM you were approachable, but

6 that's not really putting it correctly, is it? You were

7 responsible for maintaining discipline. That's

8 completely different to being approachable.

9 A. Yes, sir.

10 Q. Now if there had been concerns about Smith or Payne

11 being late or drinking or disciplinary concerns, they

12 would have been matters for you as RSM, wouldn't they?

13 A. Yes, sir.

14 Q. So although you have told us that you thought the BGIRO

15 played a role in dealing with the prisoner-handling, you

16 maintained a considerable role yourself in maintaining

17 discipline?

18 A. Maintaining discipline of a minor nature, sir, and what

19 was brought to my attention, sir.

20 Q. You have been asked questions about record-keeping. If

21 you were back in the United Kingdom, one of your regular

22 roles would be visiting the guard room and checking up

23 on the guard room records, wouldn't it?

24 A. I had the occurrence book brought to me every day, sir.

25 The custody record was a matter for the adjutant, sir.

1 Q. The occurrence -- so it was only after the death of
2 Baha Mousa that any kind of record-keeping was
3 instituted, wasn't it?

4 A. I wasn't aware, sir, that that's when it was instigated.
5 I believed there to be records under the BGIRO up to
6 that point, sir.

7 Q. Now, do you recall, after the death of Baha Mousa,
8 handing some documents to Major Peebles?

9 A. No, sir.

10 Q. I wonder if we could have BMI02775. Can we see this?
11 Some documents, "Joint Service Intelligence Organisation
12 F Branch, introduction to interrogation and tactical
13 questioning". Do you recognise those documents?

14 A. No, sir.

15 Q. You were aware, after the death of Baha Mousa, that
16 Major Peebles was at least reviewing the procedures,
17 weren't you?

18 A. Yes, sir.

19 Q. And Major Peebles recalls you saying that these
20 documents might be some use. Do you not recall that?

21 A. I don't recall that, sir.

22 Q. Do you recognise these documents as documents that might
23 have been in your possession in September 2003?

24 A. No, sir --

25 THE CHAIRMAN: There is a limit to the number of times you

1 can ask the same question in a different way. He said
2 "no" and he hasn't seen it. Either it is right or it is
3 wrong, but it won't be improved.

4 MR CLARK: Very well. I wonder if I might show another
5 document: MOD048028.

6 The chairman and everyone here is familiar with
7 this. This is a document drawn up by Major Peebles to
8 try to assist. It is dealing with internee handling.
9 You familiarise yourself with it and you will see the
10 RSM in the central role, right in the middle of the
11 handling procedure. Can you see that?

12 A. I can, sir.

13 Q. Can you see that Major Peebles' diagram has you in
14 command of the sergeant and the corporal for the provost
15 staff? Can you see that?

16 A. Yes, sir.

17 Q. And that, as BGIRO, he has control and coordination, but
18 not command. Would you accept that to be a fair
19 diagrammatic summary of the position?

20 A. No, sir. When was this drawn up? I don't know, sir.

21 Q. This is you commenting on Major Peebles' evidence. What
22 alterations would you like to make to this diagram?

23 THE CHAIRMAN: Mr Clark, just pause a moment. I'm sorry, we
24 have been through all this. That was produced by your
25 client for a specific purpose pre the subsequent change

1 and his whole evidence is that he disagrees with that.

2 MR CLARK: I just want him -- if he says that there was
3 a break in that line, then that will be his evidence,
4 Sir.

5 THE CHAIRMAN: Yes -- well effectively that is what he is
6 saying.

7 MR CLARK: Very well. I will not take that matter any
8 further then, Sir.

9 I wonder if I might just ask you about the CO's TAC.
10 You were talking about this amazing tempo, out 18 hours
11 a day. If it was said that, because of the amazing
12 tempo and the amount of time you spent away from the
13 Battlegroup Main, that you weren't in a position to
14 necessarily properly maintain discipline, do you think
15 that's a fair criticism?

16 A. No, sir.

17 MR CLARK: Well I have put it. Thank you very much.

18 THE CHAIRMAN: Thank you.

19 Mr Topolski?

20 Questions by MR TOPOLSKI

21 MR TOPOLSKI: Thank you, Sir.

22 Captain, I represent Corporal Payne. Just a few
23 questions for you.

24 Were you actively personally involved in the
25 handover from Black Watch vis-a-vis detainees, of

1 course?

2 A. No, sir.

3 Q. Very well. Can I ask you then, in relation to
4 responsibility for detainees and chain of command, one
5 or two questions about that? First of all, do you agree
6 that hooding was routine? I'm dealing first now with
7 pre Salerno detainees.

8 A. Yes, sir.

9 Q. You don't agree that stress positions were routine?

10 A. That's correct, sir.

11 Q. Indeed you go further. You say you never saw anything
12 that you would describe as a stress position.

13 A. Yes, sir.

14 Q. Such conditions as they were held in -- hooding
15 certainly -- was that the position until TQ'ing was
16 finished as far as you were concerned in pre Op Salerno
17 detainees?

18 A. I'm not aware what the TQers did, sir.

19 Q. You have spoken much of the change in the chain of
20 command. I wanted to ask you something about TQers.
21 Does it mean you are not in a position to help us about
22 them? What I wanted to suggest to you was that the
23 change that you have spoken of, brought about, put the
24 TQers in a very prominent decision with regard to the
25 management of the detainees on the ground. Do you agree

1 with that?

2 A. I never met the TQers, sir, so I am not aware of the way
3 that they conducted their processes, sir.

4 Q. Nor of the way in which their presence was regarded by
5 the provost staff of which you were formally in command?

6 A. No, sir.

7 Q. Very well.

8 As far as training is concerned, may I just put up
9 on the screen a passage from Payne's statement to this
10 Inquiry, because you are mentioned in it, Mr Briscoe, at
11 BMI01721, paragraph 26, please. Thank you. He's
12 dealing here with training, Captain. He says that:

13 "The only ... training I had received prior to going
14 to Iraq was a ... lecture in Catterick ..." by two
15 senior NCOs. You see there he names you as being
16 present.

17 A. Yes, sir.

18 Q. Is this the meeting you have told us of already today?

19 A. Yes, sir.

20 Q. May I just add, then, to see if you can help us? He
21 says:

22 "We that we were told about the shock of capture
23 ..."

24 Do you agree?

25 A. No, sir.

1 Q. "... lack of sleep and to keep prisoners confused as
2 much as we could."
3 A. No, sir.
4 Q. "... no mention of stress positions ..."
5 A. No, sir.
6 Q. "There was no mention of stress positions ..."
7 A. No, sir.
8 Q. "We were to keep this up [I think 'this' must mean to
9 the thing generally] until tactical questioning was
10 completed."
11 A. No, sir.
12 Q. Do you remember that being conveyed?
13 A. That was untrue, sir.
14 Q. So these are not just incorrect recollections; these are
15 positively untrue recounting of that training you went
16 to, is it?
17 A. Yes, sir.
18 Q. I see. Very well.
19 As far as Payne himself at the TDF is concerned, any
20 such time as you visited him at or near it and saw
21 detainees in there, you have nothing untoward to say
22 about what was going on; is that right, Captain?
23 A. That's correct, sir.
24 Q. Finally this, then on the question of the CO and his TAC
25 group: Captain Briscoe, 26 years in the army and

1 26 years in QLR for you, I think, isn't it?

2 A. Yes, sir.

3 Q. Would you describe your loyalty to that regiment as an

4 unswerving one?

5 A. No, sir.

6 Q. It becomes the family, doesn't it --

7 A. It does, sir.

8 Q. -- in a way? The CO, you were quoted by his counsel

9 this afternoon a number of descriptions you gave of him

10 from the statement you made to his lawyers.

11 A. Yes, sir.

12 Q. May I read one that wasn't put to you from the very same

13 paragraph?

14 "He does not hesitate to pull people up and educate

15 them in their error or advise them of a better way of

16 doing the job. However, weaker people may see him as

17 ruthless as opposed to showing leadership."

18 You said that about Colonel Mendonca too.

19 A. I did, sir.

20 Q. I have little doubt that you would not describe

21 Corporal Payne as a weaker person, would you?

22 A. No, sir.

23 Q. No. Finally this, then, on the subject of the TAC

24 group. Captain, is the chairman to understand that

25 membership of the TAC group is automatic for the provost

1 corporal?

2 A. No, sir.

3 Q. You have to be selected, do you?

4 A. You don't have to be selected or otherwise, sir. It

5 depends on who is available and who is selected to be in

6 there, sir --

7 Q. I see.

8 A. -- by ability.

9 Q. By ability?

10 A. Yes, sir.

11 Q. That really leads me on to the point that I wanted to

12 make -- if it is not already obvious -- anyone who is

13 selected would not be someone who fell short of the

14 appropriate level of competence and experience, would

15 he?

16 A. Correct, sir.

17 Q. And Payne was a regular member of that group, was he

18 not?

19 A. Initially he was, sir.

20 Q. Well, I'd better not leave it there. Something is

21 hanging in the air. What does "initially" mean?

22 A. The first week or so, sir, before the BGIRO had his

23 meeting and he was detached to the CQMS's party, sir.

24 Q. I see what you mean; in other words, another role was

25 found for him which was to take precedence over his

1 activities with the CO TAC -- sorry, take --

2 A. Take precedence over his role with the detainees, sir,

3 not TAC. He was no longer with TAC from that point,

4 sir.

5 Q. You don't want to suggest, do you, that he was removed

6 for any untoward reason?

7 A. None at all, sir, other than his competency with

8 handling the detainees and his qualifications, sir.

9 Q. Applying another expertise, would that be a fair way of

10 putting it?

11 A. A fair way, sir.

12 MR TOPOLSKI: That is very kind. Thank you, Mr Briscoe.

13 THE CHAIRMAN: Mr Beer?

14 Questions by MR BEER

15 MR BEER: Thank you, Sir.

16 I ask questions on behalf of Mr Smith, Paul Smith.

17 A. Yes, sir.

18 Q. I want to ask you some fresh aspects of an existing

19 topic, namely the new division of responsibility and the

20 alterations in the chain of command in late June 2003.

21 Do you understand?

22 A. Yes, sir.

23 Q. You said that Major Royce was going effectively, in

24 civilian speak, to be the line manager of Sergeant Smith

25 in relation to issues relating to the detention and

1 handling of detainees; is that right?

2 A. That's correct, sir.

3 Q. In order to facilitate Sergeant Smith's role, he was
4 thereafter also to be allocated the role of head of
5 criminal desk in the intelligence cell?

6 A. He was to work with the intelligence cell. He was
7 security cleared and had previously completed an
8 intelligence course, sir, ideally suited to a linked
9 task with the BGIRO and detainees.

10 Q. Whose decision was it to appoint him to the intelligence
11 cell?

12 A. Mine, sir.

13 Q. Did you consult Major Royce on that?

14 A. Yes, sir.

15 Q. He says it was a decision taken without reference or
16 consultation with him. That's wrong, is it?

17 A. Yes, sir.

18 Q. Were you aware of Sergeant Smith's objection to being
19 allocated those intelligence duties?

20 A. No, sir.

21 Q. Didn't he approach you and say that he didn't want to do
22 it?

23 A. No, sir.

24 Q. Were you aware that he had spoken to Major Royce about
25 that and said he didn't want to do it?

1 A. No, sir.

2 Q. Who was his line manager -- that's Sergeant Smith's line
3 manager -- in relation to his role in the intelligence
4 cell?

5 A. Captain Seaman would have been, sir.

6 Q. Was it Captain Seaman or was Captain Cronin then still
7 in place?

8 A. Captain Cronin initially, sir, then followed by
9 Captain Seaman during a change in the tour.

10 Q. Was Captain Cronin present the meeting in late June 2003
11 that you speak of?

12 A. I don't recall, sir.

13 Q. Was Captain Seaman present at that meeting?

14 A. I do not recall, sir.

15 Q. How did each of them know that they were to be the line
16 manager of Sergeant Smith?

17 A. Because I spoke to Captain Seaman and the CQMS
18 respectively for -- with regard to Sergeant Smith and
19 Corporal Payne, as to their attachments and their role
20 of duties with regards to them, sir.

21 Q. So after that he had two line managers, Seaman on
22 intelligence and Royce on detention?

23 A. Yes, sir.

24 Q. Was there a third, namely you, in relation to
25 traditional provost sergeant duties?

1 A. No, sir.

2 Q. Did he continue to conduct some traditional provost
3 sergeant duties?

4 A. No, sir.

5 Q. Can you remember telling him that he should act
6 effectively as camp commandant, supervising soldiers on
7 guard duty in the sangers and making sure that equipment
8 around the base was correctly stowed, matters of that
9 sort?

10 A. No, sir.

11 Q. Did you know he also had to act as watchkeeper?

12 A. Yes, sir, I am aware of that.

13 Q. Who allocated him that role?

14 A. The battlegroup headquarters. Every senior NCO in the
15 location would participate in watchkeeper duties, sir.
16 It's normal.

17 Q. Who was responsible for dividing his time between these
18 tasks. Who had first call on his time?

19 A. Major Royce did, sir.

20 Q. How was that established that Major Royce outranked
21 Captain Seaman in terms of calling on Sergeant Smith's
22 time?

23 A. No, sir, it was determined by the fact that if detainees
24 were coming in, sir, Sergeant Smith's primary control
25 would be -- overtake all other duties, sir.

1 Q. Was Major Royce aware of that?

2 A. Yes, sir.

3 Q. Who told him that?

4 A. I don't know, sir.

5 Q. If Captain Seaman had requested Sergeant Smith to attend
6 on an intelligence operation, for example, going out to
7 Basra Palace for a whole day, he would follow that
8 order, wouldn't he?

9 A. I would expect so, sir, yes.

10 Q. You have said already that as far as you were aware he
11 was away all day on the critical day of the Monday.

12 A. Yes, sir.

13 Q. How does it fit that to your knowledge he was away all
14 day on the critical Monday, on Captain Seaman's orders,
15 and yet you said that he was supposed to remain at
16 BG Main if detainees were in detention at the TDF? Have
17 you any knowledge of that?

18 A. Sir, as long as Corporal Payne or Sergeant Smith was in
19 that location, that would have sufficed.

20 Q. So it was either of them --

21 A. Either/or, sir.

22 Q. You were not aware of any suggestion that if detainees
23 were in detention, Sergeant Smith had to be present at
24 the base?

25 A. No, sir.

1 Q. Then, lastly, you have given one example when you had
2 concern over Sergeant Smith's conduct, namely he was
3 found in his accommodation. Is it right that some
4 people thoughts or had the impression that he was
5 a shirker?
6 A. Yes, sir.
7 Q. But that was an unfair impression in your view?
8 A. No, sir.
9 Q. Not an unfair impression?
10 A. No, sir.
11 Q. Did you pull him up on his conduct?
12 A. No, sir.
13 Q. Why not?
14 A. Because Captain Seaman spoke to him specifically about
15 that particular incident, sir.
16 Q. Other than the specific incident was the nature of my
17 question.
18 A. Oh right. The answer is "no", sir.
19 Q. Why not?
20 A. He wasn't a shirker, sir.
21 Q. He wasn't a shirker?
22 A. As with regards to that. On this occasion he was found
23 on his bed, sir.
24 Q. It is that one occasion only?
25 A. Yes, sir.

1 MR BEER: Thank you very much.

2 THE CHAIRMAN: Mr Bourne?

3 MR BOURNE: No, thank you, Sir. Mr Evans?

4 Questions by MR EVANS

5 MR EVANS: Thank you, Sir.

6 After Sergeant Smith was appointed to the int cell
7 and changed his duties to that extent, following the
8 appointment of the BGIRO, was it the position that he
9 was relieved of any duties that he previously had with
10 the CO's TAC?

11 A. Yes.

12 Q. Can we have MOD015432 on screen please? We have been
13 taken to this document already. It is the IQLR
14 internment procedure. You see at the top of the page
15 reference A is "FRAGO 29", to which you have also been
16 referred. Underneath it says this:

17 "Reference A [that is FRAGO 29] is the authoritative
18 document on internment procedures which is to take
19 effect immediately. This document is to be read and
20 understood by the chain of command down to ops room
21 watchkeeper level."

22 Did you understand that to be the position?

23 A. Yes, sir.

24 Q. Can I just take you now, please, to FRAGO 29 itself or
25 a small part of it? It is MOD016189, please. It is at

1 the top of the page.

2 As I understand it, you never actually saw this
3 document, FRAGO 29, is that correct?

4 A. That's correct, sir.

5 Q. All right. Can I read this you? It says at the top of
6 the page here:

7 "The BGIRO is responsibility for maintaining an
8 audit trail which will start following the point of
9 capture through to sustained internment or release of
10 individuals."

11 First of all, does that accord with your
12 understanding of what was the BGIRO's role from the talk
13 that you had with Major Royce?

14 A. Yes, sir.

15 Q. Secondly, what did you take that to mean as regards the
16 BGIRO's responsibility for record-keeping?

17 A. That he would maintain all relevant documentation from
18 point of capture to delivery at the TIF, sir.

19 Q. Have you had an opportunity to see, on the Inquiry
20 website or otherwise, the video of Corporal Payne that
21 was shown to the Inquiry in the early part of its
22 inception? Corporal Payne in the TDF?

23 A. Yes, sir.

24 Q. If you had seen treatment of that kind at any stage,
25 what would have been your reaction?

1 A. I would have been appalled, sir, and intervened.

2 Q. You were asked about an allegation in respect of
3 a ciphered witness, S038. Because he is a ciphered
4 witness, I don't want you to give any details about him
5 in public, but I want to ask you this: if you know of
6 any reason why it might have been that he should have
7 made up allegations against you of this nature, would
8 you write them down, please, on a piece of paper?

9 While that is shown to people -- there are reasons,
10 then, why you feel that he may have made up allegations?

11 A. Yes, sir.

12 THE CHAIRMAN: Please show them to Mr Elias, since he is
13 closest to you first.

14 Yes, I see.

15 MR EVANS: In response to a question from Colonel Mendonca's
16 counsel, you accepted and agreed that the pace of
17 operations in Basra was such that Colonel Mendonca could
18 not be there all of the time. Given that you were out
19 on the CO's TAC with him at all times, could the same be
20 said of you?

21 A. Yes, sir.

22 Q. Finally this: you have an exemplary conduct sheet, you
23 tell us in the first part of your witness statement.
24 Can you tell us what that means?

25 A. It means, sir, that I have never been charged, in my

1 27 years' service, sir, of any nature of any kind for
2 any breaches of any discipline, sir.

3 MR EVANS: Thank you very much.

4 THE CHAIRMAN: Mr Elias?

5 Further questions by MR ELIAS

6 MR ELIAS: Just two matters, Captain Briscoe. You repeated
7 this afternoon something that I understood you to say
8 this morning; that is to say that after Major Royce had
9 taken over the responsibility, as you have described,
10 you were asked about the system and you said:

11 "As far as I was concerned, deadlines were being
12 met."

13 A. Yes, sir.

14 Q. You told the chairman, I think this morning, before the
15 break, that you had some responsibility for deadlines.

16 A. Only initially, sir, with the six-hour rule, sir.

17 Q. How did you know deadlines were being met after that
18 period --

19 A. Sergeant Smith had apprised me of it, sir, and to have
20 specifically stated on at least one occasion whereas the
21 Red Cross condoned good delivery of the detainees in
22 good order and in good time, sir.

23 Q. So you had had a conversation with Sergeant Smith --

24 A. Yes, sir.

25 Q. -- which led you to believe that deadlines were being

1 met?

2 A. Yes, sir, and also that there was no feedback to suggest
3 otherwise, sir.

4 Q. But you say, do you, that it was not, during
5 Major Royce's and Major Peebles' time, a responsibility
6 of yours to ensure that deadlines were being met?

7 A. Correct, sir.

8 Q. Quite a separate matter. Could we look at MOD005047
9 please. This is the statement you made four and a half
10 years ago. You were asked questions by Mr Clark about
11 the length of time that you might be spending on TAC
12 group duty, if you like. In the top line, page 3 of
13 that statement --

14 A. Yes, sir.

15 Q. -- you say:

16 "I would say that I was away from camp with the CO
17 about 70 per cent of the time."

18 A. Yes, sir.

19 Q. Would that have been the case?

20 A. Yes, sir.

21 MR ELIAS: Sir, I have no further questions. Thank you.

22 Questions by THE CHAIRMAN

23 THE CHAIRMAN: Captain Briscoe, I must ask you one or two
24 questions about this. Is it still the position, so far
25 as a battalion is concerned, that the regimental

1 sergeant major is the eyes and ears of the adjutant and
2 the commanding officer, so far as discipline is
3 concerned --

4 A. Yes, Sir.

5 THE CHAIRMAN: -- and that the regimental sergeant major has
6 a responsibility, not just for his duties in the TAC
7 group and the like, but to keep his ears open and eyes
8 open to see that all soldiers, wherever they are, are
9 properly disciplined? Is that right or wrong?

10 A. Not properly disciplined, Sir. Identify trends of
11 a minor nature, such as drink and drive campaigns, sir,
12 compulsory drugs, and anything that is brought to my
13 attention is being dealt with in the appropriate manner,
14 Sir.

15 THE CHAIRMAN: Yes, brought to your attention though --
16 doesn't it go a little further, that a regimental
17 sergeant major has a duty to at least look into
18 things --

19 A. Yes, Sir.

20 THE CHAIRMAN: -- where things might be going wrong --

21 A. Yes, Sir.

22 THE CHAIRMAN: -- and to know about them? A good regimental
23 sergeant major will know about what is going on --

24 A. Correct, Sir.

25 THE CHAIRMAN: How does it come about -- and I recognise

1 that in places like Basra, where you had 1 million
2 different things to do, your time would be very valuable
3 to you and taken up with a lot of things -- but how does
4 it come about that something like this could have
5 occurred? When I say "like this", you know what I'm
6 referring to?

7 A. Yes, Sir.

8 THE CHAIRMAN: How could that happen?

9 A. I don't know, Sir.

10 THE CHAIRMAN: To put it bluntly, it is somewhat of a breach
11 of discipline in a major way, isn't it?

12 A. It is, Sir. I would suggest, Sir, that the -- the lack
13 of knowledge over that specific period with the
14 detainees with Mr Mousa, Sir, was an exception, as
15 opposed to a general trend that had been occurring
16 throughout the battalion, Sir.

17 THE CHAIRMAN: I understand that, but I'm bound to ask you
18 this: do you think that it is something which those
19 responsible for discipline ought to have prevented from
20 happening?

21 A. Yes, Sir.

22 THE CHAIRMAN: You do. Does that include yourself?

23 A. Yes, Sir, if I had had the knowledge of the breach of
24 discipline, Sir.

25 THE CHAIRMAN: I recognise that as a point, if you had the

1 knowledge, but the regimental sergeant major would
2 normally expect to have the knowledge that something
3 like that -- as serious as that -- is going to happen or
4 could happen, wouldn't he?

5 A. Not necessarily, Sir, no.

6 THE CHAIRMAN: All right.

7 Would you expect the commanding officer to have some
8 knowledge of what's going on with the general discipline
9 of the battalion?

10 A. Yes, Sir.

11 THE CHAIRMAN: All right. Thank you very much.

12 Now, you had a notebook with you. Mr Elias offered
13 you the opportunity to say something about it. Is there
14 anything else that you want to say to me about this
15 matter that I'm inquiring into which you think you
16 haven't already covered?

17 A. No, Sir.

18 THE CHAIRMAN: Thank you very much. Well, I am very
19 grateful to you for coming along here to give your
20 evidence. You are now free to go.

21 A. Thank you, Sir.

22 THE CHAIRMAN: Thank you.

23 MR ELIAS: Sir, may I call Terence Stokes, please.

24 THE CHAIRMAN: Without rushing things, I would like to think
25 we can get through this fairly quickly, if we are to

1 complete our witnesses for today.

2 Yes. Now, if you could be kind enough to stand up,
3 please, Mr Stokes.

4 TERENCE LEONARD STOKES (affirmed)

5 THE CHAIRMAN: Please sit down. Now, if you could speak
6 towards the microphone, then we will all be able to here
7 you. If you are asked any questions that you don't
8 understand, will you please say so at once?

9 A. Okay, Sir.

10 Questions by MR ELIAS

11 Q. Could you give the Inquiry your full name please?

12 A. It is Terence Leonard Stokes.

13 Q. Please look at a folder which I hope is alongside you to
14 your right. You should find a document within that
15 folder which I hope is your statement.

16 A. Yes, sir.

17 Q. If you go to the last page, please, of BMI06151, do you
18 find your signature above the date of 28 November of
19 this year?

20 A. Yes, sir.

21 Q. When you signed that statement, did you do so accepting
22 that the content of it was true to the best of your
23 knowledge and belief?

24 A. To the best of my knowledge, sir, yes.

25 Q. Thank you very much. If you put it aside then for the

1 moment, please.

2 Mr Stokes, I think you came forward as a result of
3 the completion of a questionnaire sent out generally to
4 1QLR soldiers; is that right?

5 A. That's correct.

6 Q. You indicated that you had information that you could
7 give this Inquiry.

8 A. Yes, sir.

9 Q. I am going to confine myself to asking about two
10 incidents that you described in a statement that you
11 signed a week or so ago, but I want to ask you a little
12 about your career in the army and your training.

13 A. Yes, sir.

14 Q. I think you left the army now in 2005, is that right?

15 A. That's correct, sir.

16 Q. What rank were you in 2005 when you left?

17 A. I was a full bombardier, sir.

18 Q. You had joined the army, I think the parachute regiment,
19 had you, in 1990?

20 A. Yes, sir.

21 Q. You were deployed to Iraq in 2003?

22 A. Yes, sir.

23 Q. What was your rank there?

24 A. I was a bombardier, sir.

25 Q. Was it right that you were a vehicle commander in Iraq?

1 A. That was one of the jobs I had, sir.

2 Q. Was that your main role?

3 A. Yes, sir.

4 Q. Which company were you attached to?

5 A. In Somme Company, sir.

6 Q. I am just going to ask you a little about your training.

7 I want ask you a little about prisoner-handling. Before

8 going to Iraq, at any stage in your army career, were

9 you trained in the handling of prisoners who might have

10 been taken?

11 A. We were given -- every two or three years, sir, we were

12 given a brief outline of prisoner-handling under the

13 Geneva Convention, sir.

14 Q. Was that part of LOAC training?

15 A. Yes, sir.

16 Q. Law of armed conflict?

17 A. Well, part of both, sir. We were doing the law of armed

18 conflict and part of AC training as well, sir.

19 Q. You were shown, were you, a video in relation to that?

20 A. We were shown parts of a video, sir. We were never

21 shown a full demonstration video, sir.

22 Q. Did you understand from your training in relation to

23 prisoners that there was any distinction, any

24 difference, to be made between what might be called

25 prisoners of war and civilian terrorists or civilian

1 detainees?

2 A. Not really, sir, no. Just -- in my own way of thinking,

3 no, sir, but yet --

4 Q. "But yes", what does that mean?

5 A. With the prisoners of war, we were told obviously the

6 right to the Geneva Conventions does cover them

7 substantially, as it does not with the terrorists.

8 Q. Your understanding was that the Geneva Convention

9 covered prisoners of war, but did not cover civilian

10 detainee terrorists?

11 A. Civilians, yes, but not terrorists.

12 Q. I follow.

13 A. Convicted terrorists, sir.

14 Q. Before going to Iraq, had you been given any training in

15 the use of stress positions?

16 A. Only in role play, sir. Yes, when we were doing

17 exercises on the likes of Salisbury Plains or weeks(?).

18 Q. In Iraq you were stationed, were you, at

19 Battlegroup Main?

20 A. No, sir, I was stationed at Basra Palace.

21 Q. You were stationed at Basra Palace?

22 A. Basra Palace.

23 Q. Did you visit Battlegroup Main from time to time?

24 A. Correct, sir, yes.

25 Q. Do you know what I refer to if I refer to

1 "Operation Salerno"?

2 A. Yes, sir, I remember the operation.

3 Q. What, in essence, was the operation? What was its
4 purpose?

5 A. It was a hard knock operation, sir.

6 Q. You remember it as a hard knock, do you?

7 A. Sir, yes, sir.

8 Q. Did you play a role in that?

9 A. Yes, sir, we were outer cordon, sir.

10 Q. So, what, the outer security cordon --

11 A. Yes, sir, correct.

12 Q. I think is how you describe it in your statement.

13 A. Sir, yes.

14 Q. So you were commanding a vehicle.

15 A. I was in charge of a vehicle, sir, yes.

16 Q. Were you aware of detainees being taken in that hard
17 knock, as you describe it?

18 A. At the time, no. We were -- at the time obviously we
19 were concentrating on our job at the time, which is
20 obviously outer cordon. The only time I knew that
21 detainees were getting taken is when I saw them myself,
22 sir.

23 Q. What was the purpose of the operation, Mr Stokes, as you
24 remember it?

25 A. The outline, just going back as far as I can

1 remember it, sir, is to lift and to bring back to
2 Battlegroup Main suspected insurgents.

3 Q. You can't remember any more --

4 A. I can't remember, not to the best of my knowledge, sir.

5 Q. You were aware that detainees were taken?

6 A. Yes, sir.

7 Q. Did you go back to BG Main with any of those detainees
8 who were arrested?

9 A. No, sir.

10 Q. Did you go to Battlegroup Main after the arrest of those
11 detainees at some time?

12 A. Correct, sir.

13 Q. Do you recall what day of the week it was that they were
14 arrested on that this operation took place?

15 A. I can't recall offhand. I know now that it has been
16 told to me that it was on a Sunday, sir.

17 Q. In your Inquiry statement, you have told the Inquiry of
18 two incidents that you recall, the first of which was at
19 Battlegroup Main.

20 A. Correct, sir.

21 Q. Tell us a little about that, please.

22 A. After --

23 Q. Where were you in Battlegroup Main?

24 A. Pardon, sir? Could you say that again?

25 Q. Where were you in Battlegroup Main when this incident

1 occurred that you can describe to us?

2 A. I was walking past the temporary holding area, sir --

3 the detainees.

4 Q. By "temporary holding area", you mean the place where

5 detainees were kept?

6 A. Correct.

7 Q. Was this on the same day as you had been involved as the

8 outer security or on a different day?

9 A. It was on the same day, sir.

10 Q. What time of day approximately was it?

11 A. It was probably afternoon time.

12 Q. All right. You are walking past the TDF, as we call it.

13 A. Yes, sir.

14 Q. What did you see?

15 A. At the time, sir, I had seen a prisoner kneeling down in

16 the compliance position, sir.

17 Q. A prisoner kneeling down in the compliance position.

18 What do you mean by the "compliance position"?

19 A. Sitting -- like sitting with his legs crossed, sir. He

20 was not in a stress position -- what I presume is

21 a stress position --

22 Q. Sitting with his legs crossed --

23 A. With his legs crossed and with his hands behind his

24 back, sir.

25 Q. Do you mean sitting on the ground?

1 A. On the ground, sir, yes.

2 Q. Where in relation to the TDF?

3 A. Just outside the building. Literally -- I think his
4 back was on the wall, sir.

5 Q. With his hands behind his back. Could you see whether
6 he was plasticuffed?

7 A. I couldn't, sir, no.

8 Q. Anything else you can tell us about him?

9 A. His head was lent forward.

10 Q. Could you see his face?

11 A. No, I couldn't see his face, sir.

12 Q. Why not?

13 A. Because his head was bent forward like bowing down.

14 Q. But he wasn't hooded, was he?

15 A. No, sir.

16 Q. Was anyone else with that detainee in that compliance
17 position?

18 A. Yes, sir, there was guard about a foot and a half away
19 from him.

20 Q. Did you know the guard?

21 A. No, sir.

22 Q. Do you remember anything about him?

23 A. Just a vague description of him, that he was a slim
24 build, sir, and he was in desert combats.

25 Q. Any idea of the age?

1 A. Youngish, between the ages of 19 to early 20s, I would
2 say.

3 Q. Did you see anything happen between the guard and the
4 detainee?

5 A. Yes, sir.

6 Q. What did you see?

7 A. As I approached to look at the detainee, as pure
8 curiosity, I took a fleeting glance at the detainee and
9 started to walk as if I was walking back towards the
10 vehicles.

11 Q. Please raise your voice slightly.

12 A. Sorry, as I started to walk back towards the vehicles,
13 out of the corner of my eye I seen the movement -- sharp
14 movement of a foot. Then I heard -- I heard the impact
15 of what I presumed was a kick because, as I turned and
16 saw the detainee, his feet -- his head went backwards
17 and when it came forwards he looked like he had a load
18 of blood coming out of his nose.

19 Q. When you say "it looked like he had a load of blood
20 coming out of his nose", do you mean you saw that --

21 A. I saw that, sir, yes.

22 Q. So this was happening out in the open in front of the
23 TDF building?

24 A. Sir.

25 Q. Where did it appear that the detainee was injured?

1 A. Apart from the kick, sir, do you mean?

2 Q. I mean as a result of the kick.

3 A. Yes, sir.

4 Q. Where was he injured?

5 A. In the face, sir.

6 Q. You saw a nosebleed?

7 A. I gathered it was in the nose.

8 Q. Did you see anything else?

9 A. No, sir.

10 Q. Did you react to what you had seen?

11 A. Yes, sir.

12 Q. Tell us what you did.

13 A. I walked towards the soldier and I screamed and yelled

14 that it was bang out of order what he was doing.

15 I probably swore.

16 Q. You probably swore?

17 A. Yes.

18 Q. Did you outrank him?

19 A. Yes, I did, sir.

20 Q. Was that apparent to you at the time?

21 A. Yes, sir.

22 Q. What did you say to him?

23 A. As I approached him, screaming F'ing and blinding why he

24 did it, out the corner of my eye I saw another person

25 walking towards me, sir.

1 Q. Just before you talk about another person --

2 A. Yes.

3 Q. -- the one that you shouted at, the soldier who had

4 kicked, am I right?

5 A. Yes.

6 Q. Did he respond to you?

7 A. As he looked back he did say, "These are the bastards

8 who killed Dai Jones".

9 Q. Did that mean something to you at the time?

10 A. Yes, it did, sir.

11 Q. Did you know Captain Dai Jones?

12 A. For a short while, sir, yes.

13 Q. You knew of his death anyway, did you?

14 A. Yes, sir, I did.

15 Q. So you were telling the chairman that another soldier

16 then appeared?

17 A. Yes, sir.

18 Q. Rank?

19 A. At the time I weren't sure but obviously as he came into

20 focus I looked down on his chest and seen that he was

21 a sergeant, sir.

22 Q. Known to you?

23 A. No, sir.

24 Q. Describe that sergeant?

25 A. He was not hefty build, but he had blond hair, smart --

1 smartly dressed, in full desert combats, clean shaven,
2 sir.

3 Q. Tall, short?

4 A. He was about just under six foot. A little bit smaller
5 than me.

6 Q. Was anything said between you and the sergeant?

7 A. Yes, sir, there was a bit of a heated discussion, sir.

8 Q. What was that discussion about? What was said?

9 A. About the kick towards the detainee, sir?

10 Q. What was said, Mr Stokes?

11 A. I can't 100 per cent recall every word that was said,
12 sir, but the gist of it was how upset I was that they
13 shouldn't be treating somebody like that.

14 Q. In your statement to this Inquiry -- I don't need it
15 turned up, but at paragraph 18 -- you tell the Inquiry
16 that you asked that sergeant how he knew these were the
17 ones who'd killed Dai Jones.

18 A. Correct.

19 Q. What was his response to that?

20 A. "Because we fucking do".

21 Q. Was that how it was left?

22 A. Yes, sir, because at the time obviously, in that
23 situation, I had a -- somebody outranking me
24 straightaway. I didn't know how many soldiers were
25 around at the time. I was annoyed, but obviously, at

1 the time, when the -- when you are in the British Army,
2 sir, and you -- things can escalate, and when they do
3 escalate into a violent situation, which the threatening
4 behaviour towards me was at the time, there are very
5 serious consequences, sir.

6 Q. So did you back off from the situation?

7 A. Yes, sir.

8 Q. Did you feel you had any alternative?

9 A. No, sir.

10 Q. Did you report what you had seen to anybody?

11 A. No, sir, I did not.

12 Q. Why not?

13 A. Sir, at the time I felt as if I was -- at the time that
14 it happened -- sorry -- I felt with the outranking
15 senior rank that was there, with his witnesses that he
16 had there, sir, and me being a member of the Royal
17 Artillery and not a member of the QLR, I didn't think it
18 would go any further, sir.

19 Q. Did you think you had any duty to report it?

20 A. Yes, sir.

21 Q. Your told no one, did you?

22 A. No one, sir.

23 Q. You say in your statement to this Inquiry that the
24 soldier who kicked the detainee was not Corporal Payne.

25 A. Yes, sir.

1 Q. You knew Corporal Payne, did you?

2 A. I didn't know him, sir, but I had met him once on
3 a different occasion, sir.

4 Q. So you can say from that, can you, that --

5 A. Corporal Payne was a tall man -- a lot thicker build.
6 He was more like myself, sir.

7 Q. I need to ask you this, only because of what you have
8 said about the assault and the location --

9 A. Sir.

10 Q. Perhaps I might put it this way -- and the lack of
11 evidence that the Inquiry has heard as to any incident
12 occurring of this kind.

13 A. Yes, sir.

14 Q. Must it have been in respect of the detainees arrested
15 under Operation Salerno that you saw this incident or
16 might it have been another occasion with another
17 detainee?

18 A. Sir, I never spent -- after that operation, sir, I very,
19 very rarely went back to Battlegroup Main, sir.
20 I definitely know that on the day I was round there at
21 that operation, sir, walking past.

22 Q. Did you subsequently hear any talk, rumour, gossip,
23 about anything that may have happened to those
24 detainees?

25 A. Yes, sir.

1 Q. I'm talking about rumour and gossip at the time, within
2 hours or days.

3 A. Within days, sir.

4 Q. What was the gossip that you heard?

5 A. The rumour was -- and gossip, sir, as I can -- that they
6 were -- detainees were getting -- as bluntly, as what it
7 was said to me, a kicking.

8 Q. A kicking?

9 A. Sir.

10 Q. Did you become aware that one of the detainees arrested
11 on this operation had died?

12 A. Not at the time, sir, no.

13 Q. When did you first hear that?

14 A. We heard that -- I heard that a few days after the
15 rumours came out, sir.

16 Q. A few days after the rumours?

17 A. Of them being -- having a kicking, sir.

18 Q. I don't want you to guess at it. If you don't know,
19 tell the Inquiry, please. We know that the arrest of
20 these detainees was on a Sunday. You say you were at
21 BG Main on that same day when you saw this incident.

22 A. Sir.

23 Q. If that were the Sunday, when did you hear the rumours
24 about the beating?

25 A. Some day that week, sir. I wouldn't know, sir.

1 Q. All right. You told the Inquiry in your statement about
2 another quite separate incident when violence was used
3 on a prisoner.
4 A. Correct, sir.
5 Q. Where did that occur?
6 A. That happened on the Basra dock, sir.
7 Q. And about how long after the incident you have just told
8 us about at BG Main?
9 A. A few weeks, sir.
10 Q. Sorry?
11 A. A few weeks.
12 Q. A few weeks. Thank you. Were you out on an operation
13 on this day?
14 A. It wasn't an operation, sir, no. It was duty.
15 Q. It was ...?
16 A. It was a duty, sir.
17 Q. A duty. Were you commanding a vehicle?
18 A. I was not, sir, no.
19 Q. What were you doing on this day?
20 A. I was guarding the docks, sir.
21 Q. Guarding the docks from where?
22 A. It was about a mile stretch, sir, that we had under our
23 control.
24 Q. Did you have a particular place from which you operated?
25 A. It was a makeshift guard house, sir.

1 Q. Was it, in fact, one of the docks' gatehouses?

2 A. Yes, sir.

3 Q. What did you see there?

4 A. In accordance to the prisoners, sir? On the day of the
5 prisoners, sir, do you mean?

6 Q. Yes.

7 A. On the night of the prisoner, the patrol was going up
8 and down the docks to check for people that was stealing
9 and getting stuff off the docks, obviously to sell.
10 A patrol came across a group of men that were trying to
11 take steel and bits of metal off the docks. We were
12 previously told that if they are, that they are to be
13 handed over to the police.

14 The patrol came back into the guardhouse with the
15 three suspects. There were two young men -- well,
16 youngish men -- and an old man, which I gather was the
17 father. At first they had their hands held high, like
18 World War II prisoner of war kind of things. We told
19 them that we didn't want them to do that and to just sit
20 down, which -- we had a makeshift bench in front of the
21 guardhouse which they sat down on.

22 Q. So you had three prisoners sitting down on a makeshift
23 bench?

24 A. Sir.

25 Q. One of them being older and the other two younger?

1 A. Yes, sir.

2 Q. What happened then?

3 A. We reported that we had three suspected thieves on the
4 docks and that we needed someone to take them to the
5 police station, sir.

6 Q. Did someone come to collect them?

7 A. Yes, sir.

8 Q. Where were the soldiers from?

9 A. One of the other companies, sir. It wasn't one of our
10 boys, sir, from Somme Company.

11 Q. Not from your company --

12 A. No, sir --

13 Q. -- but from QLR?

14 A. From QLR, sir, yes, sir.

15 Q. Did you know the soldiers who came to collect these
16 detainees?

17 A. No, sir.

18 Q. What happened when they came to collect?

19 A. They reversed the back of the Saxon up to where the
20 suspected prisoners were. We then picked them up and
21 started moving them towards the vehicle. The
22 corporal -- sorry -- the corporal came out and started
23 pushing the detainees back onto the back of the Saxon.
24 The way the Saxon is situated, you have people either
25 side on seats and you only have a footwell where you put

1 people on.

2 The only way for the detainees to be put on was to
3 sit them on the floor and move them back towards the
4 commander's seat. On the day in question the two
5 youngest ones went in and were moved back in between the
6 feet of the soldiers. Then it was the time for what
7 I gathered was the father, who then obviously took his
8 time to get on to the back of the Saxon and the
9 individual -- well, the soldier that was involved put
10 his foot on his chest and pushed down. Whether he done
11 it on purpose at the time I wasn't 100 per cent sure,
12 but the forceful push on him was upsetting to me because
13 it made -- he -- the old man lost control of his bowels
14 and it upset me because he was around the same age as my
15 father.

16 Q. So around what age would that have been?

17 A. About 60, early 60s.

18 Q. So it was a push with the foot?

19 A. Sir.

20 Q. What did you do when that happened?

21 A. At first I was in shock, sir, and then I screamed to
22 them, "What are you doing?"

23 Q. In your statement to this Inquiry, you put it perhaps
24 more explicitly --

25 A. Yes, I probably did.

1 Q. -- "What the fuck was that for?"

2 A. Yes, sir.

3 Q. Is that the sort of thing you would have said?

4 A. Yes, sir.

5 Q. What was the response?

6 A. The response was, "We are getting them in, aren't we?"

7 Q. Had the handling of that man been appropriate, as you

8 saw it?

9 A. No, sir.

10 Q. During your time in Iraq, did you ever see prisoners

11 hooded?

12 A. Once, sir.

13 Q. Where was that?

14 A. I can't -- I wouldn't be able to guess the location,

15 sir, but it was in a car park and it was in the back of

16 a Land Rover, sir, with a guard.

17 Q. So that was at a time, what, when a detainee was being

18 moved from A to B?

19 A. He must have been, sir.

20 Q. You never saw hooding, for example, at BG Main, did you?

21 A. I never, sir.

22 Q. That later matter that you have now told us about, did

23 you report that?

24 A. No, sir.

25 Q. Why not?

1 A. For the reasons I give in my statement, sir.

2 Q. Would it in fact have been difficult for you if you
3 reported such matters?

4 A. Yes, sir.

5 Q. Why?

6 A. Because I was the only bombardier within that side of
7 the company, sir.

8 MR ELIAS: Thank you very much.

9 THE CHAIRMAN: I think we will have a break now of ten
10 minutes. If you would be kind enough to come back in
11 ten minutes' time promptly and don't speak to anybody
12 about your evidence in the course of the break.

13 A. Okay, sir.

14 THE CHAIRMAN: Thank you.

15 (3.23 pm)

16 (A short break)

17 (3.33 pm)

18 THE CHAIRMAN: Yes, Ms Hetherington.

19 Questions by MS HETHERINGTON

20 MS HETHERINGTON: Mr Stokes, just to deal with four matters
21 briefly with you. First the incident at BG Main that
22 you talked about this afternoon.

23 You described a private soldier who you saw kicking
24 the detainee and also a sergeant who came out later and
25 you had a conversation with. In your witness

1 statement -- we can go to it if you need to -- you say
2 there was also another soldier present in a doorway. Do
3 you recall him now?
4 A. Yes, yes, ma'am, yes.
5 Q. You say he was taller than the first soldier.
6 A. Yes, ma'am.
7 Q. Can you remember -- the first soldier was a private.
8 What about this second soldier? Can you remember his
9 rank?
10 A. No, he was too far away. He was in the far doorway to
11 the right-hand side, as you are looking at it.
12 Q. Other than his height, can you remember anything more
13 about his physical description, his build or hair
14 colour?
15 A. He was a bit bigger than the other one --
16 Q. Than the first man?
17 A. Yes.
18 Q. Do you think you would recognise either of these
19 soldiers now?
20 A. No, ma'am.
21 Q. What about the sergeant?
22 A. Probably not.
23 Q. Sorry, you dropped your voice a little bit.
24 A. Probably not.
25 Q. Probably not. When the sergeant came out and you and he

1 had this heated conversation, the detainee presumably
2 was still there --

3 A. Yes, ma'am.

4 Q. -- in sight of the sergeant?

5 A. Well, his back was -- he was more -- his back was
6 towards us -- where the detainee was. When the sergeant
7 came out to confront me, his back was more towards the
8 detainee because he was more facing me.

9 Q. Would he have been able to see the bloody nose that you
10 saw?

11 A. I wouldn't be able to speculate on that.

12 Q. You said that after that incident you heard rumours that
13 the detainees were getting a smacking.

14 A. Yes, sir.

15 Q. In answer to a question from Mr Elias, you knew it was
16 after that event, but you couldn't remember how long
17 after.

18 A. Yes, ma'am.

19 Q. In your statement, you say you thought it was later that
20 evening. Does that sound right?

21 A. It might be. It might be later that evening or it might
22 have been the following day, but during the period
23 I heard about them getting a kicking.

24 Q. You also say that the rumour was going around camp.
25 I just wanted to clarify. By "camp", do you mean

1 Basra Palace or BG Main?

2 A. Basra Palace.

3 Q. You have spoken in your evidence today about your
4 worries about firstly challenging the sergeant and then
5 also reporting this incident and the later incident.

6 A. Yes, ma'am.

7 Q. You spoke about the fear of being put into difficulties
8 if you did this. In your witness statement you say that
9 you were concerned for your safety, given that you were
10 in an area of conflict and you had heard of people being
11 accidentally left behind in vulnerable positions; is
12 that right?

13 A. Yes, ma'am -- not obviously with this regiment, but
14 I had heard that people have been -- obviously, in
15 operations, that spoke out against the regiment, shall
16 I say, have been put in that kind of position.

17 Q. Sorry, did you say "not with QLR" or "with QLR"?

18 A. "Not with QLR". That's what I am trying to say. I have
19 heard about stories about people being left out on
20 a limb, in other words.

21 Q. Generally in the army?

22 A. Yes.

23 MS HETHERINGTON: Thank you. No further questions.

24 THE CHAIRMAN: Ms Edington?

25 Questions by MS EDINGTON

1 MS EDINGTON: Mr Stokes, you were with Somme Company at
2 Basra Palace, what, for the whole of the deployment?
3 A. Yes, ma'am.
4 Q. So you didn't work with a chap called Jordan Bancroft at
5 all --
6 A. No, ma'am, not directly, no.
7 Q. -- or Corporal Andrew Lawrence?
8 A. No, ma'am.
9 Q. Did you know that there was Burma Company in the same
10 location as Battlegroup Main?
11 A. Say again, ma'am.
12 Q. Did you know that there was Burma Company in the same
13 location as Battlegroup Main?
14 A. B company, yes, ma'am.
15 Q. That is right. Who were Somme Company co-located with?
16 A. Somme Company was located with the Signals, the REME.
17 Q. From the brigade headquarters?
18 A. From the brigade headquarters, ma'am.
19 Q. You say that the man that you thought you saw somebody
20 else assault, but you didn't actually see an assault --
21 you saw a bloody nose, you say.
22 A. Ma'am.
23 Q. -- didn't have a hood on his head?
24 A. No, ma'am.
25 Q. At the docks, you say you didn't see the call sign for

1 the marking on the vehicle; is that right?

2 A. That's correct, ma'am.

3 Q. There are three places that the vehicles are marked,
4 aren't there?

5 A. Yes.

6 Q. So you didn't see any of those circles or markings?

7 A. I wasn't concentrating on the call signs. I was just
8 asked, from the interview this year, did I see any call
9 signs.

10 Q. And you didn't see any of the three places --

11 A. No, because I was not looking for a call sign, ma'am.

12 Q. Even though the chap pushed him, you say, in the back of
13 the Saxon, there would have been a call sign mark on the
14 back of the Saxon doors, wouldn't there?

15 A. Most probably ma'am.

16 Q. But you didn't see that?

17 A. I can't recall, ma'am.

18 MS EDINGTON: Thank you.

19 THE CHAIRMAN: Mr England.

20 Questions by MR ENGLAND

21 MR ENGLAND: Mr Stokes, the gentleman you saw with the
22 bloody nose, can you describe what he was wearing
23 please? Was it traditional dress or was it local dress?

24 A. I am guessing that it was a traditional dress because it
25 was a white top.

1 Q. Perhaps you can help us with this. You told the Inquiry
2 in your statement --

3 A. Sir.

4 Q. -- that during this hard knock operation that you were
5 involved in, the people that you saw were in that type
6 of dress that you just described. The detainees, you
7 tell us, wore traditional long dress.

8 A. May I look at my statement, sir?

9 Q. Take it from me. That's what you told the Inquiry.
10 What I'm interested in is the person you say you saw
11 with the bloody nose. Had you seen him earlier during
12 the lift that you carried out?

13 A. No, sir. No, sir.

14 Q. All right. The other thing I want to ask you is this:
15 what do you understand the difference between a soft
16 knock and a hard knock is?

17 A. A hard knock, sir, is when you have positive information
18 that the people there are suspects of doing something,
19 sir. What it is, you go in very quick, very fast and
20 bring them out. A soft knock is when it is a general
21 question. You could go there to ask them questions,
22 searching for an area. You might not detain somebody,
23 but you might want to search that area, sir.

24 Q. I understand. One of the things you are sure about is
25 that this was a hard knock and that you were going

1 looking, you think, for insurgents?

2 A. Sir.

3 MR ENGLAND: Thank you.

4 THE CHAIRMAN: Mr Bourne?

5 MR BOURNE: No, Sir, thank you.

6 THE CHAIRMAN: Thank you. Mr Evans? Sorry, it is not Mr

7 Evans.

8 MS CROSS: It is Ms Cross.

9 THE CHAIRMAN: Yes.

10 Questions by MS CROSS

11 MS CROSS: Just one brief question, Sir, I may. You

12 mentioned earlier that you had a fleeting glance at the

13 detainee. Can I just ask how good your recollection is

14 now, after six years, of the detainee?

15 A. It's not brilliant. It was just a small glance.

16 MS CROSS: Thank you, Sir.

17 MR ELIAS: Sir, Mr Beer has been left off the list in error.

18 I think he may want to ask a question.

19 THE CHAIRMAN: Do you want to ask a question, Mr Beer?

20 MR BEER: Just two and it will be two -- not topics --

21 questions.

22 THE CHAIRMAN: Two.

23 Questions by MR BEER

24 MR BEER: Did you know Colour Sergeant Bob Livesey?

25 A. No, sir.

1 Q. If he was a man of 5 feet 8 in height, enjoyed the kind
2 of build that you and I do, had dark brown hair, he
3 wouldn't be the sergeant that you saw?
4 A. No, sir. The sergeant I saw had blond hair, sir.
5 THE CHAIRMAN: Blond hair, the sergeant?
6 A. Sir.
7 THE CHAIRMAN: Yes, I think you said so.
8 MR BEER: Thank you.
9 MR ELIAS: I have no questions, Sir. Thank you.
10 THE CHAIRMAN: Thank you very much for coming along. I am
11 grateful to you for your evidence. You are now free to
12 go, Mr Stokes.
13 You can come back again if you want to, but you are
14 free to go. I am grateful to you for coming and giving
15 your evidence to the Inquiry.
16 A. No problem, Sir.
17 THE CHAIRMAN: Thank you very much.
18 A. Thanks a lot, Sir.
19 MR ELIAS: Sir, may I call Peter Edward Quegan, please?
20 THE CHAIRMAN: Yes.
21 If you would be kind enough to stand up, please,
22 Mr Quegan. I will ask that you take the oath.
23 A. Yes, Sir.
24 PETER EDWARD QUEGAN (affirmed)
25 THE CHAIRMAN: Yes, please sit down, Mr Quegan.

1 If you would speak into the microphone, it will help
2 us to hear you.

3 A. Yes, Sir.

4 Q. I am sure I don't need to tell you that if you don't
5 understand a question, that you will say so.

6 A. Yes, sir.

7 THE CHAIRMAN: I am quite certain you will.

8 Yes.

9 Questions by MR ELIAS

10 MR ELIAS: Would you give the Inquiry your full name,
11 please?

12 A. Peter Edward Quegan, sir.

13 Q. Please have a look at a folder which is to your right,
14 I hope, with a document which should be your statement
15 in it, and go to the last page of your statement, which
16 we would find at BMI00293, and confirm that above the
17 date of 1 May 2009 is your signature?

18 A. It is, sir.

19 Q. When you signed that statement, Mr Quegan, were you
20 confirming that it was true to the best of your
21 knowledge and belief?

22 A. Yes, I was, sir.

23 Q. Thank you very much.

24 THE CHAIRMAN: Is it "Quegan" or "Quee-gan"?

25 A. "Quee-gan", Sir.

1 THE CHAIRMAN: Thank you.

2 MR ELIAS: We have read that statement and I am not going to
3 ask you questions about all parts of it, but I am going
4 to take you to certain aspects of the evidence that you
5 relate within it. You are by profession a solicitor, is
6 that right?

7 A. I am, sir, yes.

8 Q. Your involvement with the army was through the TA?

9 A. Yes, sir.

10 Q. You were commissioned in the TA in July 1991?

11 A. Yes, sir.

12 Q. I take this from your statement. In 1999 you were
13 promoted to the rank of major?

14 A. Yes, sir.

15 Q. In Iraq, were you still at that rank, major?

16 A. I was, sir, yes.

17 Q. And your role in Iraq, please?

18 A. I was an officer within the G5 cell, sir.

19 Q. And that, broadly speaking ...?

20 A. That was civil/military cooperation.

21 Q. Was it part of what is sometimes described as the
22 "hearts and minds operation"?

23 A. Part of it, sir, yes.

24 Q. Before going to Iraq, at any stage in the course of your
25 TA involvement had you received any training in

1 prisoner-handling?

2 A. In the immediate search of battlefield prisoners, yes,
3 sir.

4 Q. What does that mean, precisely?

5 A. Well, if you were to take a position after a fire-fight,
6 it would mean safely searching the prisoner, but no more
7 than making sure that a colleague had him covered by
8 a weapon whilst you searched him. No more than that,
9 sir.

10 Q. Were you trained specifically in how prisoners --
11 whether they be prisoners of war, if you like, fighting
12 force or civilians -- should be treated?

13 A. The law of armed conflict lectures that we received once
14 a year, yes, sir.

15 Q. What was the fundamental message, if there were one,
16 that you took from that training?

17 A. That prisoners were to be treated humanely.

18 Q. Were you given any training, again before being sent to
19 Iraq, in relation to the use of any conditioning
20 techniques? First of all, do you know what I mean by
21 the term "conditioning techniques"?

22 A. I know what you mean, sir, yes.

23 The only training that I ever had in relation to
24 conditioning was as a result of two -- one exercise and
25 one course -- much earlier in my career, but nothing

1 immediately prior to going to Iraq.

2 Q. Could I put it to you in this way -- I hope in
3 shorthand, but not too short -- were you taught or
4 instructed as to whether, if I can take them separately,
5 the use of hoods on detainees was permitted or not
6 permitted?

7 A. I was hooded myself on an exercise, but no distinction
8 was drawn as to whether it was permitted or not. It
9 was, I think, by implication assumed it was permitted.

10 Q. You assumed it was permitted?

11 A. Yes, sir.

12 Q. The use of stress positions -- do you know what I mean
13 by that?

14 A. Yes, sir.

15 Q. -- were you given any instruction prior to Iraq as to
16 whether they were a permissible tool to use against
17 a detainee?

18 A. The same answer applies, sir. I was placed in stress
19 positions on an exercise, but there was no distinction
20 drawn as between whether this was something the enemy
21 would do to us and we were not to do to the other side
22 or whether it was not permitted.

23 Q. In Iraq, once deployed there, did you see detainees
24 hooded from time to time?

25 A. I specifically recall one event in which I saw

1 a detainee hooded. By reference to my diary,
2 I summarised that there was another occasion when hooded
3 detainees were being shouted at. So at least on two
4 occasions.

5 Q. I am going to ask you about, as you know, I think, the
6 events in relation to the Operation Salerno detainees in
7 September.

8 A. Yes, sir.

9 Q. Did you see detainees hooded prior to that?

10 A. I don't recall seeing any hooded prior to that, sir.

11 Q. Did you have any understanding in Iraq as to who was
12 responsible for detainees?

13 A. My assumption was that it fell within the RSM's remit,
14 but only because that was the traditional role of the
15 RSM. Nothing specific was -- I was not aware of any
16 specific rule.

17 Q. I ask you because that's what you say in paragraph 39.
18 I am not going to ask that it be turned up. 39 of your
19 statement. I just wanted to probe this. You have said
20 a moment ago that that was your assumption because that
21 was the way it was done in the UK, for example.

22 A. Yes, sir.

23 Q. And you were never aware of any change of that system
24 while you were in Iraq, were you?

25 A. No, sir.

1 Q. You say in paragraph 39 that you thought that the RSM,
2 Briscoe, was responsible for custody facilities.
3 Can I just ask you this? Were you aware of the creation
4 of an office called "BGIRO"?

5 A. Only after coming back to the UK, sir. At the time
6 I knew that Major Royce's appointment was a battlegroup
7 warfare officer. I subsequently knew that he had gone
8 back to the UK and his position had been filled by
9 Major Peebles. I wasn't aware of a change in title.

10 Q. You weren't aware of a change in title. Were you
11 aware -- if it were the case -- that responsibility had
12 anyway been transferred from the RSM to firstly
13 Major Royce and then to Major Peebles?

14 A. No, sir, I wasn't aware that there was any strict
15 division.

16 Q. Perhaps I should ask you whether there was any reason
17 why you should ever have been aware of that, given the
18 role that you were doing.

19 A. No, sir.

20 Q. Thank you. On the occasions that you did see detainees
21 hooded in BG Main --

22 A. Yes, sir.

23 Q. -- what was the purpose, as you understood it, for
24 detainees to be hooded there?

25 A. The specific case that I recall, it appeared that the

1 man was simply having his senses deprived.

2 Q. Was simply having ...?

3 A. Sensory deprivation.

4 Q. Sensory deprivation. In your view, was there a purpose
5 in hooding within BG Main for security purposes?

6 A. I believe that that may well have been the purpose of
7 some of the hooding, but it seemed to me to be
8 irrational on the basis that there were sufficient
9 locally employed civilians within the base that, if they
10 wanted to know what was going on within the compound,
11 they could have done so.

12 Q. You say that at paragraph 31 of your statement. Could
13 we look at that? BMI00281, please, paragraph 31. It is
14 referring to interpreters specifically, but there were
15 others, were there, civilians who worked in the camp at
16 any one time?

17 A. Yes, sir.

18 Q. You say in this paragraph:
19 "... it was clear that hooding had no security
20 purpose."

21 A. Yes, sir.

22 Q. Because of the number of civilians?

23 A. Yes, sir.

24 Q. So, if anybody wanted to know what the layout was, for
25 example, there would be plenty of Iraqis who could tell

1 them?

2 A. That was my assessment, sir.

3 Q. I understand. Now I want to move on, please, to the

4 events of 14 to 16 September. You kept a diary,

5 Mr Quegan, is that right?

6 A. Yes, sir.

7 Q. Was that a diary that you kept only when you were in

8 Iraq or were you -- I will put it this way -- a serial

9 diarist?

10 A. I have been keeping a diary since 1978, sir.

11 Q. And you continued to do that while you were in Iraq?

12 A. Yes, sir.

13 THE CHAIRMAN: I think that qualifies as being a serial

14 diarist.

15 MR ELIAS: Thank you.

16 In that diary, as will be apparent, because we all

17 have copies of it, you refer to incidents that occurred

18 during the period of time when the Operation Salerno

19 detainees were at BG Main.

20 A. Yes, sir.

21 Q. May I begin just by asking you this, before turning to

22 the diary entries? Were you aware of the arrest of

23 detainees as a result of Operation Salerno?

24 A. I was aware that people were being kept in the temporary

25 detention facility. I am not too sure if I was aware as

1 a result of which operation.

2 Q. Your diary, if we can look at BMI00296, has a record for
3 Monday 15 and Tuesday 16 September. When did you make
4 your diary? Was it at a regular point of the day?

5 A. Before going to bed, sir.

6 Q. Each day?

7 A. Yes, sir.

8 Q. So Monday 15 September would be a diary entry written
9 late on on the Monday or the early hours of the Tuesday
10 morning, would it?

11 A. Yes, sir. Probably midnight, give or take quarter of an
12 hour.

13 Q. I follow. You said this, as we can see, on Monday
14 15 September:

15 "I find myself in something of a dilemma. Last
16 night before bed I was walking past the generators when
17 I saw a figure very close to one of them ..."

18 Was that a record, Mr Quegan, of something that had
19 happened on this day or something that had happened the
20 previous day?

21 A. It had happened the previous day, sir. It had not
22 appeared -- it had not appeared to be particularly
23 significant at the time, but that diary was written
24 after I had been called into the TDF, when a number of
25 things suddenly became significant.

1 Q. So now you were finding yourself, as you say in the
2 diary, in something of a dilemma?

3 A. Yes, sir.

4 Q. So the "last night" would have been the Sunday night,
5 would it?

6 A. Yes, sir.

7 Q. "... before bed I was walking past the generators ..."
8 Where were the generators to which you were
9 referring, in relation to the HQ block, if you can help
10 us?

11 A. This particular generator was directly behind the
12 headquarters building. The power cable from it ran
13 through a door -- which I think went into the -- it was
14 an intelligence office on the left-hand side of the door
15 and an empty tiled room on the right-hand side.

16 Q. So if we look, please, at a sketch that you have
17 helpfully drawn -- BMI00305 -- I wonder if that can be
18 enlarged? Thank you very much.

19 A. Yes, sir. The sketch was drawn by the policeman, but it
20 is correct, and the letters "A", "C" and "B" were
21 letters that were put on on my diary.

22 Q. Thank you. So your direction for the letters. Can we
23 just look at those letters then please?

24 A. Yes.

25 Q. The CQMS stores -- forgive me -- the letter "A" is the

1 accommodation block, as you tell us in the statement.

2 A. Yes, sir.

3 Q. The "X", at the top of that box, as we look at it,
4 highlights ...?

5 A. It highlights where my room was.

6 Q. I follow. So was your room looking out in that
7 direction?

8 A. Yes, sir.

9 Q. Which floor of that accommodation block?

10 A. It was on the second floor, I believe, sir.

11 Q. Thank you. We can see -- although it's slightly
12 indistinct -- that above the word "blocks" there's
13 a circle with a "D" in it. Is that right?

14 A. Yes, sir.

15 Q. That's where you were indicating approximately was the
16 generator?

17 A. It was approximately, yes. Perhaps a little to the
18 right of there, but it was -- it was on that scrubland.

19 Q. In that area. The HQ block you have also marked with
20 a "C".

21 A. Yes, sir.

22 Q. Is that the building that you were just referring to --

23 A. Yes, sir.

24 Q. -- where the TQ'ing took place? Is that known to you?

25 A. I'm not sure where TQ'ing took place.

1 Q. All right. So going back, if we may -- thank you -- to
2 Monday he 15th:
3 "... I was walking past the generators when I saw
4 a figure very close to one of them ... profile was
5 ill-defined."
6 Were you just out and about for a walk or doing
7 anything specific?
8 A. I can't recall exactly where I was going, sir.
9 Q. "He turned out to be a prisoner with a sack on his head.
10 He was being watched from afar and had, so I was told,
11 been standing there for three hours exposed to white
12 noise."
13 Who told you that, Mr Quegan?
14 A. I recall asking -- I think it was Sergeant Bolton --
15 sadly now deceased -- who was sat on the chair at the
16 back of the headquarters block.
17 Q. Did he appear to be guarding?
18 A. Yes, sir.
19 Q. Was he the only guard?
20 A. He was, sir, yes.
21 Q. So he would have told you, would he, the time, the three
22 hours?
23 A. Yes, sir.
24 Q. The fact that he was exposed to what you describe as
25 "white noise", was that something you were told or

1 something you yourself saw or heard?

2 A. He was stood close to the generator, sir.

3 Q. Where was the white noise coming from?

4 A. From the generator.

5 Q. Why did you describe it as "white noise"?

6 A. Because when I had done my exercise in 1992, that was

7 a phrase that I had -- that had been applied to the

8 noise then, which again was coming from a small

9 generator.

10 Q. What did you understand was the purpose of white noise?

11 A. Part of the conditioning process, sir.

12 Q. What effect does it have on the individual to whom it is

13 applied?

14 A. I suppose it deprives one of the ability to sense

15 anything other than that noise, assists in

16 disorientating somebody.

17 Q. All right. Your diary goes on:

18 "The night before I had been awoken by screaming,

19 which it became clear was a prisoner and during most of

20 the day there had been very loud shouting at prisoners

21 with sacks over their heads."

22 Does it follow that you had seen that; that is to

23 say you had heard the loud shouting and you had seen

24 prisoners with sacks over their heads?

25 A. Yes, sir. I specifically remember waiting to go out on

1 a job and hearing the shouting coming from the building.
2 I have to say, this long after I don't recall -- I don't
3 have an image of seeing people being shouted at with
4 sacks on their heads, but I know I would not have
5 written it down had I not seen it. It's a diary of my
6 experiences, not a diary of rumour.

7 Q. No. Therefore, would that have been something -- that
8 is to say the shouting at prisoners with sacks over
9 their heads -- you would have seen also on the Sunday,
10 during the day, or the Monday?

11 A. That would have been on the ...

12 THE CHAIRMAN: If you don't know.

13 A. No, I can't remember.

14 MR ELIAS: If we look at the wording of it, you refer to:
15 "The night before [there had been] ... screaming,
16 which it became clear was a prisoner and during the day
17 there has been very loud shouting ..."

18 It seemed to be an indication that you were
19 referring to the very day on which you were writing the
20 diary, wouldn't it?

21 A. Monday, Monday, sir.

22 Q. More likely, therefore, the Monday?

23 A. Yes, sir.

24 Q. "It does not seem to comply with the law of armed
25 conflict video that we see as part of our ITDs [your

1 training]. It is simply described as 'conditioning', in
2 effect psychological torture."

3 Why did you use that phrase "psychological torture"?

4 A. Because whilst it appeared not to -- it's not a process
5 which would cause physical harm, it was clearly intended
6 to continue to disorientate people and I -- I found it
7 distasteful, sir.

8 Q. You go on to say:

9 "Some of the prisoners look in pain ..."

10 It must follow that you saw them.

11 A. Sir, the diary is written immediately after I -- I had
12 been called to the TDF. I went to the TDF when I went
13 to the toilet before bed. I then went from there back,
14 directly across the road, to my room to go to bed and
15 wrote my diary prior to going to bed. So the pain and
16 the puffy faces I refer to is what I saw in the TDF.

17 Q. Something that you had witnessed very close up?

18 A. Yes, sir.

19 Q. Then let me pause and endeavour to sort out the timing
20 of it, as it were. The first thing, then, that you are
21 aware of was the figure by the generator?

22 A. Yes, sir.

23 Q. You spoke to Mr Bolton about that?

24 A. Yes, sir.

25 Q. How long were you there, observing that figure by the

1 generator?

2 A. I think I was simply walking past and I detoured to
3 Sergeant Bolton, sir.

4 Q. How far away from the generator was that detainee?

5 A. It's difficult to know now, sir, because I noticed that
6 in my statement here -- and in my earlier statement --
7 the distance -- and in the transcript from the court
8 martial, the distances vary. I would say close enough
9 that the intention was obvious -- between the 3 feet
10 that is referred to in one of the statements and the 12
11 that is referred to in another.

12 Q. So when you say "close enough that the intention was
13 obvious", you mean that he was obviously put to the
14 generator?

15 A. Yes, sir.

16 Q. Thank you. Was anything else said by Mr Bolton about
17 the circumstances?

18 A. No, I don't recall anything else, sir.

19 Q. Do you remember seeing anyone else around involved in
20 what was happening?

21 A. No, sir.

22 Q. So you walked past, did you, and, what, back to your
23 room?

24 A. Yes, sir.

25 Q. Did you think that that was something that needed to be

1 reported or taken up with anyone?

2 A. No, sir. I assumed that it was being done as part of an
3 authorised process.

4 Q. But making that assumption, how did you feel about what
5 you had seen?

6 A. It was -- it was distasteful. I harboured no ill-will
7 towards any Iraqi. Whilst I appreciated that things had
8 to be done, it wasn't something that I like the look of,
9 sir.

10 Q. As we have seen in that diary entry, you had referred to
11 hearing screaming in the night.

12 A. Sir.

13 Q. Do you know which night you had heard that?

14 A. That's difficult because of the phrasing that I use
15 which suggested -- or implies -- the night before the
16 day before.

17 Q. We know that these detainees at least came in on the
18 Sunday.

19 A. Yes, sir. I have to say I couldn't be absolutely sure.

20 Q. Help us a little about the noise, the screaming, that
21 you heard.

22 A. I was awoken at some time in the early hours. I wasn't
23 sure what it was that woke me up, but upon becoming
24 conscious I could hear a noise, a human wailing,
25 screaming. I got up. I went to the balcony and looked

1 out towards the main gate, in effect the only direction
2 that I could.

3 Q. Looking away from the TDF --

4 A. Looking away from the TDF. The TDF was on the other
5 side of the building I was staying in, so I looked out
6 at the main gate and saw nothing of significance.

7 I went back to bed. I think, as I say in the
8 statement, the noise didn't appear to be specifically
9 reactive to something. It sounded as if it was
10 somebody, I suppose, giving vent to their woes. At the
11 time it meant nothing and I went back to bed. It's only
12 over the next couple of days that it became significant.

13 Q. Because you began to put two and two together, as you
14 thought?

15 A. Yes, sir, I put two and two together. But I suppose if
16 I was asked to give a categorical answer, by implication,
17 I assume afterwards that it came from the TDF, but at
18 the time --

19 Q. You didn't know where it came from?

20 A. I didn't know where it was coming from.

21 Q. I understand. You describe the noise in your statement
22 to this Inquiry as a "wailing".

23 A. Yes, sir.

24 Q. Does that best describe it?

25 A. I think it probably does, sir, yes.

1 Q. On the Monday, before you were called over -- and I will
2 come to that detail in a moment in relation to getting
3 closer to the detainees -- on the Monday, it's apparent
4 from your diary again that you were aware of loud
5 shouting and the sacks over the heads. Where did you
6 see that from?

7 A. I think I was due to get into a vehicle which would have
8 been outside the headquarters building. So that there
9 was a -- I think there was a layby between the
10 headquarters building and the accommodation.

11 Q. Do you remember anything of the shouting now?

12 A. Simply that it was an English voice, I think, barking
13 what sounded like orders.

14 Q. Did you see the detainees again that Monday before you
15 were called over there?

16 A. Not after that, I don't think, sir.

17 Q. So later on that Monday and before writing this diary
18 you were called, were you, to the TDF?

19 A. Yes, sir.

20 Q. Do you remember what time that was?

21 A. That would have been just before midnight, sir.

22 Q. What happened when you went over there? We will come
23 back to that time, let me stress, but I just want to
24 know what you say happened.

25 A. I was -- I was making my way over to the -- there was

1 a portaloos -- in fact I think two portaloos directly
2 outside it. Captain Seeds, the ops officer, called me
3 over to the door or the furthest room. He bade me put
4 some rubber gloves on that were in a box on the window
5 sill and asked me to assist him in lifting somebody from
6 the floor.

7 THE CHAIRMAN: Could you keep your voice up, please?

8 A. Sorry, sir.

9 THE CHAIRMAN: Yes. Thank you.

10 MR ELIAS: Captain Seeds asked you to assist him?

11 A. Yes, sir, in lifting somebody from the floor.

12 Q. So you were, what, outside using the portaloos?

13 A. That was the intention, sir.

14 Q. Yes. When you were called in by Captain Seeds, did you
15 go in?

16 A. Yes, sir.

17 Q. Into the TDF itself?

18 A. Yes, sir.

19 Q. Do you recall that there are two rooms, if one looks at
20 it from the front -- two rooms with a room in the
21 middle? Were you ever aware of that?

22 A. I knew there were two rooms. I wasn't aware that there
23 was a room in the middle.

24 Q. All right. And two doors, one at the left-hand end and
25 one at the right-hand end, with the portaloos between

1 them?

2 A. Yes, sir, two doorways, two apertures.

3 Q. Absolutely. Do you remember whether you went in through

4 the right or the left-hand doorway?

5 A. The right-hand one, sir.

6 Q. Going into that room, what did you see?

7 A. I saw two, possibly three, men lying down, one or two on

8 the left-hand side along the -- I suppose what would

9 have been the party wall between the two rooms or if, as

10 you say, there is a middle room, the wall party to that,

11 and then a third man in the left-hand corner in front of

12 me.

13 Q. Any soldiers in the room?

14 A. No, sir. Just Captain Seeds and I.

15 Q. What was the condition of the three men? First of all,

16 how were they dressed?

17 A. I -- I couldn't be certain on how they were dressed,

18 sir. Light cotton attire, probably.

19 Q. Were they hooded or not hooded?

20 A. Not hooded, sir.

21 Q. None of the three?

22 A. No, sir.

23 Q. Plasticuffed?

24 A. I don't believe so, sir, but I couldn't be -- no,

25 I don't believe so.

1 Q. All right. What happened?

2 A. I went to lift one of the men with Captain Seeds. He
3 was in what I would describe as a foetal position and,
4 as we went to lift him, he -- I think he winced and
5 groaned. He was -- it was obvious he was in too much
6 pain to be lifted.

7 Q. Was it apparent where the pain was --

8 A. No, sir.

9 Q. -- operating, as it were?

10 A. I can't recall, sir.

11 Q. Were you able to lift him or help him?

12 A. No, sir.

13 Q. What happened then?

14 A. At that point a soldier appeared at the door.
15 Captain Seeds said to me that he no longer required my
16 assistance and that the soldier would take over.

17 Q. So did you leave?

18 A. Yes, sir.

19 Q. If we go back to the screen, please, and your diary
20 entry of 15 September. When you describe, "Some of the
21 prisoners look in pain and at least one looks puffy
22 around the face, so it may also be physical" -- do you
23 see that?

24 A. Yes, sir.

25 Q. -- were you describing there that which you had observed

1 on this visit -- what I will call the "Seeds visit", if
2 you like?

3 A. Yes, sir.

4 Q. That's when you saw this?

5 A. Yes, sir.

6 Q. You went back to your room, did you, after trying to
7 assist Captain Seeds with the detainee?

8 A. Yes, sir.

9 Q. What you have written on your diary on Monday the 15th
10 is:

11 "It all seems both wrong and pointless. Wrong
12 because as detainees they are assumed to be guilty with
13 no rights as POWs simply because we say it is not a war
14 and pointless because they are just another purged group
15 and not a tremendous threat, certainly not once they are
16 off the streets."

17 That obviously was representing your view of the
18 situation, was it?

19 A. Yes, sir.

20 Q. Then you go on to say this:

21 "Along with 2 soldiers who have finally been found
22 stealing from Iraqis at checkpoints, it doesn't make for
23 a very edifying picture."

24 By that you were referring to the conduct of British
25 soldiers?

1 A. Yes, sir.

2 Q. And you were at least, were you, implying that British
3 soldiers must have done that which they should not have
4 done to these detainees?

5 A. I drew the obvious conclusion, sir.

6 Q. You go on to say this:
7 "What is worse is the CO's wish to keep the thing
8 quiet. Iraqis know that they have had things stolen,
9 what they want to know is that we deal with such
10 people."
11 What's that a reference to, please?

12 A. I had no doubt the soldiers were being dealt with, but
13 justice not only has to be done, it has to be seen to be
14 done to be effective, and if Iraqis knew that things
15 were being stolen from them, then they also needed to
16 know that people were being dealt with, and dealing with
17 things within the military system, out of sight of
18 Iraqis -- it was a judgment call because obviously, if
19 you highlight the fact that we are as bad as everybody
20 else, then it has a negative effect on local opinion.

21 Q. If we look at paragraph 58, Mr Quegan, of your statement
22 to this Inquiry, BMI00290, I think you make that very
23 point, don't you, quite clearly?

24 A. Yes, sir.

25 Q. It is your view that the Iraqis simply needed to see

1 that we were dealing with the bad apples, but you
2 appreciated at the time the publicity that would result
3 from making public the thefts could be a double-edged
4 sword.

5 "I was also conscious that at each level the chain
6 of command prefers to deal with its own problems
7 in-house, unless the problem is seen as a fault of
8 command."

9 A. Yes, sir.

10 Q. But it was, was it, as you understood it, the CO's wish
11 that this matter be kept, as it were, internal and under
12 wraps?

13 A. I think it was my assumption that it came from that
14 level, rather than from higher, sir.

15 Q. I follow. Then you record going, that evening, to the
16 loo where you were asked to help an Iraqi. You say he
17 was in too much pain to move. Then you go on to talk
18 about other events that have happened that day.

19 You think that that visit on the Monday was at about
20 midnight?

21 A. Yes, sir.

22 Q. Were you aware from anything that you saw or heard on
23 that visit -- or anything, indeed, that anyone may have
24 said to you, Mr Seeds or others -- that a detainee had
25 died?

1 A. No, sir. I was not aware until I was interviewed by the
2 RMP just over two years later of the sequence of events.
3 I was, however, aware or felt I was aware that
4 Captain Seeds was there to help and remedy something
5 that had gone wrong.

6 Q. I follow. So it's not a situation that -- you wouldn't
7 say -- let me put it this way to you, if I may -- you
8 don't say that, "I couldn't have been there after the
9 death, and it must therefore have been earlier"; you say
10 you might very well have been there after a death
11 although it was not discussed or talked about. Is that
12 what you are saying?

13 A. It was not discussed or talked about. I knew nothing of
14 the death until the following morning, sir.

15 Q. If we go back to your diary into Tuesday 16 September,
16 please. You refer to that, I think in this way. You
17 were going for a shower in the morning and you noticed
18 Czech Military Police around the TDF. You heard hushed
19 conversations in the washroom. You saw the RMO and
20 asked him whether he had seen any prisoners last night,
21 and he said he had and one of them had died.

22 A. Yes, sir.

23 Q. That's where you first heard the information, was it?

24 A. Yes, sir.

25 Q. What you recorded is that he said that "one of them had

1 died and the others looked in 'shit state'".

2 A. It was, sir.

3 Q. Who was it who said that to you?

4 A. Captain Keilloh, sir.

5 Q. Can I please just ask you to look very briefly at a note

6 made at MOD001784. It is a note made of an RMP

7 interview with you.

8 If we go to the second page of that note, what has

9 been recorded -- not in your handwriting of course -- is

10 this:

11 "Next day spoke with doctor, know only as Derek."

12 Is that how you did know the doctor, the RMO?

13 A. Yes.

14 Q. "Asked if he had seen any prisoners the previous night.

15 He said one died and two others who weren't in good

16 shape."

17 A. Yes, sir.

18 Q. So something of that kind was said, was it?

19 A. The reference to the detainees being in a "shit state",

20 sir, was recorded contemporaneously in my diary.

21 I suspect there was a reluctance to use colloquial

22 language in the police interview.

23 Q. I follow. So are you telling the Inquiry that what's in

24 your diary would be the words that Derek Keilloh used?

25 A. I would rely on my diary, sir.

1 Q. Thank you.

2 So your diary goes on -- and I am not going to read
3 it out -- to express your shock and the self-analysis
4 and so on that you subjected yourself to. You say:
5 "I had never considered that physical abuse was
6 taking place until last night when I saw the prisoners
7 before bed."

8 A. Yes, sir.

9 Q. I think you have told us that when you saw the prisoners
10 it was plain what had happened.

11 A. Yes, sir.

12 Q. That was certainly on the Monday night, was it?

13 A. Yes, sir.

14 Q. You say further on in your entry on the Tuesday that the
15 word was that he -- that is the deceased -- had died
16 from a heart attack. Do you remember where you heard
17 that from?

18 A. No, I can't, sir.

19 Q. You also say in the diary, "It seemed a convenient
20 explanation to me".

21 A. Yes, sir.

22 Q. Did that, reading between the lines, mean that you
23 didn't really believe it?

24 A. I didn't believe it, sir.

25 Q. Now that you had seen what I will call the "generator

1 incident" and what you had seen in the TDF itself, was
2 there a need in your mind that these matters should be
3 reported or how did you address that situation?

4 A. I subsequently took the opportunity of going to see the
5 RMP on an occasion when I was travelling to the Palace,
6 just to inform them of what I had seen with the thought
7 that it might form a small part of a larger jigsaw, sir.

8 Q. Did you, in fact, pass on any information?

9 A. Yes, sir. I had a brief interview with a military
10 policemen at the Palace.

11 Q. I want to ask you about another entry in your diary in a
12 moment, moving on to a conversation with Major Peebles.
13 Before I do that, may I just take you back to the note
14 that was taken during your interview? MOD001784,
15 please.

16 Just below halfway down the page, do you see at the
17 foot of the box, as it were, in inverted commas, the
18 words "give me a hand".

19 A. Yes, sir.

20 Q. I think a record of what Mr Seeds was asking you to do.

21 A. Yes, sir.

22 Q. What is recorded is "better put some gloves on", and
23 then in brackets, "(believed someone had been unable to
24 make it to the toilet)."

25 A. Yes, sir.

1 Q. Can you throw any light -- it may be as plain as day,
2 but perhaps we should hear it from you what that meant,
3 if you said it.

4 A. Well, under normal circumstances physical contact with
5 another person would not require gloves, but I suspected
6 somebody had soiled themselves.

7 Q. May we move on, please, to a diary entry of yours? It
8 is 1 November, Saturday. I need not trouble you with
9 the first half of the day:

10 "The afternoon was busy, but resulted in the finance
11 being largely sorted for the handout during lunch.
12 I had a long talk with Mike Peebles in the confidential
13 confines of our room."

14 Do you see that?

15 A. Yes, sir.

16 Q. You then say this:

17 "He was the custody officer when the internee died
18 ..."

19 A. Yes, sir.

20 Q. Did you have or do you have a criminal background within
21 your legal practice?

22 A. No, sir.

23 Q. So were the words "custody officer" something that were
24 used by Major Peebles or your reconstruction, as it
25 were, of what he says?

1 A. I think it was by implication from what he said.

2 Q. I follow.

3 A. Sir.

4 Q. "He was the custody officer when the internee died and
5 he is understandably concerned because the SIB have said
6 that they want to interview him when he returns to GB.
7 He suggested that he might take the fall to be rid of it
8 all. I suggested to him that to go quietly might do him
9 no favours in the long run. He said that he simply
10 wanted to sleep his days away."

11 Was that the gist of the conversation that you had
12 with him?

13 A. Yes, sir.

14 Q. Did he explain any further why he believed that he might
15 take the fall to be rid of it all?

16 A. I got the impression that he felt something he had said
17 or done might have -- might perhaps have given some
18 encouragement. I really don't know, sir. It wasn't
19 specific certainly.

20 Q. You go on to say:

21 "I feel sorry for him and would like to offer
22 whatever help I can. His responsibility cannot extend
23 to anything beyond neglect of duty."

24 A. Yes, sir.

25 Q. What did you understand might be his neglect of duty, if

1 you were relying that?

2 A. Well, if he had responsibility for custody, ultimately

3 these things run up and get self-evident, sir.

4 Q. Thank you. You go on, as it were, to qualify that.

5 It's not for me to say sensibly, but perhaps it is:

6 "Every soldier knows the difference between right

7 and wrong and if someone beats a prisoner then that is

8 the beater's fault."

9 A. Yes, sir.

10 MR ELIAS: Thank you very much.

11 THE CHAIRMAN: I would like to finish this witness this

12 evening, but I am not going to sit all night --

13 MS HETHERINGTON: I will be as quick as I can.

14 THE CHAIRMAN: -- so succinct questions, please.

15 Questions by MS HETHERINGTON.

16 MS HETHERINGTON: Thank you, Sir. If we can just turn to

17 the notes that were taken by the military policeman,

18 which is MOD001784. Just in relation to the generator,

19 I want to ask you two questions. Obviously they are not

20 written by you, but whether you think they accurately

21 reflect what you said.

22 We can see in the top left corner there is

23 a reference to Sergeant Bolton who you had seen guarding

24 the detainee. Then next to that, just below it, it says

25 "20.00 to 21.00 hours". Do you think that might

1 accurately reflect what you had said about when you
2 thought you had seen this scene?

3 A. Yes, ma'am.

4 Q. Next to that time is recorded some information about the
5 conversation you had with Sergeant Bolton. Below the
6 second arrow it says, "General gist of conversation that
7 chap was receiving white noise treatment". I know you
8 said earlier that it was your understanding that this
9 was white noise. Does that help you to recollect
10 whether Sergeant Bolton was also saying that he knew
11 that it was white noise treatment?

12 A. I cannot recall that.

13 Q. Just while we have those notes on the screen, please, if
14 we could just scroll down to the middle section. You
15 say in your statement that, as well as helping the man
16 to try and get up on the evening of the Monday, you
17 think you also saw a man being taken to the toilet.

18 A. Yes, ma'am.

19 Q. These notes suggest that a male, a JNCO you did not
20 recognise, was escorting him. Can I take it that if the
21 JNCO had been Corporal Payne, you would have recognised
22 him?

23 A. I would have recognised him, ma'am.

24 Q. You say in this note that this man also was unable to
25 make his own way and was hobbling. Do you recall that?

1 A. Yes, ma'am.

2 Q. And that it was this man whose face appeared bloated?

3 A. Yes, ma'am.

4 Q. Am I right in thinking, Major Quegan, that in your role
5 in G5, one of the things you did was have contact with
6 civilians who came to the camp and also contact with
7 civilians out in Basra?

8 A. Yes, ma'am, on a daily basis.

9 Q. You describe, in your witness statement, the approach of
10 Black Watch, when you first arrived, as being quite
11 rough and ready and them appearing to view all Iraqis as
12 potential enemies. Then you say that the QLR, on the
13 other hand, were welcomed into Basra. I just wanted to
14 ask you, did that more harmonious relationship last
15 throughout the tour or did things become more strained
16 as events occurred?

17 A. Things became gradually more and more tense and more
18 violent. When we arrived we were clapped as we drove
19 down the street. By the time we left, it was rather
20 more dangerous.

21 Q. In a diary entry which Mr Elias has read to you of
22 September 15, talking about what you had seen in camp,
23 you say that it's wrong and pointless, wrong because, as
24 detainees, they are assumed to be guilty. So your view
25 by 15 September was that QLR were making the assumption

1 that all Iraqis they detained were guilty?

2 A. I suppose that's a fair comment, ma'am.

3 THE CHAIRMAN: It rather speaks for itself.

4 MS HETHERINGTON: Yes, sorry. I am not obeying the succinct

5 instruction.

6 When locals came to talk to you in camp, did they

7 talk to you about their views of the regiment?

8 A. There were occasional comments about the way in which we

9 dealt with our time in Basra, yes, ma'am.

10 Q. Did they ever make complaints about how they had been

11 handled or otherwise addressed by members of the

12 regiment?

13 A. I -- yes, ma'am.

14 Q. What sort of nature?

15 A. I remember carrying out a preliminary investigation into

16 an allegation of theft.

17 Q. Anything other than theft?

18 A. I can't remember any specifics, ma'am.

19 Q. You say you looked into theft. In your diary you say

20 "... two soldiers who have finally been found stealing

21 from Iraqis at checkpoints". Did that "finally"

22 indicate that this was a fairly common occurrence?

23 A. I wouldn't say "common", no, ma'am.

24 Q. But it was something you had come across before?

25 A. It was, yes, ma'am.

1 Q. Did you ever have to deal with visitors to BG Main who
2 were looking for relatives who they believed had been
3 arrested?

4 A. Yes, ma'am.

5 Q. What information would they be given if they came to the
6 gates?

7 A. If the relatives were with us, then we would be in
8 a position to confirm, but the ones I specifically
9 remember involved somebody that had been seized during
10 the war-fighting stage and relatives were trying to
11 identify the whereabouts of the individual.

12 Q. I see. So you weren't able to help with that query?

13 A. No, ma'am. It was a referral to the Red Cross.

14 Q. Just the very last question for you, Mr Quegan. You say
15 that you remember speaking to the Military Police -- the
16 Special Investigation Branch -- while you were still on
17 tour at Basra Palace.

18 A. Yes, ma'am.

19 Q. The SIB keep a log of contacts throughout the
20 investigation. I wonder if we could turn up MOD005735.
21 It is the penultimate full box at the bottom of the
22 screen. This is a record on 28 September, and says
23 "Message from Staff Sergeant Cooper", recording that she
24 has met you at BG Main and you had approached her and
25 said that you had visited the portaloos and were asked

1 to assist as a male could not be moved. Then it says:

2 "He helped and would like to talk of his obs
3 [observations] but does not want to be approached
4 directly through the unit."

5 Firstly, do you remember saying that?

6 A. Yes, ma'am.

7 Q. Can I ask you why it was that you didn't want to be
8 approached by the military police through QLR?

9 A. A death in custody is obviously a very serious matter
10 that would obviously have very serious applications.
11 Whilst I knew and have known quite a number of people
12 within the First Battalion before being mobilised, my
13 relations with them were nowhere near as close as the
14 relations between each other. Some of those people had
15 served together for 20 years and it would at least cause
16 embarrassment, probably awkwardness, if I was seen to be
17 making a prominent approach within the camp. So I took
18 the opportunity when I was at the palace.

19 MS HETHERINGTON: Thank you, Sir.

20 THE CHAIRMAN: Yes. Ms Dobbin?

21 MS DOBBIN: No questions.

22 THE CHAIRMAN: Ms Edington, do you want to ask any
23 questions?

24 MS EDINGTON: Please, Sir, yes.

25 Questions by MS EDINGTON

1 MS EDINGTON: Mr Quegan, Major Suss-Francksen arrived as the
2 second in command, taking over from Major Bostock(?).
3 Do you remember that in August?
4 A. Yes, I think so, ma'am.
5 Q. He had come from the permanent joint headquarters. Had
6 you known him from the First Battalion some years
7 before?
8 A. I don't recall that we met until he arrived.
9 Q. Thank you. Did you see him come to help Captain Seeds
10 as you were leaving on the Monday evening from the TDF?
11 A. I don't recall. I think if I had recalled, I would have
12 made a note of it.
13 Q. He was quite an approachable man, wasn't he?
14 A. He was, ma'am.
15 Q. And you didn't really go and approach him and tell him
16 of any of your concerns on the Monday evening or the
17 Tuesday morning?
18 A. No, ma'am.
19 Q. In fact, you had been out and about quite a lot on the
20 14th, hadn't you, on the Sunday?
21 A. Yes, ma'am.
22 Q. Because your diary says that you actually arranged an
23 LCV photocall; is that right?
24 A. Yes, ma'am.
25 Q. That is your TA unit?

1 A. Yes, ma'am.

2 Q. And you had, what, some 118 of them with you; is that
3 right?

4 A. Not for the photograph, ma'am.

5 Q. I accept that not for the photograph, but you had 118
6 LCV with you?

7 A. No, I think we mobilised 118. Some were shifted at
8 Chilwell. I think we were down to about 101, 104,
9 something like that.

10 Q. Had you trained with 1QLR before you were mobilised with
11 everybody in the April/May of 2003?

12 We had mobilised and then gone to Alma Barracks at
13 Catterick and done some short training there.

14 Q. In the June?

15 A. Yes, ma'am.

16 Q. Was that the first time you had trained with this
17 battalion?

18 A. Yes, ma'am.

19 THE CHAIRMAN: I am struggling a bit to see the relevance of
20 any of this, Ms Edington.

21 MS EDINGTON: I am hoping it will come out.

22 THE CHAIRMAN: I'm hoping you will ask a question that will
23 indicate its relevance.

24 MS EDINGTON: I apologise if it hasn't.

25 You were out and about on the Sunday so that meant

1 you were coming in and out of battalion headquarters but
2 you didn't hear any wailing or screaming on the Sunday
3 afternoon or early evening?

4 A. No, ma'am.

5 Q. And you heard nothing that you were particularly
6 concerned about until you were awoken on the early hours
7 of the Monday morning?

8 A. That's correct, ma'am.

9 Q. When you went to the TDF on the Monday evening with
10 Captain Seeds it is fair to say that there was no
11 central lighting was there in the TDF at this point? It
12 was all done by cylumes and torches?

13 A. I recall it as being reasonably well lit, but I have no
14 doubt that you wouldn't have said that if it hadn't
15 already been explored, so I will take your word for it
16 ma'am.

17 MS EDINGTON: Thank you very much.

18 I have no further questions, thank you sir.

19 THE CHAIRMAN: Thank you.

20 You don't want to ask a question, do you, Ms Dobbin?

21 MS DOBBIN: No, sir.

22 THE CHAIRMAN: Thank you. Mr Topolski.

23 Questions by MR TOPOLSKI

24 MR TOPOLSKI: Mr Quegan, on behalf of Corporal Payne.

25 We can deal with this, very succinctly, indeed,

1 I think. You had met and indeed spent most of a morning
2 with Payne, had you not, in June 2003, in a completely
3 different context?

4 A. Yes, sir.

5 Q. No question but that you would have no difficulty in
6 recognising him --

7 A. Sir.

8 Q. -- had he been there with the generator.

9 The exchange that you had with Bolton -- you touch
10 on it in your statement to the Inquiry that he told you
11 he had been there for three hours -- anything else said
12 on this sort of topic: what he was doing there, why he
13 was doing what he was doing there and who may have
14 authorised him being there? Anything of that nature in
15 your exchange with Bolton as you walked past?

16 A. His purpose there was self-evident, but no, sir.

17 Q. You did -- and no doubt do -- know Staff Sergeant Mark
18 Davies? Or don't you?

19 A. The name is familiar, I would probably recognise the
20 face, sir.

21 Q. Right. You didn't see him that evening? Wandering past
22 the generator?

23 A. No, sir.

24 MR TOPOLSKI: Thank you very much.

25 THE CHAIRMAN: Thank you.

1 Mr Bourne?

2 Questions by MR BOURNE

3 MR BOURNE: Just one matter, Mr Quegan.

4 Your diary describes this conversation with
5 Dr Keilloh on Tuesday 16 September when he says one of
6 the detainees had died and two were said to be in a shit
7 state, or rather that the others were said to be in
8 a shit state.

9 Now, Counsel to the Inquiry showed you the note made
10 by the RMP after speaking to you in which indeed it
11 appeared that that reference to their state was in fact
12 to two of them, not to all of the rest of them. Can you
13 help us on which is actually what was said?

14 There's the RMP note on the screen and I'll just
15 read you what the diary says:

16 "One of them had died and the others looked in 'shit
17 state'."

18 A. No, sir, I can't recall.

19 Q. The truth is now, in 2009, you can't remember what was
20 said?

21 A. No, sir.

22 Q. How well did you know Dr Keilloh?

23 A. Not well at all.

24 Q. Was it usual for the two of you to converse?

25 A. We would make small talk but no more than that, sir.

1 Q. His evidence to the Inquiry on this point was:

2 "I certainly don't speak like that and I wouldn't
3 talk about patients in that way."

4 He also says that he didn't know what your function
5 was and wasn't familiar with talking to you --

6 THE CHAIRMAN: Presumably you are referring to the diary
7 entry now, rather than the other one?

8 MR BOURNE: Sir, that's correct. I should have made that
9 clear.

10 He says that your note or recollection is very
11 surprising to him because he doesn't think he would have
12 said it.

13 Mr Quegan, I am wondering whether it is possible
14 your conversation was actually with one of the other
15 medics not Dr Keilloh.

16 A. No, sir, I'd recognise him. We are not -- we weren't
17 big buddies but he was the regimental medical officer;
18 he was at O Groups every night and I would know if
19 I spoke to him.

20 Q. This is perhaps more of a comment --

21 THE CHAIRMAN: Well, don't, please, ask questions by way of
22 comment, Mr Bourne. You must know that now.

23 MR BOURNE: I will rephrase what would otherwise have
24 sounded like a comment.

25 Would you agree that if what was said referred to

1 I started to put two and two together. And as I said
2 earlier, I still could not be absolutely certain where
3 it came from. I assume it came from the TDF with the
4 benefit of hindsight, sir.

5 Q. Why did you not report up the chain of command what you
6 had seen in the company of Captain Seeds?

7 A. Captain Seeds appeared to be there to correct what had
8 obviously happened. He was the ops officer. As the ops
9 officer he effectively would organise the battalion's
10 operations on a day-to-day, minute-by-minute basis. He
11 would be very close to the commanding officer. They
12 would work closely together and so I took it that if he
13 was there correcting something then it was being
14 corrected with the authority of the commanding officer.

15 Q. Thank you.

16 Was what you saw by the generator being apparently
17 being done overtly or covertly?

18 A. It was being done overtly, sir.

19 Q. You've described how you had contact with the SIB and we
20 have seen the entry in the SIB diary relating to that.

21 Who first initiated the contact between you and the SIB:
22 them or you?

23 A. I did, sir.

24 MR GARNHAM: Yes, thank you very much.

25 THE CHAIRMAN: Mr Elias?

1 a note of the TQer in your diary back in 1997?

2 A. I couldn't be certain, sir. I very much doubt --

3 Q. Would it be possible that you could check --

4 A. I could check but I doubt whether there would be --

5 THE CHAIRMAN: There must be a purpose to this question, but

6 I can't for the moment see it.

7 MR ASHLEY: Hopefully, it will become clear, Sir.

8 So far as the presentation is concerned, is it right

9 that you were given some indication of how conditioning

10 and interrogation was to take place and methods of

11 obtaining answers from prisoners?

12 A. Yes, sir.

13 Q. So far as methods are concerned, if I can just put

14 a couple to you, can you help us out with whether these

15 some of the examples that were given. Having someone

16 screaming in a nearby room to cause fear of possible

17 mistreatment?

18 A. Yes, sir.

19 Q. And also trying to obtain knowledge of captives

20 relatives to have some leverage when questioning?

21 A. Yes, sir.

22 Q. That is a flavour, is it? Were there other methods that

23 were taught to you, yes or no?

24 A. There may have been, I can't recall any others, sir.

25 MR ASHLEY: Thank you very much indeed.

1 THE CHAIRMAN: Thank you.

2 Yes?

3 Further questions by MR ELIAS

4 MR ELIAS: Just one matter in the light of the questions

5 Mr Bourne asked you.

6 Could we look at BMI00302, please. This is not the

7 typed; this is your handwritten diary, correct?

8 I wonder if the very top four or five lines of it could

9 be highlighted.

10 I think we can see it there, can't we, three lines

11 down, Mr Quegan. This is what's shown in the typed

12 script. He said he had:

13 "One of these had died and the others looked in ..."

14 And the words 'shit state' you have actually written

15 in quotes, haven't you?

16 A. Yes, sir.

17 Q. Why have you written those in quotes?

18 A. Because it is a direct record of speech, sir.

19 MR ELIAS: Thank you very much.

20 THE CHAIRMAN: Yes. Thank you very much, Mr Quegan, for

21 coming. I am very grateful to you.

22 I expect you are quite glad we finished you although

23 it is rather late in the day. Thank you very much. You

24 are now free to leave the Inquiry and that is all the

25 questions we have for you.

1 A. Thank you, sir.

2 THE CHAIRMAN: Monday we start again, don't we?

3 MR ELIAS: Yes, Sir.

4 May I indicate that on Monday we hope to call the
5 witnesses Smith, Seeds and Potter. Perhaps, Sir, I
6 may also indicate that it seems now unlikely we shall be
7 requiring to use Thursday to call evidence and that
8 therefore there will be no business as we now see it for
9 Thursday of next week.

10 The good news is that we shall have completed the
11 witnesses we proposed to complete before Christmas on
12 Wednesday.

13 THE CHAIRMAN: Whether you regard Thursday as next
14 week's day off or not is a matter for individual taste.

15 Good, thank you very much. I am sorry you have been
16 so late.

17 (4.50 pm)

18 (The Inquiry adjourned until 10.00 am, Monday, 14 December
19 2009)

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