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Thursday, 1 April 2010

(10.00 am)

THE CHAIRMAN: Good morning, ladies and gentlemen. Do sit down for the moment.

Yes, Mr Elias.

MR ELIAS: Thank you, Sir. Before calling the first witness, two matters of housekeeping if I may.

THE CHAIRMAN: Yes.

Discussion re housekeeping

MR ELIAS: The Inquiry had indicated that it was possible, contrary to an earlier indication, that we shall sit on the days of 2, 3 and 4 June, which is the bank holiday week Wednesday, Thursday and Friday. It now seems, in accordance with our looking to plan for the future, that it is more likely than not that we shall sit those days. We are hopeful -- I can't put it any higher than that at the moment -- that we shall finish the evidence for Module 3 either in that week or in the week that follows.

THE CHAIRMAN: Yes, I see. Very well.

MR ELIAS: Sir, the other matter is simply to indicate that, as I understand it, this morning, your ruling in respect of the LPP matter, which you heard submissions on, on 18 March, will be issued in the course of the morning.

THE CHAIRMAN: Thank you very much. I think it's going on

1           the website today at some time.

2   MR ELIAS:  Sir, yes.

3   THE CHAIRMAN:  Thank you.

4   MR ELIAS:  Sir, I call Rupert Steptoe, please.

5   THE CHAIRMAN:  Thank you very much.  I will ask that you be

6           sworn.

7                           RUPERT CHARLES STEPTOE (sworn)

8   THE CHAIRMAN:  Yes.  Do sit down.

9   A.  Thank you, Sir.

10  THE CHAIRMAN:  If you could get as close as you can to the

11           microphone and speak into it, I would be grateful.  Then

12           we will all hear, thank you.

13                           Questions by MR ELIAS

14  MR ELIAS:  Would you give the Inquiry your full name,

15           please?

16  A.  Yes, my name is Rupert Charles Steptoe.

17  Q.  You are no longer in the army, is that right?

18  A.  No, I am no longer in the army.

19  Q.  Would you have a look, Mr Steptoe, please, at a file

20           which I hope is to your right-hand side, and find in

21           that a copy of the statement you made to this Inquiry.

22           If you go to the last page of it, please, at our

23           BMI03201, do you find there your signature above the

24           date 23 July of last year?

25  A.  Yes, I do.

1 Q. When you signed that statement, were you attesting that  
2 the contents of it were true to the best of your  
3 knowledge and belief?

4 A. Yes, I was.

5 Q. Thank you. Now we have read that statement and I don't  
6 propose to take you to every part of it, but to  
7 concentrate on certain aspects of the evidence which you  
8 can help us with.

9 May I begin, please, by just briefly outlining your  
10 career as you set it out in that statement. You tell us  
11 that you passed out from Sandhurst in April 1992.

12 A. That is correct.

13 Q. Without giving your date of birth, please, about how old  
14 would you have been then?

15 A. 21.

16 Q. Thank you. You joined the Devonshire and Dorset  
17 Regiment, based in Germany. You were deployed to West  
18 Belfast; you were deployed to Bosnia.

19 A. That is correct.

20 Q. You then took up a training post at the army training  
21 school in Catterick.

22 A. Yes.

23 Q. You held the post of adjutant in 1999 at the Infantry  
24 Training Centre.

25 A. Yes, sir.

1 Q. You tell us that you were posted to 19 Brigade in 2001,  
2 as SO3 training plans.

3 A. That is correct.

4 Q. You were posted to Iraq from, you say, the end of May to  
5 21 August of 2003. Do you recall the date on which you  
6 were posted to Iraq?

7 A. I don't recall the exact date. It was somewhere between  
8 the end of May and beginning of June.

9 Q. Thank you. Subsequently you served in Northern  
10 Ireland -- is that right?

11 A. That's correct.

12 Q. -- and at the Staff College.

13 A. Yes.

14 Q. Your rank on leaving the army?

15 A. I was a major.

16 Q. Thank you. May I ask you just a little, please, about  
17 your training? You received training in the law of  
18 armed conflict, did you?

19 A. I did, yes.

20 Q. Was that training that you received on an annual basis?

21 A. Yes, it was. It was part of my individual training  
22 directives.

23 Q. And in relation to prisoner-handling in particular, what  
24 message did you derive from that training?

25 A. There were a number of messages, but the essential

1           underlying theme was that prisoners had to be handled  
2           humanely and with dignity.

3    Q.   I want to ask you about certain of the techniques and  
4           other prisoner-handling issues with which this Inquiry  
5           is particularly concerned.  Can I start, please, with  
6           hooding and your training in that regard prior to  
7           deployment to Iraq at any stage in your army career?  
8           Had you received training in the use of hoods for  
9           prisoners?

10   A.   No, I have never received training in the use of hoods  
11        for prisoners.

12   Q.   In the course of your training, had hoods been used from  
13        time to time?

14   A.   Yes.  They -- I believe they had.  I can't recall  
15        specific instances, but I have seen hoods being used.

16   Q.   You say in your statement to the Inquiry that hoods were  
17        used during training exercises on "prisoners of war" on  
18        a number of occasions.

19   A.   That is correct.

20   Q.   That would have been part of the training exercise,  
21        would it?

22   A.   Yes.

23   Q.   In those circumstances, where some "prisoners" were  
24        captured, would they be hooded routinely?

25   A.   Not routinely, no, but I have been on exercises where

1 prisoners have been hooded.

2 Q. And were you given any instruction as to the rights and  
3 wrongs of the use of hoods on prisoners?

4 A. Not that I recall.

5 Q. And what was used to hood them on these exercises?

6 A. Predominantly they would be hooded in order to stop them  
7 being able to see their location.

8 Q. That was the purpose of it?

9 A. Yes.

10 Q. Sorry, my question was: what was used to hood them?

11 A. Sorry, normally sandbags.

12 Q. They would be hessian sandbags, would they?

13 A. Yes.

14 Q. So were you ever given any instruction that hooding was  
15 or was not permitted so far as the prisoners who may be  
16 taken by British forces were concerned?

17 A. Not that I recall at all.

18 Q. So what was your position in 2003 going to Iraq? Were  
19 you of the view, as a result of what you had seen in  
20 training, that hooding, for certain purposes anyway, was  
21 legitimate and proper?

22 A. At the time it wasn't something that I'd given much  
23 thought to because I wasn't in a tactical situation  
24 where I would be dealing with prisoners of war. In  
25 retrospect, looking back, I think, had I been in that

1 situation, I would have thought it was part of the  
2 environment that I had been brought up in and therefore  
3 I wouldn't have expected it to have been wrong at that  
4 time.

5 Q. So if you had seen it, as it were, you wouldn't have  
6 been alerted that there was anything wrong with it?

7 A. Not if it was being used to hide a specific location,  
8 which is the understanding for what I had used or I had  
9 seen sandbags being used in the past.

10 Q. I want to ask you about that just a little, please. You  
11 have told us now that you understood that sandbags were  
12 being used on prisoners for security. Where did that  
13 understanding come from?

14 A. In training -- can I confirm in training that that's  
15 what I have seen.

16 Q. Of course. I understand that.

17 A. Yes. In training, on tactical exercises, we would --  
18 there would be an expectation that if you were moving  
19 prisoners into a tactical location, you would make sure  
20 that they could not see where that tactical location was  
21 and that was routinely done by using a sandbag over  
22 their head.

23 Q. Was that something, therefore, that you were taught,  
24 that was explained to you, "This was the reason for  
25 hooding"?

1 A. No, not -- I don't recall formal training in this. It  
2 was almost handed down unofficially. It was -- we  
3 carried sandbags and that was a very good way of making  
4 sure that people couldn't see where you were -- where  
5 they were being taken.

6 Q. So are you saying -- please don't agree with me because  
7 I'm putting it to you -- in effect that you would have  
8 regarded hooding for security purposes with a sandbag as  
9 being the standard operating procedure when prisoners  
10 were taken and there were security issues to cope with?

11 A. Not necessarily the standard operating procedure, but  
12 I certainly wouldn't have been surprised by it.

13 Q. You don't recall being told anything about the security  
14 reason for hooding, but you think you simply picked that  
15 up during training. Is that fair?

16 A. Yes, it feels as though it was a sort of an ambient part  
17 of the training. It was just one of those things that  
18 was done.

19 Q. Does the phrase "shock of capture" mean anything to you?

20 A. Yes, it does.

21 Q. What do you understand by that?

22 A. My understanding of "shock of capture" is the feeling of  
23 dislocation and fear and unstabilising -- the  
24 unstabilising nature of being removed from a familiar  
25 environment into a strange and austere environment.

1 Q. Prior to deployment to Iraq at any stage in your army  
2 career, Mr Steptoe, was the shock of capture discussed  
3 in training?

4 A. No.

5 Q. There was never any discussion about ways in which, for  
6 example, the shock of capture of an enemy prisoner might  
7 be maintained or prolonged?

8 A. No.

9 Q. Still on training and still prior to your deployment to  
10 Iraq at any stage, did you receive any training in the  
11 use or otherwise of stress positions?

12 A. I received no training in stress positions.

13 Q. You say in your statement to this Inquiry that you  
14 didn't hear of the concept of stress positions in the  
15 military context.

16 A. In that I heard of stress positions through far more --  
17 from all sorts of environments, but not specifically  
18 from the army environment.

19 Q. Did you ever hear stress positions referred to in the  
20 army?

21 A. Yes, I will have done.

22 Q. When referred to, were they referred to as being part of  
23 what are sometimes called "conditioning techniques"?

24 A. No, not specifically.

25 Q. So in what context would you have heard about stress

1 positions in the army?

2 A. As a form of punishment I would have heard of them, but  
3 not witnessed them. I was aware of stress positions  
4 before I joined the army. It was a -- it's a very  
5 common term.

6 Q. So what about the concept of "conditioning"? What does  
7 that mean to you?

8 A. Loosely, I think "conditioning" to me means preparing  
9 a prisoner for interrogation, and normally I would  
10 suggest that to me that would mean physically  
11 intimidating a prisoner for interrogation.

12 Q. So putting it quite directly, a softening-up process  
13 prior to questioning?

14 A. Yes.

15 Q. You say in your statement that you imagine it might  
16 involve white noise, sleep deprivation, the loss of  
17 sight --

18 A. I would agree with that.

19 Q. -- and perhaps, you say, even beatings.

20 A. Yes.

21 Q. That was your understanding of what it might involve?

22 A. Absolutely.

23 Q. Did you ever hear this talked about in army circles or  
24 in training or indeed anywhere else in the army?

25 A. No -- well, only in regard to courses like conduct after

1 capture, which is not a course I'd done. But it,  
2 again -- a bit like stress positions -- was a term that  
3 was broadly understood by most people in the military.

4 Q. Does the phrase "bagging and tagging" have any meaning  
5 for you?

6 A. I think it can have lots of different meanings. It  
7 certainly has no formal meaning. When I re-read it in  
8 the evidence that was put to me in one of the FRAGOs,  
9 I understood it to mean being -- having a sandbag over  
10 the head and being plasticuffed.

11 Q. Would you have known that at the time in Iraq in 2003?

12 A. If I'd read that in Iraq in 2003, I think I would have  
13 come to the same conclusion.

14 Q. That's what you would have understood, hooding and  
15 plasticuffing, bagging and tagging?

16 A. Well, intuitively I would have said it was to do with  
17 dead bodies, but given the context in that -- given the  
18 context of what I was reading, I would have assumed that  
19 they meant certainly plasticuffing and probably hooding.

20 Q. Can we just have a look, please, at two FRAGOs at this  
21 time at MOD030899? It is the "Operation Quebec" FRAGO  
22 and we see the date of 13 August.

23 Could we just go over the page, please, to the  
24 centre column, and under 6 we see there, Mr Steptoe:  
25 "TQ. TQ [tactical questioning] will take place at

1 BG Main HQ under the direction of the IO [the  
2 intelligence officer], using brigade TQ assets,  
3 arresting soldiers will be required. Prisoners should  
4 arrive for TQ bagged and tagged unless over 45 years of  
5 age."  
6 Do you recall whether you did see this FRAGO at any  
7 stage?  
8 A. I don't recall this specific FRAGO, but then I was  
9 seeing an awful lot of FRAGOs.  
10 Q. I understand. If you had seen this, "bagged and tagged"  
11 in this context would have been quite clear to you as  
12 meaning "hooded and plasticuffed", would it?  
13 A. No, I don't think it is particularly clear. I think  
14 it's very loose language and -- I think I would have  
15 interpreted it, though, as being -- having a sandbag and  
16 being plasticuffed. But it is very loose because,  
17 equally, I would still read it now as saying "tagged"  
18 just means being identified, so having some form of  
19 identification on them.  
20 Q. Perhaps the give-away is the next phrase, is it, "...  
21 unless over 45 years of age"?  
22 A. Yes.  
23 Q. One would tag every prisoner, no doubt, from 9 to 90 --  
24 A. I would assume so.  
25 Q. -- in the sense of identifying them with a label.

1 A. Yes.

2 Q. But "bagging and tagging", hooding and plasticuffing,  
3 appears for whatever reason -- and I don't want to go  
4 into that with you -- to have been selected for the  
5 under 45s only, doesn't it?

6 A. That is the context and that is why I interpreted it to  
7 mean hooding and plasticuffs.

8 Q. But that wasn't a phrase, used in that context and for  
9 that purpose, with which you were familiar?

10 A. No -- well, "bagging and tagging" is a phrase I have  
11 heard but, as I say, it's a very loose phrase that has  
12 had many connotations.

13 Q. Can we look at another FRAGO? We find it at our  
14 MOD043232. Operation Lightning, now dated 25 August, as  
15 you can see from the top left-hand column. Can we just  
16 highlight the bottom section of the middle column  
17 please? Thank you.

18 I just want your help about this:

19 "Prisoner-handling and evidence examination is to be  
20 conducted by the IO, BGIRO assisted by TQ from  
21 19 Mech Brigade ..."

22 Do you see that?

23 "... TCC if available and provost sergeant."

24 Then this:

25 "Prisoners are not to be conditioned unless TQ is

1           authorised on the basis of substantial evidence found  
2           during searches."

3           "Prisoners are not to be conditioned", do you recall  
4           seeing that in any FRAGO when you were in Iraq?

5   A.   I don't recall seeing that, no.

6   Q.   You don't? You can't help us as to whether you saw this  
7           particular FRAGO, can you?

8   A.   I don't think I did, but if -- but I could tell you if  
9           I did from whether it was a brigade FRAGO or  
10          a battlegroup FRAGO, so at the top of the FRAGO. No,  
11          it -- that one I don't think I was in theatre at that  
12          time. I think I had left theatre by then. But  
13          I also -- it was written at battlegroup level, not  
14          brigade level. A copy of that would have come up to  
15          brigade, but would normally have gone to the G3 ops  
16          rather than myself.

17   Q.   We will come on to your role and to look at that, if  
18          I may, in a moment. So you wouldn't have seen this, you  
19          think?

20   A.   I think it is unlikely.

21   Q.   "Prisoners are not to be conditioned", was that  
22          something that you saw in any FRAGO that you recall when  
23          you were in Iraq?

24   A.   Not that I recall, no.

25   Q.   What would it mean to you had you read it, "Prisoners

1           are not to be conditioned"?

2    A.   I would take it to mean that they are not to be dealt  
3           with in -- on my understanding of what "conditioning"  
4           was, which is the use of stress positions, white noise,  
5           sleep deprivation.

6    Q.   Your position was, as I understand it from your answers  
7           to my earlier questions, that conditioning in that sense  
8           was entirely off limits.

9    A.   Yes, I think that was -- yes.

10   Q.   You seem doubtful about it.  Don't let me put words into  
11          your mouth at all.

12   A.   I am expressing doubt because it's not a concept that  
13          I was ever formally taught, but at the same time, at  
14          that time, I don't know whether I was ever formally  
15          taught that no conditioning could take place.

16   Q.   So would you have regarded, for example, the use of  
17          stress positions or perhaps the use of stress positions  
18          by a man wearing a hessian sandbag as being humane  
19          treatment?

20   A.   I think it depends.  It depends on the circumstances.  
21          It's very difficult now, with hindsight, understanding  
22          that it is -- now understanding that it is absolutely  
23          not allowed, I don't think it's appropriate.  But at the  
24          time I don't think I had such clear understanding of  
25          whether conditioning was or was not allowed.

1 Q. So, as that FRAGO would tend to suggest, conditioning  
2 being used for the purposes of questioning, although it  
3 was not permitted in that particular FRAGO that we have  
4 just looked at, might in some circumstances, might it,  
5 have been justified, as you understood matters?

6 MR GARNHAM: Sir, I apologise for interrupting my friend.  
7 Thus far with this Inquiry we have received notification  
8 of potential criticisms of witnesses and we have been  
9 alerted to documentation to which witnesses are to be  
10 taken so as not to surprise or ambush them. I am not  
11 sure that that applies with this line of questioning my  
12 friend is pursuing with this witness.

13 THE CHAIRMAN: You are not complaining about him being shown  
14 these FRAGOs, are you?

15 MR GARNHAM: I am not.

16 THE CHAIRMAN: No. I think it arises out of those.

17 MR GARNHAM: Very well, Sir.

18 MR ELIAS: These are documents to which the witness has  
19 been -- through his instructing solicitors -- his  
20 attention has been drawn to these matters and I am  
21 simply exploring matters with him in the light of the  
22 contents of his statement --

23 THE CHAIRMAN: You will have, obviously, an opportunity of  
24 examining him.

25 MR GARNHAM: Yes, Sir.

1 MR ELIAS: Just seeking to see what your understanding of  
2 the position was, Mr Steptoe -- of course you must tell  
3 the chairman if you don't recall --

4 A. Sorry could you repeat the question?

5 Q. Let me put the question to you again. Conditioning  
6 techniques, as we see from the FRAGO on the screen -- at  
7 the foot of the middle paragraph -- "Prisoners are not  
8 to be conditioned [in this situation] unless TQ is  
9 authorised ...", and so on, did you understand or did  
10 you believe that conditioning could be, in any sense,  
11 employed for the purposes of questioning, interrogation  
12 or TQ'ing?

13 A. At the time I wasn't in a position or in an environment  
14 where it was something I needed to do or even was  
15 particularly close to, so it wasn't something that  
16 I would have given a great deal of thought to. Had  
17 I seen this FRAGO -- which I don't believe I did --  
18 I don't think it would have raised specific alarm bells  
19 to me.

20 Q. So you wouldn't immediately -- and this isn't  
21 a criticism of you -- reading that, have said, "That  
22 needs to be looked at"?

23 A. I would agree with you. I would not have gone, "That is  
24 illegal, that should be stopped".

25 Q. Does it follow, Mr Steptoe, that you were not aware, in

1           2003 anyway, of what has sometimes been termed the  
2           "Heath ruling" in this Inquiry; that is a ban by  
3           Government in 1972 of the use of conditioning techniques  
4           for the purposes at least of interrogation.

5   A.   No, I was absolutely not aware of that.

6   Q.   Now may I turn, please, to your role in Iraq? Can we  
7           have a look, please, at paragraph 36 of your statement  
8           to this Inquiry at BMI03191? Thank you very much.

9           You tell us that during Op Telic 2 you had the rank  
10          of major and the post of S02 G5 plans for Headquarters  
11          19 Brigade.

12  A.   Yes.

13  Q.   May I just refer you, please, to the statement that you  
14          made in September 2006? This is simply to seek to,  
15          I hope, clarify matters. MOD000960, please. It is  
16          a statement you made on 21 September 2006, isn't it?

17  A.   That is correct.

18  Q.   You say in the first sentence that you are currently  
19          serving with G5 future plans and commitments.

20  A.   That is correct.

21  Q.   In the second paragraph you say this:

22                 "Sometime at the beginning of June 2003 ..."

23                 That accords now with what you have told the Inquiry  
24                 today, doesn't it? At the end of May/beginning of June  
25                 you say you think you started.

1 A. That is correct.

2 Q. "... I deployed to Iraq as part of the advance party of  
3 19 Mech Brigade. I was based in Kuwait initially, but  
4 took over the appointment of G3 plans officer from  
5 7 Armoured Brigade (Op Telic 1) sometime at the  
6 beginning of July 2003."

7 Can you just help me and perhaps others? SO2 G5  
8 plans is what you refer to in your statement to this  
9 Inquiry; the appointment of G3 plans officer is what you  
10 refer to in that statement.

11 I think technically my post was G3/G5 training plans  
12 and the training bit fell under G3 and the plans bit  
13 fell under G5. G3 traditionally is the shorter term  
14 current part of an operation or the preparation and  
15 G5 is looking beyond 48 hours.

16 Q. So G3 would be dealing with the next 48 hours' planning?

17 A. 24 to 48.

18 Q. Something like that, a short term?

19 A. Yes.

20 Q. And G5 was looking at operations a little further ahead?

21 A. That's correct.

22 Q. And G5, what, was essentially your role?

23 A. In Iraq it was essentially a G5 role.

24 THE CHAIRMAN: Would that be said to be more the strategic  
25 areas that you were looking forward to?

1 A. Yes, it was, Sir, but the terms are slightly vague  
2 because it depends on the context of the operation. So  
3 in more traditional type war-fighting operations, then  
4 it is more defined. G3 is running the current battle  
5 and G5 is looking 24 hours and beyond and normally only  
6 three or four days beyond. We had moved into  
7 a different phase of the campaign so I was looking at  
8 anything from four days on to a month/a month and  
9 a half.

10 MR ELIAS: Always keeping your eye on what was going on here  
11 and now --

12 A. Yes.

13 Q. -- because that might affect the future plans  
14 presumably?

15 A. Well, I had a G3 -- there was a G3 operations officer  
16 who was dealing with the here and now and that would  
17 feed into whatever I was looking at for the future.

18 Q. At paragraph 37 -- if we go back to your statement to  
19 this Inquiry, please -- you set out here, do you, what  
20 I understand to be a part of your role, anyway, perhaps  
21 the relevant part, you might have thought, for this  
22 Inquiry:

23 "... receiving orders transmitted from the  
24 divisional headquarters, extracting the orders and then,  
25 together with the planning team, planning the actions we

1           needed to take as a result of these orders. I would  
2           then write the orders and issue them on to the battle  
3           groups."

4           So that meant that you were, were you, issuing  
5           orders and FRAGOs --

6   A. Yes, I was.

7   Q. -- based upon those that you received from divisional  
8           headquarters?

9   A. That's correct, although not exclusively.

10  Q. I understand.

11           If we look, please, at paragraph 63 of your  
12           statement to the Inquiry, BMI03196, you will correct me  
13           if I am wrong, but if I have understood matters  
14           correctly you, as it were, enlarge upon that role in  
15           paragraph 63; is that right?

16  A. I think -- paragraph 63 is specifically related to how  
17           the -- how an existing FRAGOs would have been handed on.

18  Q. I wanted to ask you about that too. You received, as it  
19           were, new orders, new FRAGOs, from division. You  
20           extracted whatever relevant material needed to be  
21           extracted therefrom and began the process of cascading  
22           them down?

23  A. That's correct.

24  Q. When you came into post -- if you just look at the  
25           matter generally for the moment -- how did you know what

1 the current position was from orders that had been made  
2 previously? How, if you like, did you read yourself  
3 into the position?

4 A. I think that there were a number of means. In the  
5 build-up before deploying we went out on recces; we were  
6 given briefings before deploying by the incumbent  
7 brigades; we were kept on information distribution lists  
8 from the incumbent divisional headquarters back to the  
9 UK.

10 Once I was in theatre, I was then alongside my  
11 predecessor in the role for a period of about four or  
12 five days and so I was, through absorption, beginning to  
13 get a fairly good understanding of the current  
14 situation.

15 Q. You told the Inquiry a little earlier that through your  
16 experience in training you grew up -- I am paraphrasing,  
17 but I hope it is accurately -- with the understanding  
18 that soldiers had sandbags, that sandbags might be used  
19 to hood prisoners where there were security issues and  
20 that that, presumably, would have been what would be in  
21 the mind of your average -- if not every -- soldier.

22 A. Yes, I think that's correct.

23 Q. If that position were changed by any order issued on  
24 high, that, for example, sandbags were not to be used,  
25 there was not to be hooding hereafter, one would expect

1           such an order to be issued and cascaded down in the  
2           usual way?

3    A.   Yes, I would.

4    Q.   If an order of that kind had been issued by your  
5           predecessors so that you and soldiers on the ground  
6           coming in were now coming into the situation where such  
7           an order existed, but they had in their mind that which  
8           you have already told the chairman about -- that is to  
9           say sandbags can be used -- how would you expect those  
10          soldiers, you and those soldiers if you like, those who  
11          had to operate on the ground, to know that there was now  
12          a new regime insofar as hoods is concerned?

13   A.   I think it would operate at a number of different  
14          levels.  So within the brigade headquarters the  
15          incumbent legal officer would be handing over any legal  
16          issues to the incoming legal officer and the same with  
17          the provost officer.

18                 At the same time generically it would be -- it  
19                 should be handed over during -- at every level between  
20                 staff officers within the brigade.  Then at battlegroup  
21                 level, exactly the same process would be happening at  
22                 battlegroup level.  So the incoming battlegroup would be  
23                 told by the in-place battlegroup how they were dealing  
24                 with prisoners of war and any changes to the regulations  
25                 or -- and the expected methodology of dealing with

1           internees.

2   Q.   So pre-existing FRAGOs that changed the regime in the  
3       detailed way that I have outlined to you in this one  
4       circumstance, how would you expect FRAGOs to be brought  
5       to the attention of those who needed to know where these  
6       changes might have been wrought by them?

7   A.   Predated FRAGOs I wouldn't have expected to be re-issued  
8       down the chain of command.

9   Q.   Not to be re-issued. I think that's what you say in  
10      your statement to the Inquiry. But what of learning,  
11      knowledge, of what was in them? How would that have  
12      been achieved?

13  A.   I think between the Telic 1 and Telic 2, which was the  
14      handover between 19 Brigade and 7 Brigade -- I think it  
15      was a lot of corporate knowledge -- it was very  
16      difficult to hand that over in that we hadn't yet  
17      established -- the pre-training hadn't yet established.  
18      By the time 19 Brigade handed over to its successors,  
19      there was a far better-established training back in the  
20      United Kingdom of a pre-deployment training package, and  
21      so there was much more detailed corporate knowledge  
22      being handed over during that time. Immediately in the  
23      aftermath of the war-fighting phase, I think the  
24      handover of corporate knowledge was very blurred.

25  Q.   You say in paragraph 63 -- we have it on the screen. If

1           you go down towards the end of it, please, perhaps just  
2           after halfway, "Once a FRAGO ..." Do you see that?

3   A.   Yes.

4   Q.   "Once a FRAGO had been disseminated it was the  
5           responsibility of the units to pass on that information  
6           to the new units arriving in theatre. 7 Armoured  
7           Brigade should have ensured that 19 Brigade was aware of  
8           any FRAGOs that still had a bearing on future  
9           operations. How exactly this was done I do not  
10          remember."

11                You go on to say:

12                "It is often achieved through the use of a 'first  
13                sight file' in which all key staff would sign to say  
14                they had read the file containing the FRAGOs."

15                Do you remember that happening in this case, in your  
16                case?

17   A.   We -- 19 Brigade certainly had a first sight file, so if  
18           I issued a FRAGO out to the battlegroups, it would be  
19           inserted into the first sight file so that internally  
20           within the brigade headquarters everybody understood  
21           what orders had been disseminated to the battlegroups.

22                What I do not remember is 7 Armoured Brigade's  
23                FRAGOs being inserted into -- there would have been an  
24                awful lot of them -- being inserted into a first sight  
25                file for the staff officers of 19 Brigade to read.

1 Q. If, on picking up FRAGOs which pre-dated your time in  
2 Iraq, you had, for example, seen a FRAGO that banned  
3 hooding, which might have been new to you because your  
4 position was that hooding was permitted, as you  
5 understood it, under certain circumstances, would that  
6 then have alerted you to the possibility or the  
7 desirability of cascading that order by re-issuing it in  
8 the form of a new FRAGO?

9 A. Yes. That sort of information, if I had read -- if  
10 I had read that, that is the sort of information that  
11 I would have then spoken to the SO2 legal within  
12 19 Brigade to make sure that that was still extant and  
13 then re-issued that down to the battlegroups.

14 Q. So should we understand that the system really -- and  
15 this isn't a criticism of you certainly -- relied, to an  
16 extent anyway, upon the assessment of someone looking at  
17 what you described as the "first sight file" and  
18 determining what in it was necessary to re-issue and  
19 cascade?

20 A. I think even that's too strong because, as I say,  
21 I don't recall seeing a first sight file. The FRAGOs  
22 were stored -- the previous FRAGOs were stored on the  
23 computer system, so you would have actually had to have  
24 gone through the files on the computer system and  
25 drawn -- and looked at -- and opened up each individual

1 file and gone through them and then extracted  
2 information from that to re-issue.

3 THE CHAIRMAN: Forgive me, can I just -- the computerised  
4 files, would they be categorised into G2, G3, G5?

5 A. No, I don't think they were. I think we had -- I was  
6 handed over an electronic folder --

7 THE CHAIRMAN: Yes.

8 A. -- or shown the location of an electronic folder that  
9 had them -- that had all the FRAGOs that had been issued  
10 out to the 7 Armoured Brigade unit and the FRAGOs that  
11 had -- divisional FRAGOs -- that had come in from 1 Div  
12 to 7 Armoured Brigade.

13 THE CHAIRMAN: And it would have been -- sorry.

14 A. They might have been filed by month, but not -- but no  
15 more than that.

16 THE CHAIRMAN: But there would be literally dozens of those?

17 A. Yes.

18 THE CHAIRMAN: And when you took over, how would you catch  
19 up with the really important stuff?

20 A. I would hope that the really important stuff was handed  
21 over to me verbally in the week that I was there.

22 THE CHAIRMAN: What, someone would say, "You do realise that  
23 FRAGO whatever number it is says you must do X, Y or Z"?

24 A. Yes. I think there wasn't very much corporate  
25 experience in doing operational handovers and I think

1 the understanding of extracting and preparing the key  
2 extant FRAGOs was not done. So when I arrived there  
3 wasn't a folder that said, "These FRAGOs are still  
4 extant, you must read these FRAGOs".

5 THE CHAIRMAN: I see. And I am not quite sure I understand  
6 the term "first sight FRAGOs". Why wouldn't all FRAGOs  
7 that came down from division be "first sight FRAGOs"?

8 MR ELIAS: I think, Sir, the reference is not to a "first  
9 sight FRAGO", but a "first sight file" on handover; is  
10 that right?

11 A. That is correct.

12 THE CHAIRMAN: I follow.

13 A. So all FRAGOs that I issued from 19 Brigade went into  
14 a first sight file, but also all sorts of other policy  
15 documents might have gone into that. They could have  
16 been internal policy documents -- anything that you  
17 needed all the staff to read, but you didn't want to  
18 print off 30/40 copies of would go into the first sight  
19 file, which would then get handed round. Once you had  
20 signed your signature, you would then hand the file down  
21 to the next name on the list, so you could prove that  
22 everybody had read what was in there or at least had the  
23 opportunity to read it.

24 THE CHAIRMAN: I expect Mr Elias will ask you this, but  
25 I would like to know from you, if the handover position

1 was not very good on that aspect of it, how you improved  
2 that for the later brigade that came in. But I expect  
3 Mr Elias will, at some stage, ask you that.

4 MR ELIAS: Can I just pick up on the matter that the  
5 Chairman has been asking you about?

6 You would expect to learn, you are telling us,  
7 aren't you, of any important issues or important changes  
8 presumably in practice on handover?

9 A. Yes, that is correct.

10 Q. To that extent you were dependent, of course, on what  
11 was handed over to you?

12 A. Yes.

13 THE CHAIRMAN: And what your predecessor thought was  
14 important?

15 A. Yes.

16 MR ELIAS: Yes.

17 You tell us in your statement to the Inquiry that  
18 you took over your previous incumbent's computer and on  
19 that, do we understand it, there would have been perhaps  
20 all the incoming FRAGOs that he had received?

21 A. Yes, I believe that was the case. When I say "his  
22 computer", I think it was the -- it was the computer  
23 that was left in place. But my understanding is it was  
24 then taken, which is why I had to transfer files from  
25 that computer onto a new computer.

1 Q. I follow. You agreed with the chairman that there would  
2 have been perhaps dozens of FRAGOs. Can you give us any  
3 estimation of how many orders and FRAGOs there would  
4 have been? Are we, in fact, talking in the hundreds?

5 A. No, I don't think it would have been hundreds.  
6 Traditionally one would expect at least one FRAGO a day,  
7 but there could easily be FRAGOs coming out from  
8 different elements of the divisional headquarters, so  
9 you may have one or two -- three FRAGOs a day and during  
10 the war-fighting phase the FRAGOs would have been -- may  
11 well have been issued in a slightly different way. So  
12 I can't recall how many were stored on the computer.

13 Q. Would it have been physically possible -- practical,  
14 perhaps I should say -- for you to go back over every  
15 line of every FRAGO which was there for you to see if  
16 you chose to?

17 A. It certainly wasn't practical, no.

18 Q. So you relied upon the handover essentially, did you?

19 A. Yes, because an awful lot of the previous FRAGOs would  
20 not have been relevant to the ongoing operations.

21 Q. When you left Iraq, was the handover system, if I can  
22 use the term, the same as when you arrived? Did you  
23 hand over in the same way?

24 A. Broadly, yes, but then I left theatre outside of the  
25 room onto the brigade, so I was handing over to an

1 individual who was coming into a brigade that had  
2 already been in theatre by that stage for four or five  
3 months.

4 Q. And you had a verbal handover to him --

5 A. Yes.

6 Q. -- in which you would have expected to alert him to  
7 matters that he needed to know about?

8 A. Yes.

9 Q. Were you aware, in Iraq, of any ban on the use of hoods  
10 on prisoners?

11 A. I don't recall being aware of a ban on hoods.

12 Q. Given -- can I put it this way in shorthand -- the  
13 status that it had in your mind, what you believed to be  
14 permitted, do you find it surprising that you were not  
15 made aware of a ban on hooding when you went into Iraq  
16 if it then existed?

17 A. Yes, I am surprised. I am surprised it didn't come out  
18 in the pre-deployment training rather than -- I am not  
19 surprised it wasn't handed over in theatre. I think  
20 there were -- within G3 and G5 plans, there were more  
21 pressing tactical issues that would have been at the top  
22 of our minds. I'm surprised it wasn't handed over in  
23 the more generic policy training back in the UK.

24 Q. But if you were disseminating orders, which was part of  
25 your role, as you told us, which might include

1 prisoner-handling --

2 A. Yes.

3 Q. -- it was vital, wasn't it, that you should know -- if

4 there were a ban on hooding, that you should know

5 about it?

6 A. Yes, it would be vital to know that.

7 Q. But you don't think you were ever made aware of it or

8 became aware of it?

9 A. Not that I recall, no. I don't remember issuing any

10 FRAGOs where I gave details about hooding or not

11 hooding.

12 Q. Did you actually see prisoners handled in Iraq? Did you

13 see prisoners from time to time?

14 A. No, never.

15 Q. You never saw them?

16 A. No.

17 Q. So you can't tell this Inquiry whether prisoners were or

18 were not hooded in the way that you have described for

19 security reasons at any stage, can you?

20 A. I can't, no.

21 Q. You never heard talk about any issues that arose from

22 the question of whether hooding was or was not lawful?

23 A. No.

24 Q. Could we have a look, please, at FRAGO 63? We find it

25 at MOD031014. We see it's dated 21 May. That would

1           probably or certainly pre-date, would it, your arrival?

2    A.   It certainly pre-dated my arrival in the brigade

3           headquarters.

4    Q.   Yes.

5    A.   I might have been in Kuwait.

6    Q.   We can see, can't we, from the right-hand column, for

7           what it may be worth, under the "Info", it appears to

8           have been sent to 19 Mech Brigade.  I just want to take

9           you to part of it three pages on, please, at MOD031017,

10          paragraph 5.

11                 There's the reference in line 3 -- I think you will

12                 have seen this document before, but I just take you to

13                 the reference in line 3:

14                 "... the detained person should be treated with

15                 humanity and dignity ..."

16                 And that is highlighted, isn't it?

17                 "... at all times."

18                 That should be to underline your LOAC training;

19                 correct?

20    A.   That is correct.

21    Q.   "They should not be assaulted.  They should be provided

22           with water in all cases and food if detained for longer.

23           If they are needed to be restrained then this should be

24           effected where absolutely necessary and using the

25           minimum force ..."

1           Then this:

2           "Under no circumstances should their faces be

3           covered as this might impair breathing."

4           Do you ever recall seeing this FRAGO or the terms of

5           it?

6    A.   No, I don't recall seeing it.

7    Q.   If you had seen that sentence, "Under no circumstances

8           should [prisoners'] ... faces be covered as this might

9           impair breathing", what would it have meant to you?

10   A.   Exactly as it says. I don't think there's anything --

11          I can't see anything there that needs interpreting.

12   Q.   Would you have regarded that as a ban on hooding?

13   A.   Yes, I would.

14   Q.   Is that what it means to you, "Prisoners are not to be

15          hooded?"

16   A.   I think that's -- yes, that would be covering their

17          face, so I would assume that that was -- from that

18          sentence, that hooding was not allowed.

19   Q.   Does it mean anything else to you, when you read it, or

20          simply that hooding is not allowed?

21   A.   Well, there are other ways of covering someone's face

22          without hooding, so I would suggest that you couldn't

23          cover their faces at all.

24   Q.   By any means?

25   A.   By any means.

1 Q. That was not brought to your attention, was it, as you  
2 recall?

3 A. Not that I recall.

4 Q. You were never made aware, were you, of any issue that  
5 may be arising as a result, for example, of causing  
6 death by the use of hoods or anything of that kind?

7 A. No, I wasn't.

8 Q. It wasn't an issue that came across your desk, as it  
9 were?

10 A. No.

11 Q. Could we have a look, please, at another FRAGO,  
12 FRAGO 85, at MOD023089? We see the date. I think it's  
13 13 July; is that right?

14 A. That's correct, sir.

15 Q. This is authorised by you.

16 A. Yes, that's correct.

17 Q. We can see it's a 9 Mech Brigade miscellaneous FRAGO,  
18 FRAGO 85. If we go over to the second page of it, we  
19 see reference to the attachments, "Arrest and internment  
20 guide" and "Police reform". If we go over the page,  
21 please, to "Arrest procedures card", did you play any  
22 part in drawing up what we see here?

23 A. No, I didn't, not in drawing up that card. I would have  
24 inserted that into the FRAGO.

25 Q. Just the notes at the foot of the page, please. There's

1 an underlining of:

2 "1. The suspect is to be treated humanely and with  
3 respect at all times, taking into account age, gender  
4 and religion.

5 "2. Mistreatment of suspects will be investigated  
6 and is a command responsibility to ensure it does not  
7 happen."

8 Were you aware of any incidents that had arisen that  
9 gave rise to that note 2, "Mistreatment of suspects ...  
10 command responsibility ..."?

11 A. No, I wasn't.

12 Q. Did you play any part, Mr Steptoe, in what we know as  
13 FRAGO 29, the creation of the BGIRO and, if you like,  
14 a new regime for handling prisoners at  
15 brigade/battlegroup level?

16 A. Not that I recall, and "BGIRO" was not a term that  
17 I remember hearing in my time there.

18 Q. If there were in place in your time a ban on hooding,  
19 issued on 3 April, that's something that you would have  
20 wanted to know about?

21 A. Yes.

22 Q. You ought to have known about?

23 A. Yes.

24 Q. Could it be any failing on your part that resulted in  
25 your not knowing about it?

1 A. Well, it is clear that I failed to pick up and extract  
2 from previous orders a sentence that said that we should  
3 ban hooding. Do I think that was practical in the  
4 circumstances? No.

5 Q. Sorry, it wasn't practical to ban hooding?

6 A. No, to have been able to have found that statement,  
7 identified it and seen the significance of it and then  
8 re-issued it.

9 Q. I understand. That goes back to the answer you gave me  
10 earlier, when I asked you, I think, if it was practical  
11 and your answer is "No, because of the volume"; would  
12 that be a shorthand way of putting it?

13 A. Well -- and also the volume of other work going on that  
14 meant that you were focused immediately on moving  
15 forwards, rather than looking backwards.

16 MR ELIAS: Yes, thank you.

17 THE CHAIRMAN: Yes, Ms Hetherington.

18 MS HETHERINGTON: Thank you, Sir.

19 THE CHAIRMAN: Sorry, I should have said you will be asked  
20 questions by other counsel.

21 Questions by MS HETHERINGTON

22 MS HETHERINGTON: Mr Steptoe, you have explained that once  
23 you were deployed, part of your role was to receive  
24 orders from division, extract the necessary material and  
25 pass those orders on to battlegroups. You also said

1           that one way of the brigade reading in to what was going  
2           on on the ground was that they would be on information  
3           distribution lists from 7 Armoured Brigade. In your  
4           pre-deployment role as G3 training plans, would you have  
5           been the person who received those orders via the  
6           information distribution list?

7    A. No, I wouldn't. Before deployment my sole focus was on  
8           training and organising the physical move of the brigade  
9           out to Iraq.

10   Q. Can you help at all as to who would have been the  
11           individual who would have received those orders?

12   A. I can't guarantee who saw them, but I would suggest that  
13           they would have gone to the chief of staff of the  
14           brigade. Being back in the UK, I think all operational  
15           orders coming from theatre would have been treated at  
16           a higher level of security than once you're in that  
17           secure environment operating in the brigade  
18           headquarters. So, therefore, they would not have been  
19           routinely issued round our brigade headquarters as they  
20           were once we were in theatre.

21   Q. Does it follow from what you said earlier in your  
22           evidence that had someone -- be it the chief of staff or  
23           otherwise -- seen the order that prohibiting the  
24           covering of the face, you think that ought to have been  
25           fed into the pre-deployment training of the brigade

1 troops?

2 A. Yes.

3 Q. In terms of that pre-deployment training, you said that  
4 that was very much your focus before deployment. We  
5 have heard some evidence from those at the battlegroup  
6 level about their experiences of pre-deployment training  
7 and I just wanted to ask you about yours. You alluded  
8 to some problems with it in your evidence earlier.  
9 I think you said it wasn't established and that was one  
10 of the reasons for the lack of corporate memory  
11 transfer. Did you experience a lot of difficulties in  
12 the pre-deployment training phase?

13 A. The timescale was challenging. We were a pretty highly  
14 trained brigade anyway because we had just completed our  
15 generic war-fighting training anyway and were the high  
16 readiness brigade and expected to go on the first phase  
17 of Telic, which then didn't happen. So our generic  
18 training was pretty high. What was difficult was then  
19 getting the specific in-theatre training because  
20 everything was -- all the resources had been -- a lot of  
21 resources had already been moved out to Kuwait to  
22 support the training of the first brigade going into  
23 Iraq.

24 Q. So there was a difficulty with resources and  
25 a difficulty with specificity in terms of the training?

1 A. Yes.

2 Q. Captain Burbridge, who was the G3 ops officer, who we  
3 will hear from in due course, he said that there was  
4 something of a confusion about what your role might have  
5 been once you got out there and it wasn't clear. Is  
6 that something that you felt impacted on your training?

7 A. A little bit in that I don't think anyone knew -- we  
8 understood the war-fighting phase to have ended, but  
9 I don't think anyone had any real idea of for how long  
10 the sense of peace would last. Therefore it wasn't as  
11 clear-cut a role as the first Telic, who were going in  
12 with a very clear-cut mission. Our mission was  
13 constantly evolving, so it was much more difficult to  
14 therefore have specific training objectives to meet  
15 that.

16 Q. I understand.

17 Just going back to the issue of the handover of  
18 orders, you said in your statement and in evidence today  
19 that you wouldn't necessarily re-issue old FRAGOs  
20 because you'd expect them to be handed over at the  
21 battlegroup level. Is that a generally accepted  
22 practice in your army experience? I appreciate you  
23 probably haven't been in the precise circumstances  
24 before.

25 A. Yes, I think that it is definitely the accepted practice



1 re-drafting it so that I could issue it the following  
2 morning to the battlegroups.

3 Q. If there was a delay in a FRAGO reaching a battlegroup,  
4 can you give any explanation as to why that might have  
5 happened?

6 A. If there was a delay -- there could be a delay in  
7 receiving a FRAGO that I had actually physically  
8 written -- there could be two delays. There could be  
9 a delay in me writing a FRAGO. So, if there was a lot  
10 of information, if it was more complicated, if it was  
11 a longer-term plan, I might not have taken all the  
12 information out of a FRAGO, so it might have gone into  
13 the following day's FRAGO. So it may be 48 hours,  
14 rather than 24 hours -- in fact, 12 hours to 24 hours.

15 There could also be a delay in physically  
16 distributing that FRAGO, and that could be because of  
17 geographical location in the early days before we had  
18 the electronic capability to disseminate the FRAGOs. On  
19 the whole, every day we would have prayers, and  
20 representatives, liaison officers, would come in every  
21 morning to come and receive their FRAGOs.

22 Q. Would there ever have been an occasion when a FRAGO was  
23 delayed in its dispatch because someone else or -- it  
24 was thought that it ought to be reconsidered because of  
25 the change it was going to bring into effect?

1 A. Yes. There were FRAGOs that I wrote that would then go  
2 to the chief of staff, Hugh Eaton, and up to Bill Moore,  
3 and they may turn round and say, "No, I want  
4 clarification on that" or "I don't like your English,  
5 rewrite that" or whatever. So it could come back to me  
6 for re-drafting, in which case normally the pressure  
7 would be on me to still get it issued out for the  
8 following morning. But it might be that I would delay  
9 that paragraph or that element of the FRAGO -- so still  
10 issue a FRAGO every day, but re-issue that bit of the  
11 FRAGO into the following day's FRAGO.

12 Q. What if it had already, as such, been issued and there  
13 was a delay thereafter of a considerable period? Can  
14 you give any insight as to why that might be the case?  
15 The kind of time-frame I am talking about is perhaps up  
16 to a week.

17 A. No -- so it's physically been issued to the battlegroup?

18 Q. No, I am sorry. I didn't make that clear. It had been  
19 signed at divisional level, but then not reached the  
20 battlegroup for a further week or so.

21 A. If it was for a -- I think it would depend on the nature  
22 of the information in the divisional FRAGO. So if it  
23 was for a planned operation, then it could well take  
24 brigade a lot of detailed planning and that could be  
25 anything from a logistics move that needed a lot of

1 resources to protect it to doing a brigade level  
2 operation using all the battlegroups.

3 If it was a routine notice that was being passed  
4 down or a routine instruction, then I wouldn't have  
5 expected it to have a delay of a week.

6 MS DOBBIN: Sir, I leave it at that.

7 THE CHAIRMAN: Yes.

8 MS DOBBIN: Can I just check something else please? If  
9 a FRAGO had been issued by 7 Division and then passed  
10 down to 19, but primarily affected 19 Division, would  
11 someone --

12 THE CHAIRMAN: Are you talking about division or brigade?

13 MS DOBBIN: Sorry, division, Sir.

14 -- would you have expected such a FRAGO to be looked  
15 at afresh if it was only going to affect 19 Division?

16 A. Sorry, I need clarification on 19 Brigade and 7 Armoured  
17 Brigade or 1 Div and 3 Div.

18 THE CHAIRMAN: Let's try and get the question straight for  
19 a moment. Like the witness, I am not absolutely certain  
20 what you are getting at, Ms Dobbin.

21 MS DOBBIN: I apologise, Sir.

22 THE CHAIRMAN: Don't apologise. I would just like to get it  
23 clear what you want to know.

24 MS DOBBIN: Sir, it is really about FRAGO 92 and the fact  
25 that had been substantially drafted and considered by

1 the preceding division, but primarily affected  
2 19 Division --

3 A. Brigade.

4 MS DOBBIN: I probably have this wrong.

5 THE CHAIRMAN: What is it you want to know from him?

6 MS DOBBIN: If a FRAGO had been previously issued during  
7 Op Telic 1, but primarily affected 2 -- and that is  
8 probably the easiest way of putting it -- would it have  
9 been incumbent in terms of Operation Telic 2 that it was  
10 considered afresh, as it were? I hope that makes  
11 slightly more sense.

12 THE CHAIRMAN: Do you understand that?

13 A. Yes. I do. I think -- the confusion arises because  
14 1 Div overlapped the deployment of 2 Brigade, so  
15 19 Brigade took over from 7 Brigade whilst 1 Div was  
16 still in theatre and remained in theatre for a couple of  
17 weeks. So if 1 Div had issued an order to 7 Brigade  
18 that affected 19 Brigade, of which there were a number,  
19 I would have expected those to have been re-issued had  
20 I been made aware that they were. But I think it goes  
21 back to the original point that, unless I was made aware  
22 that these were still extant and were specific to  
23 19 Brigade, it would be very difficult to go back  
24 through all the FRAGOs to identify which ones were still  
25 extant and which ones were discrete to 7 Brigade.

1 MS DOBBIN: Sir, can I apologise? I was momentarily  
2 confused --

3 THE CHAIRMAN: That's all right. Don't apologise.  
4 I understand.

5 MS DOBBIN: Sir, that gets to --

6 THE CHAIRMAN: That helps you, does it?

7 MS DOBBIN: Yes, thank you.

8 THE CHAIRMAN: Mr Garnham?

9 MR GARNHAM: Sir, there is a matter that I would be grateful  
10 for the chance to raise with Mr Elias before  
11 I re-examine. I don't know whether that's practical --

12 THE CHAIRMAN: Do you want to have your ten-minute break  
13 now?

14 MR GARNHAM: I wonder if we could, Sir.

15 THE CHAIRMAN: There will be a slight delay. We will have  
16 a ten-minute break.

17 (11.12 am)

18 (A short break)

19 (11.19 am)

20 MR GARNHAM: Thank you, Sir. Thank you for the time.

21 THE CHAIRMAN: Not at all.

22 Questions by MR GARNHAM

23 MR GARNHAM: Mr Steptoe, can you recollect when you first  
24 heard the expression "stress position"?

25 A. No, I remember being put into a stress position at

1 a very young age, but I can't remember when the term --  
2 I first heard the term.

3 Q. When were you first put into stress positions?

4 A. At prep school outside the headmaster's study. I was  
5 made to stand with books on the end of my arms for long  
6 periods of time.

7 Q. Thank you. When did you first come across it in the  
8 army? You said, in answer to Mr Elias, that you came  
9 across it in the context of the form of punishment. In  
10 what circumstances was that?

11 A. I have never been formally put into a stress position as  
12 a form of punishment and nor have I given a stress  
13 position as a form of punishment. But it is a term that  
14 I am just aware of that has been used that is -- and the  
15 boundary between what is a physical exercise and what is  
16 a stress position gets blurred in PT.

17 Q. So this is in the context of a physical training  
18 instructor?

19 A. Yes.

20 Q. You had also heard of it, you told Mr Elias, in the  
21 context of conduct after capture training.

22 A. Yes.

23 Q. Those two circumstances aside, did you ever come across  
24 discussions about either stress positions or  
25 conditioning in army life?

1 A. No -- well, not that I can -- not specific occasions  
2 that I can recall that were in any way regarded to  
3 formal training.

4 Q. Had you ever come across, to your recollection, the use  
5 of the word "conditioning" in an army order?

6 A. No, I hadn't, and I was surprised to see it in that  
7 order.

8 Q. You explained to the chairman the practical difficulty  
9 of identifying parts of previous FRAGOs that might be of  
10 relevance to your brigade. You told the chairman that  
11 there would have been, I think you said, dozens of  
12 pre-existing FRAGOs. Were they held electronically and  
13 in hard copy?

14 A. Certainly electronically. They would have been held in  
15 hard copy. Whether the hard copies were handed over to  
16 us, I don't recall, but I would expect that they were.

17 Q. I think I can work out the answer for the next question  
18 from what you just said, but you can't give us any  
19 indication, can you, of the volume that the hard copy of  
20 previous orders would have taken up?

21 A. No. FRAGOs are of variable lengths, so no.

22 Q. In the electronic form, did you have it in a file on  
23 a computer?

24 A. Yes, I did.

25 Q. Did you have occasion to open the file and see how many

1 FRAGOs there were?

2 A. I certainly had occasion to open the file and I did go  
3 back and open FRAGOs, but I don't recall how many there  
4 were.

5 Q. Can you even say how long a task it would have been to  
6 work through all existing FRAGOs?

7 A. To read them properly would have taken days.

8 Q. Was time made available to you on your deployment to  
9 Iraq, to carry out that task?

10 A. No, not once we were in theatre.

11 Q. Would you have been expected to sit down, open the  
12 computer and go through all the FRAGOs?

13 A. No.

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

15 Further questions by MR ELIAS

16 MR ELIAS: Just on that same topic -- I think we may have  
17 been told this before, but can I clarify it through  
18 you -- 19 Mech Brigade coming in and issuing orders or  
19 FRAGOs would begin at 1, would they, and move on  
20 sequentially?

21 A. Not necessarily, no, and I can't recall what we did  
22 start at. I would have expected my first FRAGO to be  
23 19/01, but I can't guarantee that.

24 Q. But whatever you may have started at -- supposing you  
25 started at 10, for example -- they would then have been

1 sequentially numbered thereafter, would they?

2 A. Yes.

3 MR ELIAS: Yes, thank you.

4 Questions by THE CHAIRMAN

5 THE CHAIRMAN: I am afraid I want to return to this business  
6 of the handover and FRAGOs and the like. What I want to  
7 know about is the procedure. I can understand the many  
8 practical difficulties about handing over and knowing  
9 what's gone on before, but can I just explore with you  
10 one or two things?

11 First of all, assume an oral order from division  
12 down to brigade, your predecessor, would you expect to  
13 find somewhere, if you looked for it, which you might  
14 easily not, a record of an oral order?

15 A. Not necessarily, no. It depends -- again it slightly  
16 depends on the nature of the oral order. If it was in  
17 a tactical situation and it was an oral order being  
18 given over the command net of a tank, then no.

19 THE CHAIRMAN: Let's take the situation here, the specific.  
20 I have heard evidence that the general officer of your  
21 predecessor, 1 (UK) Division, did issue an oral order --  
22 or not even quite as clear as that, a direction -- that  
23 there should be no more hooding. If it had been an oral  
24 order to your brigade, what would you have done with  
25 that? Would you have made a note of it, an oral order,

1 or what would you have done?

2 A. Yes, yes, I would have done. I would have turned that  
3 into a written order. I think it would be very unusual  
4 for 19 Brigade to have received an oral order from  
5 a divisional commander. He might have given an oral  
6 order or direction internally to his staff to then issue  
7 out in writing to the subordinate brigades and  
8 battlegroups.

9 THE CHAIRMAN: Yes, I see. If you had, you would have  
10 turned it into a written order to cascade down?

11 A. Yes, I would.

12 THE CHAIRMAN: Suppose that the oral order had been issued  
13 by the previous division -- which is the situation I am  
14 contemplating -- would you have expected your  
15 predecessors to have done the same thing as you would  
16 have done, namely --

17 A. Yes.

18 THE CHAIRMAN: -- noted it down and issued it as a written  
19 order?

20 A. Yes, I would.

21 THE CHAIRMAN: In that event, had you been looking for it,  
22 you might have seen it, would you?

23 A. Yes. I would.

24 THE CHAIRMAN: Again, I don't mean this critically in any  
25 sense. The problem is somebody has to -- if you are

1 taking over -- and I can see the problem about sorting  
2 out a large number of orders -- either you have to find  
3 it, randomly, or you are looking for it or somebody has  
4 to alert you to what they think is an important order.

5 Now something like hooding, would that, would you  
6 have thought, have been sufficiently important for you  
7 to have been alerted to it?

8 A. Yes, I do think that would have been sufficiently  
9 important. The term "order" I think has become used as  
10 a generic term, but there is a perceptual difference  
11 between routine almost parish notices that we were  
12 issuing out on a daily basis and specific orders. Part  
13 of the handover process happens long before we get to  
14 theatre. So through the recce process -- during the  
15 recces, there would have been discussions, certainly at  
16 each level, from my level and above, with regards to  
17 planning. And a pre-deployment planning order should  
18 have wrapped up an awful lot of these -- of any extant  
19 parish notices. The policy of what we were going to be  
20 doing should have been in that pre-deployment order that  
21 19 Brigade wrote for its battlegroups and its brigade.

22 THE CHAIRMAN: Yes.

23 A. And I have not seen that since -- in any of the  
24 evidence.

25 THE CHAIRMAN: If it had been there, you would have seen it

1 in the recce period, is that right?

2 A. We wrote the order during -- we started writing the  
3 order during the recce, so the planning team went out to  
4 Iraq and started writing that order.

5 THE CHAIRMAN: All right.

6 Getting back to the specifics, if the order of  
7 3 April, as there is evidence, as an oral order had been  
8 turned into a written order by your predecessor --  
9 predecessor brigade -- then that would have appeared  
10 somewhere along the line when you were at the recce  
11 stage; is that right?

12 A. Yes. That is an example of the type of policy that  
13 I would have expected to have been included in our  
14 pre-deployment order.

15 THE CHAIRMAN: Yes. Is it you who would have seen it  
16 personally or not?

17 A. It was a collaborative task of pulling together what was  
18 a huge pre-deployment order. And so I don't recall  
19 specifically including elements on prisoner-handling or  
20 hooding, but I would have expected it to be in there.

21 THE CHAIRMAN: Who else might see it? Might the  
22 intelligence department -- G5 is that? -- might they  
23 have seen it?

24 A. G2 is the intelligence cell.

25 THE CHAIRMAN: Yes.

1 A. G2 was certainly on the recce and certainly closely  
2 involved in drafting the pre-deployment order.

3 THE CHAIRMAN: And the legal officer in the brigade, might  
4 he be expected to see it?

5 A. I am hesitating because he joined the brigade quite late  
6 in the training process and I can't recall whether he  
7 was there prior to the recce or -- he certainly wasn't  
8 on the recce.

9 THE CHAIRMAN: That was Major Clifton, is that right?

10 A. That is correct.

11 THE CHAIRMAN: Now let us suppose another situation that  
12 I would like to ask you about and see if you can or  
13 cannot help. Suppose somebody from a battlegroup --  
14 let's be specific about it. Suppose 1 QLR come, through  
15 its BGIRO, to brigade and ask about the legality or not  
16 of hooding, would you expect that order, the oral order,  
17 then to have been flagged up immediately by whomever --  
18 well, if he went to the legal officer, would you expect  
19 that to be flagged up immediately?

20 A. I just want to clarify.

21 THE CHAIRMAN: Do I make myself clear?

22 A. If they are questioning --

23 THE CHAIRMAN: The legality.

24 A. -- the legality of an order that we have issued out to  
25 them --

1 THE CHAIRMAN: No, not an order. If they are questioning  
2 the legality of a practice in the hooding --  
3 A. Yes -- who would they refer to?  
4 THE CHAIRMAN: Well, if they refer to both Major Robinson  
5 and Major Clifton -- if that order of 3 April had been  
6 made and been converted into a written order, would you  
7 expect those two officers to know about it and tell him?  
8 A. I would certainly expect Major Clifton to know about it.  
9 I would be less confident that Major Robinson would know  
10 about it.  
11 THE CHAIRMAN: Yes. All right. I think that probably is  
12 all that I want to ask about that.  
13 This is not in my terms of reference, but I did at  
14 one stage think that it might have been more convenient  
15 to stage handovers so that you had division first,  
16 brigade second, after a period of time, and then the  
17 battlegroups, but I rather suspect that that would cause  
18 more problems than it would solve. It sounds as if,  
19 from what you are saying, that would, in terms of  
20 orders.  
21 A. I think that the handover is very difficult after an  
22 intense operation because the in-place unit's focus at  
23 whatever level inevitably has switched to coming home --  
24 THE CHAIRMAN: Yes.  
25 A. -- therefore the onus is always, rightly or wrongly, on

1 the incoming brigade to try to prepare itself and read  
2 in as best as it can.

3 THE CHAIRMAN: Well, what is the solution to trying to find  
4 out what was the corporate knowledge, as you termed  
5 it -- have I used the right expression?

6 A. Yes.

7 THE CHAIRMAN: -- what is the solution to finding out the  
8 corporate knowledge and passing it on between one  
9 brigade and another? Do you need more time for  
10 a handover or what?

11 A. No, I think the corporate knowledge has to be handed  
12 over before you get into theatre. I think more emphasis  
13 needs to be placed on -- a more formal process needs to  
14 be put in place to ensure that policy direction is  
15 handed over and is briefed to the incoming unit long  
16 before they get into theatre so that -- and should be  
17 routinely updated back in the United Kingdom, so that,  
18 as they deploy, all units are almost going through a --  
19 the equivalent of what we did in theatre.

20 So having a morning -- the brigade commander in the  
21 UK could hold a morning prayers and almost simulate  
22 being on operations for even a month prior to the  
23 operation, so that you are going through the routine and  
24 being constantly kept up to date with operational  
25 FRAGOs. So once you deploy in theatre, there may be

1 a week or two weeks that you have to catch up on as you  
2 are going through the physical deployment, but your  
3 corporate knowledge is right up to the mark.

4 THE CHAIRMAN: And we can put hooding into the corporate  
5 knowledge box, can we?

6 A. Yes. It is a -- I think that is a policy decision,  
7 rather than an operational/tactical decision.

8 THE CHAIRMAN: Yes. Well, I am very grateful.

9 Does anybody want to ask any questions arising out  
10 of that?

11 Thank you very much for coming, Mr Steptoe. That's  
12 all the questions the Inquiry is going to ask you. I am  
13 very grateful to you for giving evidence to us and you  
14 are now free to go.

15 A. Thank you, Sir.

16 THE CHAIRMAN: Yes.

17 MR MOSS: Major King, please, Sir.

18 THE CHAIRMAN: Major, if you would be kind enough to take  
19 the oath or be sworn as you choose.

20 OLIVER GREVILLE HALFORD KING (sworn)

21 THE CHAIRMAN: Please sit down. If you could get yourself  
22 as close as you can to the microphone, without giving  
23 yourself a serious physical injury, and speak into it,  
24 then we will all be able to hear.

25 A. Is that okay, Sir?

1 THE CHAIRMAN: That's fine.

2 Questions by MR MOSS

3 MR MOSS: Would you give us your full name, please?

4 A. Oliver Greville Halford King.

5 Q. Major, if you would take up the folder which should be  
6 on the desk in front of you, I think you will find  
7 a hard copy of your statement to the Inquiry. If we  
8 look at the last page of it together, our BMI03583, do  
9 we see that that's a statement that you provided to the  
10 Inquiry on 6 August of last year?

11 A. Yes, it is.

12 Q. Now, I have been alerted to the fact that in  
13 paragraph 49 of your statement -- we don't need to turn  
14 to it for the moment -- where you are talking about the  
15 secure internet system, there is a matter that you would  
16 like to clarify. I promise that I will come back to  
17 that and deal with it in due course.

18 Subject to that one matter, are the contents of this  
19 statement true to the best of your knowledge and belief?

20 A. Yes, they are.

21 Q. Thank you. As you may have heard with the last witness,  
22 Major King, everybody has had an opportunity to read  
23 your statement and the documents related to it, so I am  
24 only going to have to pick up some aspects arising out  
25 of it. Do you understand?

1 A. Yes.

2 Q. May we start please just briefly with your career  
3 history? I think you tell us that you went to Sandhurst  
4 in 1998 --

5 A. That's right.

6 Q. -- and that you were commissioned into the  
7 Light Dragoons as a second lieutenant in 1999.

8 A. Yes.

9 Q. You were promoted in 2000 and then promoted again to  
10 captain in 2002.

11 A. Yes, that's right.

12 Q. Is it right that you went to Iraq on Op Telic 2 as  
13 a captain and, at that stage, you were in the regimental  
14 headquarters of the Light Dragoons?

15 A. Yes, that's right.

16 Q. I think your post, which we will come on to in due  
17 course, was as the staff officer grade 3 ops; is that  
18 right?

19 A. Yes, as a temporary employment for the operation, yes.

20 Q. Thank you. Would that have been your first staff  
21 officer post of that kind?

22 A. Yes.

23 Q. I think you are still in the army now; is that right?

24 A. Yes that's right.

25 Q. And am I correct that your current rank is major?

1 A. That's correct.

2 Q. Thank you. Some matters relating to training then, if  
3 I may. You tell us that at Sandhurst -- you explain in  
4 your witness statement that there were a few exercises  
5 that did involve what you describe as "basic  
6 prisoner-handling"; is that right?

7 A. Yes, that's right.

8 Q. Doing the best that you can, can you remember whether  
9 any of those exercises at Sandhurst involved the  
10 teaching of anything about deprivation of the sight of  
11 prisoners?

12 A. I don't recall at this time.

13 Q. You went on after Sandhurst, you tell us, to do a troop  
14 leaders course, but you mention in your witness  
15 statement that, as far as you recollect it, that didn't  
16 cover prisoner-handling matters at all; is that right?

17 A. Yes.

18 Q. Annual training: as other witnesses, presumably you  
19 would have done what I think at the time would have been  
20 individual training directives, ITDs, now called  
21 "MATTs"; is that right?

22 A. Yes, that's right.

23 Q. The training video, perhaps slightly outdated cold war  
24 scenarios you would have seen?

25 A. Yes.

1 Q. You tell us that there were lectures or instruction  
2 given after the showing of that video. Are you able to  
3 help us as to whether any of the lectures after the  
4 showing of the video covered prisoner-handling matters  
5 and, in particular, sight deprivation?

6 A. They were generic discussions generally on the myriad of  
7 topics covered by the law of armed conflict, which is  
8 everything about the Geneva Convention. I don't recall  
9 anything specific about prisoner-handling in those  
10 discussions. There may well have been.

11 Q. Thank you. Dealing then with that generality, as it  
12 were, of the law of armed conflict training, what was  
13 the central message that you had understood about how  
14 prisoners should be handled?

15 A. With a sense of humanity.

16 Q. And if it's not an obvious question, what did dealing  
17 with prisoners with humanity actually mean in practice,  
18 as you understood it?

19 A. Duty of care, so shelter, food and water and so on.

20 Q. Thank you. You tell us that you received a number of  
21 ad hoc talks as part of training within the  
22 Light Dragoons, one of which you recall was a lecture on  
23 prisoner-handling; is that right?

24 A. Yes.

25 Q. Is it still the case that you can't, however, remember

1 anything about the content of that prisoner-handling  
2 lecture that you received?

3 A. Yes.

4 Q. Promotion courses. You tell us that you had one,  
5 I think, prior to Op Telic and two subsequently, but  
6 that those also did not cover prisoner-handling; is that  
7 right?

8 A. Yes, that is correct.

9 Q. I want to ask you some questions, if I may, about  
10 exercises in which you have been involved because  
11 I think you tell us in your witness statement that when  
12 you did exercises with your regiment, some of those did  
13 involve the practicalities of prisoner-handling. Is  
14 that right?

15 A. Yes.

16 Q. In any of those exercises, can you remember whether or  
17 not prisoners were hooded or blindfolded?

18 A. I think blindfolded, probably. I don't remember  
19 specific hooding.

20 Q. If some of the exercises involved prisoners being  
21 blindfolded, was any instruction given to the effect  
22 that, if you need to deprive prisoners of their sight,  
23 blindfolding is the way to do it, as opposed to hooding,  
24 or was it just that blindfolds were in fact used?

25 A. No, it was just the point that you had to maintain your

1 security of your vehicle that you were travelling with  
2 them in or where you were going to. That was all.

3 Q. So the purpose of such sight deprivation, as you saw on  
4 exercises, was security, operational security; is that  
5 right?

6 A. Yes.

7 Q. Did you, in fact, receive any instruction in the means  
8 by which prisoners should be deprived of their sight?

9 A. Not that I recall.

10 Q. You tell us in your statement -- is this right -- that  
11 your view of it is that those exercises worked best if  
12 there was a detachment of the Royal Military Police who  
13 were involved as part of the troops being exercised.

14 A. Yes, in process terms, yes.

15 Q. Why was that?

16 A. Because they had the documentation which would  
17 ultimately have to be filled out with taking a detainee  
18 prisoner and understood the echelon system by which,  
19 from point of capture, they would be taken back to the  
20 internment facility. There's a good deal of  
21 documentation that goes with that.

22 Q. Perhaps to give some context to this, it's right, isn't  
23 it, that the Light Dragoons were a reconnaissance  
24 regiment?

25 A. That's correct.

1 Q. Your role, for which you were being trained, would have  
2 been to go forward in smaller vehicles at speed with  
3 small numbers of soldiers; is that broadly correct?

4 A. Yes.

5 Q. Would it be right that taking prisoners and dealing with  
6 prisoners would not predominantly be something that was  
7 within your normal role in a war-fighting scenario?

8 A. As recce soldiers, no.

9 Q. Can I come on, then, to the various techniques of  
10 interest to this Inquiry? I have discussed already some  
11 aspects about hooding and you've explained that  
12 blindfolding was something that you had come across.  
13 Had you, in fact, seen apart from in resistance to  
14 interrogation training, which I will come on to -- apart  
15 from that, had you seen the use of hoods at all on  
16 prisoners or on exercises prior to going to Iraq?

17 A. Not that I recall.

18 Q. If we may take matters on, as it were, the eve of your  
19 deployment on Op Telic 2, what would your understanding  
20 have been about whether or not it was legitimate to use  
21 a hessian sandbag to deprive a prisoner of his sight?

22 A. I think for operational security it would have been  
23 valid.

24 Q. So far as stress positions are concerned, did you have,  
25 at the time, an understanding of what a stress position

1           was, first of all?

2    A.   Yes, loosely.

3    Q.   What would that understanding have been?

4    A.   There was things to -- to either tire you or deprive you  
5           of an ability to escape at speed if you needed to.

6    Q.   So for one of those two purposes, to tire you out or  
7           deprive you of mobility to escape; is that right?

8    A.   Yes, to make it more difficult -- if you were lying down  
9           on the floor, it's clearly going to be more difficult  
10           for you to get away than if you were standing.

11   Q.   Did you have any understanding of stress positions being  
12           perhaps related to subsequent questioning, to tire  
13           people out or wear them down or soften them up for  
14           questioning or interrogation?

15   A.   For the British Army?

16   Q.   Yes.

17   A.   No.

18   Q.   What was your understanding as to whether the use of  
19           stress positions -- again by the British Army on  
20           prisoners taken by the British -- what was your  
21           understanding as to whether stress positions could or  
22           could not be used?

23   A.   I think my understanding was they could not be used.

24   Q.   Had you ever received any specific training on that or  
25           was it a conclusion that you had derived just from the

1           generality of what you had understood about the  
2           obligations towards prisoners?

3   A.   Exactly that.  I think it comes back to -- the law of  
4           armed conflict is pretty clear about humanity and duty  
5           of care.  So from there -- from that and discussions  
6           around that, it would have seemed inappropriate.

7   Q.   Rather than from any specific training that you had been  
8           told that those matters were prohibited?

9   A.   Yes.

10  Q.   Can I ask similar questions, please, about the use of  
11           white noise?  Had you ever specifically been trained as  
12           to whether white noise was permissible or not  
13           permissible?  Again, we will come back to the different  
14           context of conduct after capture.  But for use by the  
15           British Army, had you had any specific training on white  
16           noise?

17  A.   No.

18  Q.   Your understanding about that, though, please: did you  
19           have any understanding as to whether or not the use of  
20           white noise might be permissible?

21  A.   No, I did not.

22  Q.   May we have a look, please, at paragraph 65 of your  
23           witness statement, right towards the end?  It is  
24           BMI03583.  If it helps, you are dealing here with your  
25           understanding at the point that you left theatre and

1 giving, as it were, rather some footnotes on your  
2 written statement. You say:

3 "As mentioned above, I had been told that stress  
4 positions were not permissible, white noise was  
5 unnecessary and possibly came under the heading  
6 'Unacceptable conditions'."

7 I just want to ask you about the "possibly came  
8 under the heading ..." Was there any doubt about it in  
9 your understanding?

10 A. It was never stated categorically that it was not to be  
11 done, so I suppose it was down to judgment and judgment  
12 of what you had been taught previously.

13 Q. Prior to going to Iraq, had you heard about what's  
14 sometimes referred to as the "Heath ruling", indications  
15 given by Prime Minister Heath back in 1972 about the use  
16 of the five techniques, the prohibition on them --

17 A. No, I had not.

18 Q. -- or a case called "Ireland v UK", when those  
19 techniques were addressed by the European Court of Human  
20 Rights?

21 A. No.

22 Q. Conditioning of prisoners, would you have understood  
23 what this meant prior to going to Iraq?

24 A. Yes, loosely again, preparing them for questioning.

25 Q. When you say "preparing them for questioning", can you

1           give us an understanding of what sort of techniques you  
2           understand conditioning might involve?

3    A.   Solitary confinement, perhaps.

4    Q.   Are you talking about by the British Army here?

5    A.   Yes.

6    Q.   Perhaps we could look at paragraph 19 of your statement  
7           at BMI03571.  I think you tell us there that you  
8           understood in "conditioning":

9           "... this to be a general term that refers to any  
10          techniques used to encourage any prisoner to talk once  
11          captured by any group of persons.  This could  
12          be anything from the playing of white noise to  
13          mutilation ..."

14          Just pausing there, were you speaking there of what  
15          other armies might do by processes of conditioning or  
16          the British Army?

17   A.   Well, not just armies -- anybody really, so ...

18   Q.   Militias and so on?

19   A.   Militias -- yes, exactly.

20   Q.   But that wasn't a reference to the British Army or was  
21          it?

22   A.   No -- really a reference to media as much as anything  
23          else and internationally.

24   Q.   Over the page you go on to say, as you just indicated  
25          now, that you think it's most likely that your

1 understanding of these matters came from Hollywood  
2 films, but you do not know what conditioning would mean  
3 in terms of the British Army; is that right?

4 A. Yes.

5 Q. Thank you. May we then explore just briefly the  
6 question of resistance to interrogation or conduct after  
7 capture training? I think you tell us in your witness  
8 statement that, as somebody who might be forward  
9 deployed in a reconnaissance role, you had that training  
10 yourself; is that right?

11 A. Yes.

12 Q. You tell us in your statement that, as part of that  
13 training, you were hooded, noise was played on an out of  
14 tune radio and I think this, that you were placed in a  
15 position you describe as "kneeling upright" -- is that  
16 right?

17 A. Yes, that's right.

18 Q. -- with your head against the wall.

19 A. Yes.

20 Q. Your own experience of that you describe in your witness  
21 statement as saying that that was tiring and it limited  
22 the senses somewhat. Would that be fair?

23 A. Yes.

24 Q. Was there in fact, on that course, any express warning  
25 given to the effect that, "We are going to show you what

1 a non-Geneva-compliant enemy might do to you, but you  
2 must not use these techniques if you are taking  
3 prisoners"? Was anything expressly said to that effect?

4 A. I think I should iterate, it wasn't so much part of  
5 a course as part of an exercise that we were doing at  
6 the time, rather than a stand-alone course.

7 Q. All right.

8 A. The context, absolutely, was that we were up against  
9 some sort of militia, it has a Balkan theme to it, and  
10 that -- it was made explicitly clear that it was them  
11 doing it to us. Implicit from that is that you, as the  
12 British Army, couldn't do it to anybody you detained.

13 Q. So would this be fair, that you certainly took away  
14 a clear understanding that you were not being trained in  
15 what you could do to others?

16 A. Yes, I was aware of a specific course that taught that.

17 Q. But there wasn't, in fact, an express warning to that  
18 effect?

19 A. It was made explicit that we weren't -- you weren't to  
20 do that to others or that was -- it was part of the  
21 scenario. It would have been a militia against us,  
22 trying to capture us.

23 Q. It may be my fault and it may be my questions. Was it  
24 implicit that you shouldn't do it to others or did your  
25 CO give you a warning as part of this training, "Don't

1 use these techniques on others"?

2 A. It was implicit.

3 THE CHAIRMAN: I think the question arose because you said

4 both "explicit" and "implicit". You are quite confident

5 you mean "implicit" that you shouldn't do it?

6 A. Yes.

7 THE CHAIRMAN: Thank you.

8 MR MOSS: I wanted to ask you about the matter that you have

9 touched on as to the nature of this course. You say

10 that it was not a formal course that you went on, but

11 part of, what, a regimental exercise? Is that right?

12 A. Yes, that's right.

13 Q. Please don't guess and I don't want you to say if you

14 don't know, but are you aware one way or the other as to

15 whether whoever was giving you this training had in fact

16 got a qualification in conduct after capture so that

17 they were authorised to give that training?

18 A. I don't know.

19 Q. Was there anybody on the training exercise who was

20 providing the training who had come from outside of the

21 Light Dragoons, for example from the intelligence corps,

22 to give the training or was it purely regimental staff

23 who were giving it?

24 A. I think there were some other people from outside the

25 regiment because there were search dogs and we don't

1           have search dogs as part of the regiment.

2   Q.   Thank you.  I think the final matter, then, on training  
3           is pre-deployment training for Op Telic 2.  You tell us  
4           in your witness statement -- is this right -- that your  
5           recollection of it is that the pre-deployment training  
6           was limited.  You say time was short and resources were  
7           tight.  Is that right?

8   A.   Yes.

9   Q.   So far as the element of the pre-deployment training  
10          from OPTAG was concerned, what do you remember about  
11          that?

12  A.   I remember the overriding theme.  It was specific to  
13          other theatres.  There was a bit about the culture of  
14          Iraq, there was a great deal about the Balkans, which is  
15          where we spent most of our time prior to the Iraq  
16          campaign.

17  Q.   So predominantly lessons drawn from the Balkans that you  
18          had for OPTAG training for Iraq; is that right?

19  A.   Yes, so -- for example, procedures on minefields and  
20          extraction from minefields.

21  Q.   As far as you can recollect now, did any element of the  
22          pre-deployment training cover prisoner-handling?

23  A.   Not that I recall.

24  Q.   If we may move on then, please, to Op Telic 2 itself and  
25          your deployment.  If I may seek to summarise it from

1           your witness statement. You must tell me if I have  
2           misunderstood. Was the position that the various  
3           squadrons that made up the Light Dragoons were attached  
4           to various other battlegroups for Op Telic 2 --  
5    A. Yes, that's correct.  
6    Q. -- and that the regimental headquarters, including  
7           yourself, were -- and I therefore don't mean this in  
8           a derogatory sense -- were spare and were used to help  
9           out at 19 Mech Brigade headquarters?  
10   A. Correct.  
11   Q. And 19 Mech Brigade, I think as you tell us in your  
12           witness statement, already had an S03 G3 ops staff  
13           officer; is that right?  
14   A. Yes.  
15   Q. Who was Captain -- now Major -- Burbridge?  
16   A. Yes.  
17   Q. The tempo of operations was such, though, that it was  
18           a 24-hour job; is that right?  
19   A. Yes, exactly so.  
20   Q. So you were drafted in to deputise for him, in  
21           particular to cover -- it is probably not the right  
22           military term -- but the nightshift, effectively?  
23   A. Exactly, yes.  
24   Q. Can I ask you then, please, Major, some questions about  
25           how things worked in practice in operational planning at

1 brigade level?

2 If there was to be a brigade level operation, who  
3 within brigade would first be involved in the planning  
4 for it?

5 A. The chief of staff, as the brigade's coordinating staff  
6 officer, would gather those who he needed to plan with.  
7 There would be a core planning cell under him.

8 Q. And the core planning cell under him, was that G3 or G5?

9 A. As it was then, G3 plans specifically. G3 ops would be  
10 involved as well, but then also G6 for communications,  
11 G4 for logistics and resupply, G2 for intelligence and  
12 perhaps others.

13 Q. When it was the more forward-looking operational  
14 planning, looking more than 48 hours, say, into the  
15 future, was that what your side, G3 ops, dealt with or  
16 did you deal with things that were in the more immediate  
17 future?

18 A. No, the G3 ops that I was dealing with was current  
19 battle, so either 24 hours prior to or what was going on  
20 in the here and now.

21 Q. Still sticking with brigade level operations, would you  
22 have had much of an involvement in brigade level  
23 operations prior to the 24/48-hour point of those  
24 operations actually being carried out?

25 A. There would be some interaction from the ops team, but

1           because the planning would be done during the day,  
2           Captain -- as he was then -- Burbridge would do most of  
3           that interaction, but I could deputise for him as well.

4   Q.   Now if, on the other hand, there was a battlegroup level  
5           operation being involved, presumably the planning for  
6           that mainly takes place at battlegroup level.  Would  
7           that be fair?

8   A.   Yes.

9   Q.   But the orders for it -- the operational order for  
10          a battlegroup level operation -- would come up to  
11          brigade level, would they?

12  A.   Yes, and we would be told about them whilst they were in  
13          the early planning stages.

14  Q.   When they are at the early planning stages, is it to G3  
15          ops that it would go or another branch?

16  A.   It would go to G3, but would go to others as well.

17  Q.   Would you have had an involvement in looking at those  
18          sort of orders at the early planning stage or do you  
19          only get involved at the 24- to 48-hour stage?

20  A.   I may have had sight of them early, especially if  
21          Captain -- as he then was -- Burbridge was not  
22          available.  And if it was a large operation requiring  
23          a lot of resources, then, yes, I would have been made  
24          aware of it.

25  Q.   Now it may not be necessary to go into too much detail

1 on this aspect, Major King, but when you are looking at  
2 it as the brigade G3 ops officer, what sort of thing  
3 would have been your focus and your interest? What are  
4 you there to do if there's a battlegroup level operation  
5 order? What would you be interested in coordinating or  
6 adding by way of your input?

7 A. My focus would be what they were doing, where they were  
8 doing it geographically and when, and, from that,  
9 resourcing it appropriately.

10 Q. Thank you. Well, against that background, can we then  
11 turn, please, to some aspects about the practice of  
12 prisoner-handling in theatre? You tell us in general  
13 and broad terms in your witness statement that you did  
14 not have any direct involvement really in  
15 prisoner-handling; is that right?

16 A. Yes.

17 Q. Were you in fact aware of prisoners on Op Telic 2, prior  
18 to Baha Mousa's death, being hooded with hessian  
19 sandbags?

20 A. I was aware it was going on.

21 Q. Are you able to help us as to how you knew that it was  
22 going on?

23 A. It was generally expected for operational security that  
24 they would have their sight covered.

25 Q. Help us with that. You told us that in training what

1           you had seen used to deprive prisoners of their sight on  
2           exercises was blindfolds.

3    A.   Yes, but then blindfolds or sandbags or whatever you may  
4           have to hand to do that.

5    Q.   I follow.  But other than in conduct after capture  
6           training, I thought you told us that you hadn't -- or  
7           you certainly didn't recall -- seeing prisoners hooded  
8           prior to going to Iraq.

9    A.   That's correct.

10   Q.   So how did you come to understand that prisoners were  
11          actually having their sight deprived with hessian  
12          sandbags on Op Telic 2?

13   A.   Maybe through general discussions in the headquarters,  
14          but because they are being taken from a point of capture  
15          to an internment centre.

16   Q.   Appreciating, as I am sure the Inquiry and everybody  
17          does, that it's difficult because of the length of time,  
18          are you able to help us, when you refer to "general  
19          discussions", as to the sort of people that you would  
20          have been discussing that with?

21   A.   I don't recall specifically, but the staff officers and  
22          other staff officers in the brigade headquarters.  But  
23          the implication was that moving a prisoner meant that  
24          you would have to deprive him of his sight.

25   Q.   So should we understand, doing the best that you can,

1           that these discussions were, what, informal discussions  
2           with other staff officers at about your rank?

3    A.   Yes, as part of other conversations on various topics  
4           normally.

5    Q.   May we just have a look, please, first of all at  
6           paragraph 21 of your statement at BMI03572?  If we can  
7           just have paragraph 21 on its own, perhaps.  You tell us  
8           halfway down that paragraph that you were aware through  
9           general conversations during Op Telic 2, none of which  
10          you can specifically recall now, and through reports  
11          you'd seen in the media that sandbags were routinely  
12          used to impede vision.  Just a couple of matters on  
13          that.  "Routinely used", how did you know that their use  
14          was routine?  Can you help us with that?

15   A.   I knew specifically that if you were taking somebody  
16          from, as I said before, the point of capture to your  
17          location, you would have to deprive them of their sight  
18          and hooding was presumably the most convenient way of  
19          doing it.

20   Q.   And the reports that you have seen in the media, just  
21          help us with that: was that media reports that you  
22          somehow saw while in Iraq on Op Telic 2 or you were  
23          referring there to media that you had seen during  
24          Op Telic 1 or subsequently after Op Telic 2?  What were  
25          you referring to there?

1 A. I think potentially during, but unlikely. Probably  
2 after.

3 Q. If we put paragraph 21 on the left-hand side of the  
4 screen, please, and can we have on the right-hand side  
5 of the screen paragraph 37, BMI03576.

6 Having gone through a number of matters -- hooding,  
7 stress positions and the like -- above paragraph 37,  
8 what you were saying in paragraph 37 in your statement  
9 to the Inquiry was:

10 "I do not know specifically recall seeing any orders  
11 in relation to any of the matters above [that includes  
12 hooding and so on] whilst on Op Telic 2 and I did not  
13 discuss any of these matters within the chain of  
14 command."

15 I just wanted to see if you could help us with those  
16 two things in paragraph 21 and 37, as you appeared to be  
17 suggesting in 37 that you did not discuss the matters  
18 within the chain of command, whereas paragraph 21 might  
19 be taken to suggest that you had general conversations  
20 during Op Telic 2 about hooding. Can you help with  
21 that?

22 A. Yes -- well, "chain of command" would be something you  
23 wanted to raise to higher. In this context the chain of  
24 command for me would have been Major Burbridge, then on  
25 to the chief of staff and the brigade commander and

1           upwards; whereas a general conversation might be  
2           a discussion I may have with somebody else in brigade of  
3           my rank or equivalent, but not something on which  
4           I wanted to take any action specifically.

5   Q.   So certainly, then, you have no recollection of, in any  
6           sense -- whether formally or informally -- raising any  
7           concern about hooding up the chain of command?

8   A.   Yes, that's correct.

9   Q.   It is more talking about informal discussions with your  
10          peers; would that be fair?

11  A.   Yes.

12  Q.   Thank you.  Those can be taken from the screen, thank  
13          you very much.  If it's right, then, that you knew that  
14          hoods were being used in Iraq, were you aware of the  
15          particular risks of heat injury and the numbers of  
16          soldiers available for active operations being depleted  
17          through heat injury?

18  A.   Yes.

19  Q.   Did the use of hessian sandbags on prisoners not give  
20          you any concern given the particular temperatures in  
21          Iraq, particularly in Op Telic 2?

22  A.   No, because they are loose fitting.  They are certainly  
23          not airtight.

24  Q.   Were you ever aware that soldiers at battlegroup level  
25          were using more than one hood because, for the very

1 reason that hoods are loose weave, you could, to  
2 a certain extent, see through them?

3 A. No, I don't recall that.

4 Q. You had never heard about double hooding?

5 A. No.

6 Q. Just in general terms, I want to you ask some matters  
7 about legal advice. Can you remember now who it was who  
8 was the lead legal adviser at 19 Mech Brigade level?

9 A. I can't recall his name, but we did have one, I think  
10 a major.

11 Q. Major Clifton, does that ring a bell?

12 A. It could have been.

13 Q. Physically whereabouts would he have been in  
14 Basra Palace relative to you? Did you share an office?  
15 Were you close by?

16 A. The brigade headquarters at the time was in one large  
17 room. In relation to me, he was probably maybe 15 feet  
18 to my left.

19 Q. Major Clifton is yet to give evidence, but in his  
20 written evidence to the Inquiry, he tells us that he was  
21 well aware that the use of hoods had been prohibited  
22 during Op Telic 1 and he understood them to be banned  
23 for use in Iraq. Were you aware of that prohibition?

24 A. No.

25 Q. Do you ever recall discussing these matters with

1 Major Clifton at all?

2 A. No.

3 Q. Given the proximity within which you worked, does it  
4 surprise you to know that the legal adviser at brigade  
5 knew that there was a prohibition on hooding, but you  
6 were simply unaware of that?

7 A. There were many strands of activities and that was just  
8 one of many. It doesn't surprise me too much that  
9 I didn't know everything that he knew.

10 Q. But on this particular matter of hooding, would you have  
11 expected to be alerted one way or another if there had  
12 been a previous prohibition on hooding that that was in  
13 fact the case?

14 A. If stated in policy terms then, yes, we should have  
15 known.

16 Q. Still dealing, if we may, with your knowledge about such  
17 matters as hooding and conditioning, can we look at some  
18 of the operation orders and the context in which they  
19 arose? I think you touched on this already, but  
20 operation orders coming up, for example, from 1 QLR you  
21 would have expected to see?

22 A. Yes.

23 Q. Can you give us, if it matters, any assistance as to how  
24 soon before the actual operations you would expect to  
25 have seen them or does it very much depend on the nature

1 of the operation?

2 A. It depends on the -- on if it's contentious, the size of  
3 the operation and geographically where it may be.

4 Q. I follow.

5 A. But if it is a generic operation, as many of them were,  
6 then we would hear about them from the chief of staff's  
7 planning meetings several days before and then maybe see  
8 some warning order on it prior to that.

9 Q. All right. The discussion of such orders at brigade --  
10 you mentioned there meetings held by the chief of staff.  
11 Just help us with that. Who would attend those sorts of  
12 meetings?

13 A. From the brigade, chief of staff clearly -- he would  
14 probably be there with his plans officer -- G6 and G4,  
15 maybe the DCOS. Then, from the battlegroups, you would  
16 expect to see the ops officer and/or the second in  
17 command or their warfare officer, if they had one.

18 Q. So an operational order for a specific operation to be  
19 mounted by a battlegroup you would expect to have  
20 discussed, would you, at that sort of chief of staff's  
21 meeting?

22 A. Yes, and it may be one of many framework operations they  
23 were conducting. So, from a list of ten, it could have  
24 been discussed on that.

25 Q. Thank you. Perhaps partly in fairness to you, before we

1           turn to particular orders, what part of the orders would  
2           you particularly be looking out for yourself?

3    A.   The "Intent" paragraph, so the content of operations,  
4           intent scheme of manoeuvre, so what he's hoping to do  
5           and -- scheme of manoeuvre -- how he is hoping to do it,  
6           and where would come out of that as well, so locations,  
7           and coordinating instructions for the timings of when  
8           this was going to happen and how long it would be for.

9    Q.   Some of the ground level tactical questioning  
10           considerations, if that's the right phrase, for example  
11           how prisoners would be handled, which we will look at,  
12           would that have been a prime area of your focus or not?

13   A.   No.

14   Q.   With that caveat in mind, then, could we look, please,  
15           first at the order for Op Quebec at MOD030899? It is  
16           the Op Quebec FRAGO for 13 August 2003. One sees there,  
17           does one not, under paragraph 3, "Execution", the  
18           concept of the operation and the intent? Is that right?

19   A.   Yes.

20   Q.   Were you telling us that that would have been where your  
21           prime focus was --

22   A.   Yes.

23   Q.   -- together with such matters as the boundaries and  
24           where the operation was taking place?

25   A.   Yes, and the when --

1 Q. I follow.

2 A. -- in paragraph 5.

3 Q. Thank you. If we go over the page, we will see within  
4 the section that deals with coordinating instructions  
5 and timing, I think it is -- forgive me not under  
6 "Timings", under "Info ops" at subparagraph 4 -- it runs  
7 through to a provision on TQ and internment, 6 and 7.  
8 In the middle paragraph, one sees under "TQ", so all  
9 under the broad heading of "Coordinating instructions,"  
10 I think:

11 "TQ will take place at BG Main HQ under the  
12 direction of the IO [the intelligence officer], using  
13 brigade TQ assets, arresting soldiers will be required.  
14 Prisoners should arrive for TQ bagged and tagged unless  
15 over 45 years of age."

16 In the ordinary course of events, would you have  
17 read that?

18 A. Probably not because, as it goes through things above,  
19 media ops and all of those other bits that are enablers  
20 to the operation, my focus is very much on the nuts and  
21 bolts of it.

22 Q. I think you tell us in your witness statement that you  
23 would have read all of the orders from start to finish,  
24 albeit that your focus would have been probably on other  
25 parts.

1 A. Yes, that could be true.

2 Q. Now, if you had read this, would the provision about  
3 "prisoners should arrive at TQ bagged and tagged" have  
4 made sense to you, first of all? What would you have  
5 understood it to mean?

6 A. It's quite a loose term, but I think in this context and  
7 because of the age caveat, I would say hooded and cuffed  
8 with plasticuffs.

9 Q. Would that have surprised you to see a provision that  
10 prisoners should arrive for TQ bagged and tagged?

11 A. Well, I would say it's implicit in detaining people  
12 anyway. It wouldn't have drawn my eyes specifically,  
13 no.

14 Q. For the operational security reasons that you mention  
15 earlier, do you mean?

16 A. Yes.

17 Q. I just want to explore that with you. I wonder whether  
18 that is entirely the whole story. Help us with this:  
19 "... should arrive for tactical questioning bagged and  
20 tagged". There does seem to be a link there to arriving  
21 for questioning with a sandbag on their heads if "bagged  
22 and tagged" means "hooded", doesn't there?

23 A. Yes, it could be read like that. I would simply read it  
24 as -- to me it's stating an implicit instruction, so  
25 I probably would have brushed over it.

1 Q. Certainly, as you remember things now, if you did read  
2 it, that is not something that you alighted on, as it  
3 were, at the time --

4 A. No.

5 Q. -- as being a matter of concern?

6 A. No.

7 Q. Can we look then, please, at perhaps the Op Lightning  
8 warning order? If you take it from me for the moment  
9 that there was a previous order which we can go to --  
10 another order which we can go to if you want referring  
11 to "conditioning" -- but perhaps we can deal with it  
12 from the Op Lightning warning order. We have it at  
13 MOD043232, 25 August, Op Lightning warning FRAGO.  
14 Perhaps on this one we should just look over the page,  
15 first of all, to see the distribution list. Do we see  
16 under recipient 12 that it goes to 19 Mech Brigade ops?

17 A. Yes.

18 Q. Is that, in reality, a reference to, in this case,  
19 Captain Burbridge and yourself?

20 A. Yes.

21 Q. Thank you. Back to the front page, please. This time,  
22 under "Concept of operations", that's the part that you  
23 would be more interested in, isn't it?

24 A. Yes.

25 Q. The scheme of manoeuvre -- one sees towards the bottom

1 of the page:

2 "Prisoner-handling and evidence examination is to be  
3 conducted by the IO, BGIRO, assisted by tactical  
4 questioners from 19 Mech Brigade TCC [possibly tactical  
5 control cell] if available and provost sergeant.  
6 Prisoners are not to be conditioned unless TQ is  
7 authorised on the basis of substantial evidence found  
8 during searches. Guarding of prisoners and possible  
9 subsequent transfer to the TIF will be an Anzio  
10 responsibility."

11 Now that reference there to "... not to be  
12 conditioned unless TQ is authorised on the basis of  
13 substantial evidence found during searches", what would  
14 you have understood "conditioned" to mean in this  
15 context?

16 A. I wouldn't know the parameters, but I would guess  
17 anything from solitary confinement in this instance and  
18 questioning.

19 Q. It perhaps doesn't mean questioning, in reality, does  
20 it, because it seems to be referring to a process of  
21 conditioning unless questioning is authorised. So it  
22 seems to be talking about a process different from  
23 questioning.

24 A. I think, in turn -- writing somebody down with  
25 questions, the same question over and over again,

1 I understand to be one of the techniques. Whether  
2 that's being done prior to the interrogator or the  
3 person coming to do the questioning formally, that may  
4 allow the TQ to be more successful.

5 Q. I follow.

6 A. I don't -- I have never been trained in the process.

7 Q. No. If one goes back to paragraph 19 of your statement,  
8 you said that so far as the British Army is concerned  
9 you didn't quite know what "conditioning" would mean.

10 A. Yes, that's right.

11 Q. We will come to your personal position in a moment. If  
12 these orders were the subject of discussion generally at  
13 the chief of staff's meeting, do you think that brigade  
14 corporately ought to have understood or made itself  
15 aware of what "conditioning" in this 1 QLR order  
16 actually meant?

17 A. It seems appropriate for them to have done so. That was  
18 my first operational tour, Telic, so I was playing a bit  
19 of a catch-up game in learning all these operational  
20 realities.

21 Q. And if the process -- again not dealing at the moment  
22 with your personal position, but looking at brigade  
23 corporately, as it were -- if the truth of the matter is  
24 that the 1 QLR process of conditioning involved placing  
25 prisoners in stress positions, that is certainly

1 a matter, is it not, that 19 Mech Brigade ought to have  
2 known about if that's what "conditioning" meant?

3 A. Yes.

4 Q. Bearing in mind what your focus was and what your  
5 responsibilities were and all the matters relating to  
6 tempo of operations, about which the Inquiry has heard  
7 quite a lot of evidence, would you accept that you  
8 personally ought to have asked some questions about what  
9 "conditioned" meant in this order and other orders that  
10 may have referred to it?

11 A. Trying to put myself back then, no, I don't think so,  
12 because my attention had to be drawn elsewhere, and  
13 there was more than enough for me to be getting on with  
14 at that time.

15 Q. Can you help us, then, with where that responsibility  
16 did lie? Who should have been asking the questions at  
17 19 Mech Brigade about it?

18 A. Perhaps G2 or the -- or legal -- the chief of staff  
19 maybe.

20 Q. Is this too simplistic? It may be thought that as the  
21 staff officer that was dealing with operations, that  
22 soldiers who were actually going out on ops needed to  
23 know about how prisoners could be treated, and it may be  
24 thought from that -- again you must tell us if it's too  
25 simplistic -- that the operations officer at brigade

1           ought to have been involved in that sort of thing. Is  
2           that to misunderstand the position? Can you help us?

3    A. I think there were many strands of activity that would  
4           go into, say, the standard operating procedure of the  
5           brigade and me, as the ops officer, would not have had  
6           intimate knowledge of all of those. So there were  
7           certainly a lot of procedural matters that I wasn't  
8           100 per cent au fait with.

9    Q. Thank you.

10            Could we turn to a different matter altogether,  
11            please, which is the question of orders and handover  
12            from the predecessor brigade. Perhaps in dealing with  
13            orders, we ought to go to paragraph 49 of your statement  
14            first so you can make the correction that you wanted to.  
15            I think we have paragraph 49 at BMI03579, where you said  
16            that:

17                    "Orders from brigade to battlegroups would again be  
18                    sent through our secure internet system."

19            Was there something that you wanted to amend or  
20            clarify?

21    A. Yes, this was having re-read it, and I wasn't  
22            100 per cent confident that we had good and reliable  
23            internet communications down to battlegroups all the  
24            time or even in the early stages.

25    Q. So the means by which orders would be disseminated down

1 to battlegroup may not have been by secure internet link  
2 and certainly not at the beginning of Op Telic 2; would  
3 that be right?

4 A. It's not true to say "the means". It is true to say  
5 "one of the means". There were liaison officers in the  
6 headquarters to carry out that function.

7 Q. Can I deal, then, with taking over from 7 Armoured  
8 Brigade and the handover? Before you actually deployed  
9 on Op Telic 2, would there have been a process whereby  
10 you were starting to receive 7 Armoured Brigade orders  
11 before you physically deployed to Kuwait or to Iraq?

12 A. Are you talking about me and my regimental headquarters?

13 Q. Yes.

14 A. No, because the subordination of my regiment happened at  
15 a later stage.

16 Q. So you personally -- and obviously we can ask  
17 Major Burbridge about it -- but whatever the position  
18 may have been for him, you personally didn't see any  
19 orders before you deployed to Iraq at all; would that be  
20 right?

21 A. Perhaps briefings, but certainly no orders.

22 Q. Thank you. The handover in theatre then. You say in  
23 your witness statement -- could we just look at  
24 paragraph 44, please, at BMI03578 -- that you don't  
25 recall the name of the predecessor S03 G3 ops, but that

1           you and Major Burbridge both received your handover from  
2           that individual; is that right?

3    A.   Yes.

4    Q.   Does Captain Andrew Cox ring a bell if I suggest a name  
5           to you -- it may not matter -- as the predecessor?

6    A.   It could well have been.

7    Q.   Thank you.  Just helping us, then, to understand the  
8           nature of the handover and what you actually received.  
9           You speak about having received an ops brief which you  
10           say detailed existing divisional and brigade operations  
11           and those planned for the future.  Is that right?

12   A.   Yes.

13   Q.   So that was very much the current and ongoing operations  
14           and those that might need to carry on into the future?

15   A.   Yes -- the enduring themes principally, yes.

16   Q.   You then speak about a "process brief".  Help us with  
17           what you meant by that.

18   A.   By way of example, the extraction of casualties and how  
19           I might, from my headquarters, coordinate support  
20           helicopters going forward to a battlegroup location or  
21           a location on the ground where an incident had happened  
22           causing casualties and I needed to get them from the  
23           point of wounding to the hospital, and there was  
24           a process by which you called for those assets.

25   Q.   I follow.  You also speak, thirdly, of receiving

1 a ground brief from your predecessor. Again, can you  
2 give us the flavour of that, what that would have  
3 involved?

4 A. Yes, a general description probably -- using a map as  
5 well on the scale of the area we were dealing with; any  
6 key features, rivers, roads, towns, mountains; and then  
7 also the tactical low-down, so how the brigade area was  
8 split up into its battlegroup AOs and what the dividing  
9 lines were.

10 Q. Now, as part of the handover -- thank you for that --  
11 would there also have been a handing over of documents  
12 and orders from your predecessor?

13 A. Yes.

14 Q. You tell us in your statement that there would have been  
15 a vast amount of paperwork as part of that process; is  
16 that right?

17 A. Yes, that's correct.

18 Q. Would you have received, whether electronically or  
19 physically in hard copy, a copy of 7 Armoured Brigade's  
20 war diary?

21 A. Yes, we would have had access to that.

22 Q. And can you just briefly tell us what the war diary  
23 contained? First of all in terms of daily entries, can  
24 you give us a flavour for what would have been in the  
25 daily entries?

1 A. Yes, it would have been -- the war diary is a running  
2 account of the daily activity of the brigade across its  
3 AO and any dealings it may have with divisional or any  
4 other agency, but also in there you find links to other  
5 documents that had either been received into the  
6 headquarters or those that had gone out of the  
7 headquarters. And also, from there, you could get the  
8 radio logs between brigade and division and brigade and  
9 battlegroup -- two different logs for that purpose.

10 Q. All right. So if we just break that down, a diary  
11 entry, then, of -- not of everything obviously that has  
12 gone on, but the main events at brigade level?

13 A. A precis, yes.

14 Q. And, as attachments, the orders coming in and out would  
15 be, what, physically as annexes to the war diary, would  
16 they?

17 A. In the way you are stating it is actually referred to as  
18 an "operational record" or "op record" --

19 Q. Yes.

20 A. -- and the op record breaks down into constituent parts,  
21 which are the war diary --

22 Q. Yes.

23 A. -- the story, the logs for div and brigade, and then all  
24 the documentation that goes with it.

25 Q. And the documents that go with it.

1 A. Unofficially it's referred to as the "war diary", but  
2 it's only one part of op record.

3 Q. So the war diary is one part of the op record and, when  
4 you put it together with the radio logs and the orders,  
5 that makes up the totality of the operational record?

6 A. Yes, but it is often referred to as the "war diary".

7 Q. Colloquially, I follow.

8 If it matters, would all of that have been  
9 accessible in 19 Mech Brigade in hard copy or was some  
10 of it on computers -- secure computers -- and that sort  
11 of thing?

12 A. I think a mixture of files, so paperwork, also held  
13 electronically -- I am not sure if all was, but  
14 certainly a vast majority -- but then also traces and  
15 maps that you would hold in tubes, for example,  
16 gutter -- guttering pipes.

17 Q. Physically speaking, who had custody of the operational  
18 record in 19 Mech Brigade? Which branch in  
19 19 Mech Brigade would have had access to 7 Armoured  
20 Brigade's operational record?

21 A. It would have been held in the headquarters,  
22 administered by clerical staff. I could have gone to  
23 see it, plans -- anybody that chief of staff may  
24 authorise.

25 Q. When Major Burbridge's predecessor was giving the

1 handover to both he and to you, I don't want you to  
2 guess, but if you were physically going through "This is  
3 where we are up to, this is what we are dealing with",  
4 would he have had, do you think, the war diary or other  
5 parts of the operational record in order to give that  
6 handover?

7 A. He may have had elements from it, the overarching  
8 documents and theme documents -- the big or rather the  
9 key documentation -- but the war diary would have been  
10 huge. It would have been folders big.

11 Q. It may, therefore, against that background, be an  
12 obvious question, but would there have been an  
13 expectation on you to go through, for example, all of  
14 the fragmentary orders from your predecessor brigade to  
15 make an assessment of that which was still extant and  
16 relevant for 19 Mech Brigade?

17 A. No, I would not have been expected and could not have  
18 done, I shouldn't.

19 Q. If it was not your responsibility, was there an  
20 identifiable individual in brigade who actually had that  
21 task, as you understood it?

22 A. No, but then it's part of the handover. So 7 Brigade  
23 make a judgment for what they needed to hand over to us  
24 as a brigade and that may constitute them sending stuff  
25 back to the UK --

1 Q. Yes.

2 A. -- or part of the handover/takeover brief when the staff  
3 arrived in theatre.

4 Q. One follows that. It may be said -- and this is not  
5 a criticism individually of you -- that the difficulty  
6 in that is that one is then dependent upon an assessment  
7 being made by the staff officers in each of the branches  
8 of your predecessor brigade, if you follow what I'm  
9 saying. Is that fair?

10 A. That is fair, but if a theme -- if I may call it that --  
11 is dropped, then you still have the divisional  
12 headquarters above you to ensure that's reinforced.

13 Q. May we then turn from the theoretical, as it were, to  
14 the practical realities of that? There was, as you will  
15 be aware, a 1 (UK) Div FRAGO, FRAGO 152. May we look at  
16 it briefly at MOD019145?

17 It's dated 20 May. That would have been before you  
18 came to theatre, I think; is that right?

19 A. Yes, that's correct.

20 Q. One sees, if one goes forward within this to MOD019147,  
21 in the annex which is dealing with detention of  
22 civilians, the phrase now familiar to the Inquiry:  
23 "Under no circumstances should their faces be  
24 covered as this might impair breathing."  
25 Do you see that there?

1 A. Yes.

2 Q. Had you ever seen FRAGO 152 as far as you remember when  
3 you were in theatre?

4 A. No.

5 Q. The Inquiry knows that that was translated by 7 Armoured  
6 Brigade into a brigade FRAGO. Could we have it on the  
7 screen at MOD031014? 21 May, so the following day,  
8 FRAGO 63. Just looking at the external distribution of  
9 that for a moment, do we see that 19 Mech Brigade was  
10 a full information recipient of that --

11 A. Yes.

12 Q. -- presumably because, obviously, 19 Mech Brigade was  
13 the successor brigade; would that be right?

14 A. Yes.

15 Q. It follows, does it not, from what you told us earlier  
16 on, that you don't think you personally would have been  
17 the recipient of this at 19 Mech Brigade as of 21 May?

18 A. Correct.

19 Q. If we go over to MOD031017, one sees there the same  
20 provision in paragraph 5, five lines up.

21 "Under no circumstances should their faces be  
22 covered as this might impair breathing."

23 Again, appreciating that it is difficult with the  
24 passage of time, but did you ever see, as far as you can  
25 remember, 7 Armoured Brigade's FRAGO 63, this document?

1 A. No.

2 Q. I wonder if you can help us with the processes as to how  
3 things ought to have happened. If we go back to the  
4 front page of FRAGO 63 -- MOD031014 -- the copying in of  
5 19 Mech Brigade, that does mean, again if I can use the  
6 phrase, that corporately 19 Mech Brigade would have been  
7 on notice about the contents of this FRAGO, doesn't it?

8 A. Yes.

9 Q. That phrase, "Under no circumstances should their faces  
10 be covered as this might impair breathing", how ought  
11 that to have been dealt with by those who would have  
12 received this order in 1 Mech Brigade as of 21 May?

13 A. As with other miscellaneous points they would have got,  
14 the chief of staff, with his team, would have, where  
15 necessary, reiterated into their own brigade FRAGO.

16 Q. At this stage 19 Mech Brigade has not yet deployed, so  
17 what would you have expected the chief of staff of  
18 19 Mech Brigade to do at this stage?

19 A. It depends on where he was. If he was in Kuwait or on  
20 the way forwards, he would have received the document  
21 and what needed to be turned into policy would have gone  
22 into the brigade SOIs and SOPs, so the procedures, the  
23 processes, that we would undertake as a brigade.

24 Q. For you personally, Major, that provision -- may we look  
25 at it again so you have it in front of you, MOD031017,

1 in paragraph 5 -- correct me if I am wrong, but  
2 a provision saying "Under no circumstances should their  
3 faces be covered as this might impair breathing", that,  
4 as it were, would have been news to you, wouldn't it?  
5 A. Yes, it should have come to all of us.  
6 Q. Because your understanding was, at the time, that you  
7 would have understood that hooding for security purposes  
8 was legitimate --  
9 A. Yes.  
10 Q. -- had you not seen this order.  
11 A. Had I not -- sorry?  
12 Q. Forgive me, I am sure it's my fault. Your general  
13 understanding was that hooding for security purposes was  
14 legitimate?  
15 A. Yes.  
16 Q. This order seems to be saying that prisoners should not  
17 have their faces covered in any circumstances, which  
18 would be a prohibition on the use of hessian bags being  
19 used as hoods, wouldn't it?  
20 A. Yes, I think from the first phase, but the second, what  
21 qualifies it, is "impairing breathing" would mean -- or  
22 might be taken to mean "roll up the hood", so they can  
23 breathe, but they cannot see.  
24 Q. Perhaps it's my fault for taking things too quickly.  
25 What would you have actually understood this order to

1 mean if you had received it?

2 A. Not to do any hooding.

3 Q. And that would have been, to your understanding,  
4 a change of policy, would it not?

5 A. Yes.

6 Q. So please correct me if I am wrong, but what you say to  
7 the Inquiry is that one way or another, for  
8 19 Mech Brigade, that should have found its way into  
9 a standard operating instruction or a standard operating  
10 procedure, making clear to the staff in 19 Mech Brigade  
11 first of all that hooding was not to be used; is that  
12 right?

13 A. Yes.

14 Q. Who would have had the responsibility to draft that sort  
15 of an SOI?

16 A. It depends whether -- well the chief of staff primarily  
17 would decide where it would go. That could go to --  
18 I can see it going to plans or to legal or maybe he  
19 would have done it himself.

20 Q. That sort of an SOI, would that have remained with  
21 19 Mech Brigade or would it then have been cascaded down  
22 if things had been done properly to battlegroups?

23 A. Well, it should have gone out as a FRAGO and, in that,  
24 it would have updated brigade SOIs and beholden on the  
25 battlegroups to update their processes as well. They

1           would hold a copy of the brigade SOI in the battlegroup  
2           location.

3    Q.   So I am clear about it, "SOI" is a "standard operating  
4           instruction" -- is that right?

5    A.   That is right, yes.

6    THE CHAIRMAN:  -- as opposed to a "standard operating  
7           procedure"?

8    A.   Yes, Sir.

9    MR MOSS:  The Inquiry has not seen any FRAGO prior to  
10           Baha Mousa's death which carried out the process that  
11           you just talked about; in other words cascading down, by  
12           way of a FRAGO, the 7 Armoured Brigade instruction that  
13           faces should not be covered.  Are you able to give the  
14           Inquiry any assistance as to how it came to be that that  
15           didn't in fact happen?

16   A.   Bar speculation, no.

17   Q.   Thank you.  Coming back to your own responsibilities  
18           then, if one takes it that that FRAGO 63 would have been  
19           part of the operational record, you tell us, do you,  
20           that it is not one of the orders that you would have  
21           expected specifically to be drawn to your attention?

22   A.   No, not unless those doing the handover thought it was  
23           significant enough to do so.

24   Q.   And bearing in mind its contents -- and perhaps it is  
25           fair to indicate to you that the timescales that were

1 set out in the order about prisoner-handling by this  
2 stage had been replaced by a different order by the time  
3 of the handover, but the advice about hooding or the not  
4 covering the faces might be said still to be of  
5 relevance -- if that was the generality of it,  
6 timescales no longer applied, but advice on  
7 prisoner-handling perhaps still relevant, would you have  
8 expected that to be drawn to your attention as part of  
9 a G3 ops handover or was that not really the areas of  
10 focus and concern of G3 ops?

11 A. It wouldn't have raised the bubble to the surface,  
12 potentially. It is an ops thing, but there are other  
13 things taking up our time during the handover. But if  
14 we missed it out, then it could have been picked up  
15 again or reinforced by the divisional headquarters.

16 Q. All right. One understands that other handovers might  
17 have covered it because divisional handover might have  
18 covered it; is that what you're saying?

19 A. No. Us -- having received us as a new brigade, then  
20 division could have reinforced what it wanted to to us  
21 or it could have been a handover between the two legal  
22 advisers or elsewhere in the brigade.

23 Q. All right. Can we leave aside formations above and  
24 formations below for the moment and just stick with the  
25 7 Armoured Brigade and 19 Mech Brigade? If not G3 --

1           you have told us about your understanding of G3 -- are  
2           there any other branches where you would have expected  
3           this sort of an order, dealing with these sort of  
4           matters, to be handed over, saying, "Well, this is  
5           relevant to this branch. You ought still to be aware of  
6           this FRAGO 63 because this is our current policy in this  
7           area" -- which branch should have had that being  
8           highlighted as part of the handover?

9    A.   The G2, the intelligence area could have done because  
10       it's a procedure, a process.

11   Q.   Thank you. And what about legal?

12   A.   Legal as well, but legal was part of G3 then.

13   Q.   Thank you. In general terms, would you have expected  
14       this order -- which at least on its face was cascaded  
15       down to the 7 Armoured Brigade battlegroups -- would you  
16       have expected it to be passed -- or at least the  
17       policies deriving from it -- from battlegroup on  
18       Op Telic 1 to the battlegroup level at Op Telic 2?

19   A.   Yes, as part of the wider SOIs and SOPs, yes.

20   Q.   Thank you. Just a few miscellaneous matters, then, if  
21       I may. First of all, did you do the whole of the  
22       Op Telic 2 tour? Did you see the whole tour through or  
23       did you go back to the UK early?

24   A.   I saw it through, but I -- I did two things. I went on  
25       R&R and I also did an ops update to the incoming brigade

1 that followed on, 20 Armoured Brigade.

2 Q. May we just look at paragraph 65 of your statement at  
3 BMI03582, please? You tell us there that:

4 "As already mentioned, conditioning was not  
5 something I would have been involved in. I had no role  
6 in prisoner-handling or tactical questioning so I would  
7 probably not have had any opinion either way. I am sure  
8 my view of hooding was the same when I left as it was  
9 when I arrived; that it was permissible for security  
10 reasons."

11 How confident are you that, by the time you left  
12 theatre, you still thought that hooding was permissible  
13 for security reasons?

14 A. I am not 100 per cent because it was rather a while ago  
15 and it is -- although it doesn't seem so now, in the  
16 greater scheme of things, it was quite a small issue.

17 Q. It's not perhaps necessary to turn it up, but if you  
18 take it from me for the moment that there was  
19 a divisional SOI, SOI 390, after Baha Mousa's death  
20 which said in terms that stress positions and hoods were  
21 not to be used -- and the Inquiry has that order and has  
22 evidence about it -- is that something you would have  
23 expected to come to your attention?

24 A. I may well have seen it, but I don't recall it now.

25 Q. You don't remember. Did Major Burbridge ever discuss

1 with you any concerns that he may have had about what  
2 tactical questioning was involving in theatre?  
3 A. Not that I recall.  
4 Q. He didn't mention to you a conversation that he had had  
5 with a Major Radbourne which had given rise to some  
6 concerns on his part about what TQ'ing involved? Does  
7 that ring a bell at all?  
8 A. No.  
9 Q. Did Major Burbridge in fact discuss with you the process  
10 of conditioning and what it might involve? Do you  
11 remember talking to him about that?  
12 A. No, not really.  
13 Q. Do you remember requests ever coming through for  
14 soldiers to be involved in or resource requests for  
15 soldiers to start a conditioning process at battlegroup  
16 level or anything like that?  
17 A. No.  
18 Q. Were you aware early on in your tour of a suggestion  
19 that there may be a bar on interrogation of prisoners  
20 before they arrived at the theatre internment facility;  
21 in other words that they weren't to be interrogated  
22 before they got to the TIF?  
23 A. I don't recall, no.  
24 Q. If we just look at it briefly, please, at FRAGO 70,  
25 MOD016172.

1           Just so you can get your bearings on this, do we see  
2           on the top of the screen that this is a FRAGO from  
3           7 Armoured Brigade, so the predecessor brigade again?  
4           Do you see that, Major?

5    A.   Yes.

6    Q.   It is coming from Main HQ, 7 Armoured Brigade, 30 May,  
7           FRAGO 70, "Interment and detention procedures".

8           If we go over the page one sees under "International  
9           law":

10           "Internment is only permitted where it is absolutely  
11           necessary for the security of the force ... serious  
12           measure ... all such cases will be reported to the ICRC  
13           by the UK element ... where it cannot be shown that it  
14           is absolutely necessary to intern, the internee will be  
15           released."

16           Then:

17           "Under no circumstances may a suspect be  
18           interrogated until he has been processed by the TIF."

19           Do you see that there?

20    A.   Yes.

21    Q.   Doing the best that you can -- it may be asking a lot --  
22           do you recall whether or not you would have seen this  
23           order?

24    A.   I don't recall it now. I may have done.

25    Q.   Help us if you would. If you had seen this order, what

1           would you have understood the provision "Under no  
2           circumstances may a suspect be interrogated until he has  
3           been processed by the TIF" actually to mean?

4   A.   That there is to be no questioning of anybody you  
5           detained until they have been processed by the TIF.  So  
6           that would mean presumably get there or have somebody  
7           from the TIF process them.  I think it would mean not  
8           the battlegroups.

9   Q.   Thank you.  Some witnesses have described knowing that  
10          there was a difference between "tactical questioning"  
11          and "interrogation" and have suggested that "Under no  
12          circumstances may a suspect be interrogated" would be  
13          a prohibition on interrogation, but not on tactical  
14          questioning.  Do you follow?

15  A.   I do, but I don't know the distinction between the two.

16  Q.   That wouldn't be a distinction that was known to you?

17  A.   It's another term.  "Interrogation" -- yes, not known.

18  Q.   Finally I think for the moment from me, just this  
19          please: were you aware of whether there was a time limit  
20          on how long prisoners could be held for before they had  
21          to be delivered to the theatre internment facility at  
22          Um Qasr?

23  A.   I was aware that there was a time limit.  I don't recall  
24          it, but there was one.

25  Q.   The Inquiry has seen evidence that it was 14 hours.  Did

1           you personally have any involvement in battlegroups  
2           phoning up brigade and asking you for extensions of time  
3           above the 14-hour limit?

4   A.   I may have done.  I do not recall them now, but I may  
5        have had.

6   MR MOSS:  Thank you.  Sir, those are my questions.  I don't  
7        know whether --

8   THE CHAIRMAN:  I don't think we should waste seven minutes.  
9        Yes, Ms Hetherington.

10                                Questions by MS HETHERINGTON

11   MS HETHERINGTON:  Major King, you said you had no direct  
12        role in prisoner-handling.  Did you see the G3 ops team  
13        as having a role in directing or supervising the overall  
14        process of detaining an internee/prisoners?

15   A.   No.

16   Q.   And that was the case throughout your tour?

17   A.   Yes.

18   Q.   You have explained that you were aware that hooding was  
19        being used for operational security reasons and that you  
20        were aware from some informal discussions at brigade.

21        But during those discussions, was there ever any mention  
22        about the utility of hooding in connection with  
23        questioning prisoners?

24   A.   Not that I recall, no.

25   Q.   You also say in your statement that you recall

1 discussions about medical checks on prisoners and the  
2 medical officer determining whether prisoners were fit  
3 for questioning. In those discussions, was there any  
4 mention of what the questioning might involve?

5 A. No.

6 Q. Finally this: Captain -- now Major -- Burbridge says in  
7 his written evidence that he would sometimes, when  
8 prisoners were brought in and held at Basra Palace, fill  
9 the role of adjutant in terms of monitoring how long  
10 they had been held whilst tactical questioning was going  
11 on. Is that something you ever did when you were on  
12 watch?

13 A. No.

14 MS HETHERINGTON: Thank you.

15 THE CHAIRMAN: Thank you.

16 Mr Evans?

17 Questions by MR EVANS

18 MR EVANS: Thank you, Sir, just briefly.

19 Major King, you told us in paragraph 17 of your  
20 statement that you yourself had been hooded during the  
21 conduct after capture exercise. Was that a hessian  
22 sack?

23 A. Yes.

24 Q. Following that experience, would you regard the hooding  
25 with a hessian sack per se as being inhumane?

1 A. No.

2 Q. How old were you when you were in Iraq?

3 A. 28 -- 27.

4 Q. Can you give us some idea of the kind of pace of working  
5 life that you conducted while you were in ops in Iraq at  
6 that time?

7 A. Probably about 16 to 18 hours a day.

8 MR EVANS: Yes, thank you very much. Thank you, Sir.

9 THE CHAIRMAN: Thank you.

10 MR MOSS: I have no further questions. Thank you.

11 Questions by THE CHAIRMAN

12 THE CHAIRMAN: Just one or two questions I would like to ask  
13 you about.

14 We asked the previous witness -- who you no doubt  
15 know quite well, do you?

16 A. Not well -- to say "hello" to, but not well.

17 THE CHAIRMAN: I asked him myself and others did about an  
18 oral order that came down from division. I asked about  
19 the process of that, about banning hooding. Do you  
20 remember ever hearing about such an oral order?

21 A. No, sir.

22 THE CHAIRMAN: Not at all? Do you remember seeing anything  
23 about it when you looked at their previous brigade --  
24 what is the name of it? -- diary, war diary.

25 A. No, Sir.

1 THE CHAIRMAN: So FRAGO 63, which I think you also don't  
2 have any real recollection of -- is that right?

3 A. Yes, that's correct.

4 THE CHAIRMAN: That would have come out of the blue to you  
5 in any event, is that right?

6 A. Yes.

7 THE CHAIRMAN: But if one looks at to whom it would be sent  
8 for action, 1 Black Watch was on the list so you would,  
9 if you had seen it, presumably have thought that it must  
10 have gone to 1 Black Watch?

11 A. Yes, sir.

12 THE CHAIRMAN: If there is an order that has been made  
13 before your time of operation and it is sent out to  
14 battlegroups, is there any sense of when you're thinking  
15 about either re-issuing or reinforcing such an order,  
16 "well, we don't really need to do that because it's gone  
17 out to the predecessors of battlegroups who are part of  
18 our brigade"?

19 A. Yes, I think there should have been a sense of  
20 reiterating it from us, because it's a change of our  
21 policy and our process.

22 THE CHAIRMAN: But what I wanted to know -- you have  
23 slightly turned round my question -- was there any sense  
24 in brigade that, well, we don't actually need to  
25 reiterate or reinforce it, because the battlegroups have

1           already got it?

2    A.   No, not that I recall.  It would seem at odds.  No.

3    THE CHAIRMAN:  You say it ought to have been reinforced and

4           reiterated?

5    A.   Yes.  Yes.

6    THE CHAIRMAN:  I think you have been asked this but I am not

7           quite clear about what your answer is:  who should have

8           seen that that was done?

9    A.   The chief of staff of the brigade, sir.

10   THE CHAIRMAN:  Why the chief of staff?  Would he necessarily

11           have known about it?

12   A.   He would have coordinated all the staff in the

13           headquarters and there would have been changes in the

14           policy to brigade policy across everything from G1 to

15           6 -- so the use of radios, transport, fuel, ammunition,

16           and in this instance the hooding and the treatment of

17           detainees -- that would go into a sweep-up document,

18           perhaps, that you would add either to the SOI or SOP,

19           and in terms of releasing that document from brigade he

20           would have been the coordinator.

21   THE CHAIRMAN:  But someone who have had to have told him

22           about this in the first place.

23   A.   Yes.

24   THE CHAIRMAN:  Who?

25   A.   Legal or -- or possibly plans if it was handed over at

1           that level. There was still a legal team at Div that  
2           knew that was the policy.

3   THE CHAIRMAN: Yes, but if you are going through, they  
4           presumably at division would be doing the same sort of  
5           thing as you were doing at brigade level. Who at  
6           brigade level should have told the chief of staff?

7   A. Legal or potentially provost. We had a provost company  
8           with us. The provost company commander was attached,  
9           I think, to the headquarters, not formally part of. But  
10          this is a process within the RMP's routine business that  
11          perhaps he could have had sight of, it was certainly in  
12          his bailiwick.

13   THE CHAIRMAN: All right. Anybody want to ask any questions  
14          arising out of that?

15   MR MOSS: Sir, could I just ask one matter?

16   THE CHAIRMAN: Yes, do.

17   Further questions by MR MOSS

18   MR MOSS: If we look at MOD031014 again -- this is going  
19          back to FRAGO 63 and the distribution list -- bearing in  
20          mind the timing, 21 May, I don't want you to guess but  
21          when one sees 19 Mech Brigade as being an information  
22          recipient, are you able to help us with who physically  
23          in 19 Mech Brigade would first have received the order?

24   A. Through the clerk who would log it, and then to the  
25          chief of staff.

1 Q. It would go straight to the chief of staff, would it,  
2 from the clerk?

3 A. Yes. The clerk would log it into the war diary as  
4 a received document.

5 MR MOSS: Thank you.

6 THE CHAIRMAN: Yes, I am sorry, you are quite right.  
7 Yes, all right. Thank you very much. That's all  
8 the questions that you are going to be asked.  
9 Conveniently for us it's just after 1 o'clock so we  
10 shall break off.

11 Thank you for coming to the Inquiry and giving your  
12 evidence. You are now free to go.

13 A. Thank you sir.

14 (1.03 pm)

15 (The short adjournment)

16 (2.00 pm)

17 (Technical problems)

18 (2.08 pm)

19 MR ELIAS: Sir, I think the gremlins have not struck us too  
20 frequently and I am grateful to the technicians for  
21 dealing with that so rapidly.

22 THE CHAIRMAN: Had Mr Moss been here, I would have said  
23 "Lucky we didn't waste the seven minutes this morning".

24 MR ELIAS: May I call Mayor Radbourne please?

25 THE CHAIRMAN: Yes. Would you stand up, please, Major, and

1 I will ask that you take the oath.

2 BRUCE ANTHONY RADBOURNE (sworn)

3 THE CHAIRMAN: Thank you very much. Do sit down.

4 A. Yes, Sir.

5 THE CHAIRMAN: If I can ask you to get as close as you  
6 can -- it's not very comfortable, I don't think,  
7 although I have never sat there myself -- and speak into  
8 the microphone, then we will all be able to hear you.

9 A. Okay, Sir.

10 THE CHAIRMAN: Thank you.

11 Questions by MR ELIAS

12 MR ELIAS: Would you give the Inquiry your full name,  
13 please?

14 A. Bruce Anthony Radbourne.

15 Q. You are still in the army with the rank of major, is  
16 that correct?

17 A. I am, sir.

18 Q. Major Radbourne, would you look at a file which I hope  
19 is to your right-hand side and locate inside it a copy  
20 of your statement. If you go to the last page of that,  
21 please, at BMI04155, do you find your signature above  
22 the date 3 September 2009?

23 A. I do, sir.

24 Q. When you signed that statement, Major, were you  
25 attesting to the Inquiry that the contents of it were

1 true to the best of your knowledge and belief?

2 A. Yes, sir.

3 Q. Thank you. If you put that aside then, please. I am  
4 not going to ask you about every aspect that you address  
5 in that statement, although it is part of your evidence,  
6 as I think you will know, but I am going to take you to  
7 certain parts where you may be able to help us further.

8 First of all, may I begin just by sketching -- and  
9 very briefly sketching -- what you tell us in your  
10 statement about your career history. You joined the  
11 army in 1994. I don't want your date of birth, but how  
12 old would you have been then?

13 A. 22.

14 Q. You trained at Sandhurst and were then commissioned into  
15 the Parachute Regiment. Do I understand, taking matters  
16 shortly, that you remained in the Parachute Regiment  
17 until you joined 19 Mech Brigade in 2003?

18 A. I am always in the Parachute Regiment, sir. I am  
19 a commissioned officer in the Parachute Regiment, but I  
20 had remained on regimental duty within the  
21 Parachute Regiment until that time, sir.

22 Q. Thank you very much. That duty included, did it --  
23 again I am taking it very briefly. It is set out in  
24 your statement, the detail -- but you were appointed  
25 adjutant for 4 Para, a post that you held in 2001, and

1           you were the officer commanding Pegasus Company between  
2           January 2002 and August 2003?

3    A.   Yes, sir.

4    Q.   You joined 19 Mech Brigade on 13 August 2003, you tell  
5           us in your statement, and deployed on Op Telic 2 until  
6           October. Do you recall the date in October?

7    A.   It was towards the end of October, sir, around about  
8           the 20th. I couldn't be precise.

9    Q.   Thank you. Your history, as it were, since Iraq is set  
10           out in the statement. I don't need to take you to it at  
11           all. I do want to ask you, please, a little about  
12           training that you had received prior to deployment to  
13           Iraq, on Op Telic 2, both training and, if you like,  
14           your understanding of the applicability and lawfulness  
15           of certain techniques with which this Inquiry is  
16           particularly concerned.

17           First of all -- can I take this quite shortly -- you  
18           received training in the law of armed conflict.

19   A.   Yes.

20   Q.   That taught you, did it, that prisoners had to be  
21           treated humanely at all times?

22   A.   It did, sir.

23   Q.   Whatever their category?

24   A.   Yes.

25   Q.   I want to ask you just a little, please, about

1 prisoner-handling and certain techniques with which this  
2 Inquiry has been concerned, in part, anyway.

3 What was your understanding about the use of hooding  
4 for prisoners, either derived from training or from any  
5 instruction that you may have been given before your  
6 deployment to Iraq?

7 A. The training I received in 1995 from the  
8 prisoner-handling and tactical questioning course  
9 demonstrated the use of a sandbag to provide  
10 a blindfold.

11 Q. That was the course that you refer to as being held in  
12 Ashford --

13 A. It was, sir.

14 Q. -- in 1995. So you were taught from that course, were  
15 you, that a sandbag could be used to hood prisoners?

16 A. Yes.

17 Q. In what, if any, circumstances?

18 A. In order to maintain operational security around  
19 barracks, movement of a prisoner from a handling  
20 facility to a questioning area or entry and exit to  
21 barracks and anywhere we feel a prisoner could glean  
22 sensitive information.

23 Q. Was that information that you derived in 1995 from that  
24 course?

25 A. It was from that course. When I arrived in theatre in

1           2003 I discussed with Staff Sergeant Davies the  
2           techniques he had been taught on --

3    Q.   I am going to come on to that in due course --

4    A.   Okay, sir.

5    Q.   -- but just dealing with your position, as it were,  
6           immediately before deployment. Up to that stage, you  
7           had derived this information, had you, from your 1995  
8           training?

9    A.   I had, sir.

10   Q.   Had you received any training subsequent to that,  
11           before going to Iraq, which in any way, as it were,  
12           countermanded what you had been taught?

13   A.   No, sir.

14   Q.   So hooding with a hessian sandbag was something that you  
15           would have considered in 2003, before deployment to  
16           Iraq, could be legitimately employed?

17   A.   Yes, before the use of a blindfold, sir, for the reasons  
18           I have highlighted.

19   Q.   Say again, please.

20   A.   Using a sandbag as a blindfold. I feel the term  
21           "hooding" is quite emotive. The reason why we use  
22           sandbags is it's a common piece of military equipment  
23           that every soldier will have on him.

24   Q.   And its purpose was to blindfold?

25   A.   The purpose is blindfolding, sir.

1 Q. And the purpose of blindfolding is to maintain security?

2 A. To maintain security, sir.

3 Q. You understand the term "the shock of capture"?

4 A. Yes.

5 Q. Was that something that you received any training in at

6 any stage?

7 A. The same course as highlighted in 1995, sir.

8 Q. Did you understand that hooding played any part in

9 maintaining, preserving or prolonging the shock of

10 capture?

11 A. It can preserve and maintain the shock of capture, yes.

12 Q. Again, if you could put yourself back to 2003, was it

13 your understanding then, Major, that maintaining the

14 shock of capture was a permissible technique, if you

15 like?

16 A. Yes, sir.

17 Q. Was maintaining the shock of capture by the use of

18 hooding -- sandbag or blindfold -- acceptable also, did

19 you understand?

20 A. It's a secondary spin-off from maintaining operational

21 security. It's not the primary role of blindfolding

22 a prisoner. However, it does maintain the shock of

23 capture -- it does.

24 Q. It does maintain the shock of capture?

25 A. It does.

1 Q. Was that something that you were taught or is that some  
2 view that you have come to independently?

3 A. Again, on the course in 1995 it was discussed.

4 Q. So what was your position in 2003, that hooding -- the  
5 use of a sandbag, if you like, or even a blindfold --  
6 would be appropriate to maintain the shock of capture?

7 A. It would be appropriate to maintain security, of which  
8 a spin-off would be shock of capture, sir.

9 Q. So what does that mean in practical terms, Major? If  
10 the security aspect of the matter had gone away, for  
11 example, because the prisoner was now able to be put  
12 into a secure room, would it be appropriate to continue  
13 to hood for the purposes of maintaining shock of capture  
14 prior to interrogation?

15 A. No.

16 Q. So it was, you say, a secondary spin-off?

17 A. Yes.

18 Q. You say at paragraph 64 of your statement to this  
19 Inquiry at BMI014149:

20 "The shock of capture makes the detainee more  
21 receptive to questioning. Maintaining the shock of  
22 capture is acceptable, by which I mean that you can  
23 prevent a prisoner from communicating and from being  
24 able to orientate themselves before they are  
25 questioned."

1           It would presumably, would it, be the orientation  
2           aspect of that that hooding would assist in  
3           maintaining -- the disorientation, if you like?  
4   A.   It would assist.  
5   Q.   Again, were you taught that in 1995 or was that  
6           something that you simply deduced over time?  
7   A.   In 1995, sir, yes.  
8   Q.   Thank you.   Since 1995, had you ever received any  
9           instruction or training -- positively that is to say --  
10          that hooding may not be used for the purpose of  
11          maintaining or prolonging the shock of capture?  
12   A.   No, no training to say it was not a practice to use.  
13   Q.   Could we have a look, please, at a statement that you  
14          made on 6 January 2006 at MOD000980, where you say,  
15          towards the foot of page -- you see the date of that,  
16          6 January 2006 -- the penultimate paragraph, Major:  
17                 "I have been asked to explain my understanding of  
18                 the purpose of 'hooding'."  
19                 You said this:  
20                 "My understanding is that hooding a prisoner ensures  
21                 the 'shock of capture'. "  
22                 Do you see that?  
23   A.   I do, sir.  
24   Q.   You went on to say:  
25                 "A second element is security in that when

1 a prisoner is hooded he is not able to view any  
2 sensitive locations or equipment."

3 A. I can see I have placed that -- I would -- my personal  
4 opinion is that hooding is primarily for security and  
5 the secondary aspect is shock of capture. I can see how  
6 that is written and how it looks and I would actually  
7 disagree with what I have written there.

8 Q. But in 2006 that is what you were saying quite clearly,  
9 isn't it?

10 A. It is, sir. I had come back from R&R on Op Telic 7 when  
11 this statement was taken and it was an interview carried  
12 out in transit through Basra Air Station and I have not  
13 nailed down the detail. I disagree with what I have  
14 actually written there and I realise I am now in a court  
15 of law and this is an official document.

16 Q. It wasn't, was it, that then, in 2006 and perhaps  
17 before, your appreciation of the situation was that  
18 hooding was permissible to maintain shock of capture?

19 A. Well it's a spin-off, sir.

20 Q. It is a spin-off, as you tell us today, but that isn't  
21 really what you were saying in this statement, was it?

22 A. It doesn't look like that in the way it reads, sir, no,  
23 I agree.

24 Q. What about other techniques, please? What about the use  
25 of stress positions?

1 A. Not allowed --

2 Q. -- forgive me. You know what I mean by a "stress  
3 position"?

4 A. I do, sir.

5 Q. Had you had training prior to 2003 in the rights and  
6 wrongs -- or the rights or wrongs, if you like -- of the  
7 use of stress positions?

8 A. Stress positions are not allowed, sir, not authorised.

9 Q. Not allowed. Had you received training in that,  
10 instruction to that effect?

11 A. We were instructed on the course in 1995 that stress  
12 positions are not to be used.

13 Q. Under any circumstances?

14 A. In no circumstances should stress positions be used,  
15 sir.

16 Q. Were you told why?

17 A. It's against the Geneva Convention, sir.

18 Q. Did you, yourself, consider them to be inhumane?

19 A. Yes.

20 Q. Did you consider putting a hessian bag on a man's head  
21 inhumane?

22 A. No, not if it's to maintain security, sir.

23 Q. Would that apply however long it was necessary to  
24 maintain security?

25 A. Yes. But if a prisoner was in a holding facility and

1           there was no threat to security, the bag should be  
2           removed, sir.

3    Q.   I understand that.  But your view would have been, would  
4           it, in 2003, that a hood could be kept on a man for as  
5           long as it was necessary to maintain security?

6    A.   Yes, sir.

7    Q.   If that were hours or even days, that was just the  
8           situation?

9    A.   Well, it should be hours, sir, not days.

10   Q.   And you wouldn't have considered that that was inhumane,  
11           would it?

12   A.   Well, if it was maintaining my safety and my operational  
13           security and that of my soldiers, I wouldn't consider it  
14           inhumane at all, sir, no.

15   Q.   Forgive me for saying so, Major, but maybe the  
16           justification is one thing and it may be a very good  
17           reason for doing it -- I am not suggesting otherwise --  
18           but does the justification turn something that may be  
19           inhumane into being humane?

20   A.   It is pretty unpleasant.

21   Q.   It would be pretty unpleasant from the start, wouldn't  
22           it?

23   A.   Yes.  It's a very unpleasant business, sir.

24   Q.   I follow.

25           What about the use of other techniques, such as

1 deprivation of food and water? Were they permitted?

2 A. No.

3 Q. Or the deprivation of sleep?

4 A. Deprivation of sleep would not be permitted. However,

5 in a 14-hour holding period, there wouldn't really be a

6 need for sleep.

7 Q. That was your view, was it?

8 A. My view over a 14-hour period, sir, yes.

9 Q. Whatever may have happened to the prisoner in the period

10 beforehand?

11 A. Well, it depends on the time the prisoner has been

12 lifted, sir, and picked up on an arrest operation or --

13 Q. Yes, but your view anyway was that the 14-hour holding

14 period -- which, as we know, in the latter part and

15 I think your stages of being present in Op Telic 2 would

16 have applied -- your view was that it would be, what,

17 appropriate for a prisoner to be kept awake during that

18 period?

19 A. For the 14-hour period it would be appropriate that he

20 is awake for that period, sir, yes.

21 Q. I just want to be clear about it. Are you telling the

22 Inquiry that stopping him sleeping in that period would

23 be legitimate and justified?

24 A. It wouldn't be legitimate. If the prisoner fell asleep,

25 you couldn't stop him from falling asleep, sir.

1 Q. Can we look, please, at the statement that you made on  
2 20 May 2005 at MOD000290? You have seen this statement  
3 before?

4 A. I have, sir.

5 Q. Can we go on to page MOD000292, please, and to three  
6 paragraphs up from the bottom, where you say this:  
7 "My understanding of how the detainee should be  
8 treated before, during and after TQ is that they should  
9 be given sufficient water, food and use of toilet  
10 facilities."  
11 Then this:  
12 "Having been asked, sleep deprivation is not  
13 a tactic that is encouraged for the purpose of  
14 questioning and I have never used this or briefed anyone  
15 else to use this as a tactic."  
16 A. That is correct, sir.

17 Q. You don't seem to be suggesting here, Major, that sleep  
18 deprivation was not permitted, but rather that it simply  
19 wasn't encouraged. Do you see the point that I am  
20 making?

21 A. I do, because I am not saying in black and white that  
22 it's not to be used, but that's the word I used on that  
23 statement, sir.

24 Q. So that is the position, is it? You were not instructed  
25 that sleep deprivation was not to be used? It simply

1           wasn't encouraged; is that right?

2    A.   Well it's not be used because you can't -- again, Geneva  
3           Convention -- you can't deprive somebody of sleep.

4    Q.   Can we look, please, at MOD000980 again -- the statement  
5           of 6 January 2006 -- where you remember, in the  
6           penultimate paragraph on that page, you have referred to  
7           the first and second elements. We have looked at that.  
8           If we go over the page, please, to the third paragraph  
9           down, you refer to a conversation with Staff Sergeant  
10          Davies. I will come back to that, if I may.

11                 Then, in the second half of that paragraph, you say  
12                 this:

13                 "I would like to add that the use of stress  
14                 positions was never encouraged, or to the best of my  
15                 knowledge, never used."

16                 Again you don't say, do you, in black and white  
17                 terms, what might be quite simple to say if it were the  
18                 case then, that you knew that stress positions were  
19                 prohibited.

20    A.   I know they are prohibited and they were never used to  
21           my knowledge, sir.

22    Q.   So what does that mean -- again using the term "never  
23           encouraged", what does it mean, Major?

24    A.   Well it wasn't suggested that they should be used  
25           because it's common knowledge that stress positions are

1 illegal.

2 Q. Well that's, in a sense, why I am asking you the  
3 question, you see, why you used that terminology if you  
4 knew and believed that it was illegal. It seems  
5 a rather strange way of putting it, doesn't it?

6 A. I don't think so, sir.

7 Q. I follow. So your position is, so that I understand it,  
8 that since 1995 what you have told us today were the  
9 instructions that you received through that course at  
10 Ashford and that that position has never changed --

11 A. It hadn't changed and --

12 Q. -- prior to 2003?

13 A. It hadn't changed and on my discussions with Staff  
14 Sergeant Davies it appeared to be that our courses were  
15 very similar and the structure of the course had not  
16 changed.

17 Q. Was that the last course that you attended that had any  
18 element of prisoner-handling or tactical questioning --

19 A. It was, sir.

20 Q. -- in it in 1995?

21 A. It was, sir.

22 Q. I move on then, please, to ask you a little about your  
23 role in Iraq. You tell us in paragraph 14 of your  
24 statement, at BMI04139, that you were deployed for one  
25 purpose -- I don't need to go into the detail of it at

1 all -- assisting with the replacement of the radio  
2 system, but this was no longer necessary. You were then  
3 tasked with another task, considering the possibilities  
4 of a chemical attack, as I understand it, about which at  
5 least another witness has told this Inquiry something,  
6 but you were not required for that either. Then you say  
7 this:

8 "Since there was no specific job for me to do I was  
9 spread between three different roles at brigade  
10 headquarters working for G2 intelligence, G3 operations  
11 and G5 plans, as a staff officer."

12 Over the page you say:

13 "I moved between these three roles daily and, in  
14 addition, I was a 'spare body' at 19 Mech Brigade's  
15 Order Group meetings for any jobs that were left to be  
16 done."

17 To whom were you, in that triple role, if you like,  
18 directly answerable?

19 A. The chief of staff, Major Ed Fenton.

20 Q. I want to ask you about the role that you took on in  
21 relation to prisoner-handling and tactical  
22 questioning -- the matter this Inquiry is particularly  
23 concerned with, as you know. Having taken the course in  
24 1995, to continue to carry out tactical questioning you  
25 would have been required to take a refresher course, you

1 tell us, every two years.

2 A. Yes, every two or three years, that is correct, sir.

3 Q. And in fact you had no further course after 1995, did  
4 you?

5 A. I didn't, sir, no.

6 Q. You became aware, you tell us in your statement, that  
7 there was a scarcity -- a lack -- of tactical  
8 questioners available --

9 A. There was.

10 Q. -- and you volunteered for that role.

11 A. I did.

12 Q. And you were accepted into that role?

13 A. I was, after clearing with divisional headquarters.

14 Q. You say you cleared it with divisional headquarters. Do  
15 you recall who cleared it?

16 A. Major Robinson who was running the G2,  
17 Major Mark Robinson, and Major Ed Fenton, the chief of  
18 staff, pushed it up to division to ask for clearance of  
19 a non-qualified -- well, out-of-date tactical questioner  
20 to continue in the circumstances, with the shortage of  
21 tactical questioners available in 19 Brigade at the  
22 time, sir.

23 Q. You say an "out-of-date tactical questioner". Had you  
24 in fact any experience of tactical questioning?

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

1 Q. None at all?

2 A. No, no, sir.

3 Q. And it wasn't possible, was it, for you to undergo any  
4 sort of formalised training?

5 A. No, sir.

6 Q. You say that you spoke with Staff Sergeant Davies, who  
7 was a tactical questioner and qualified. From an  
8 earlier answer you have given the Inquiry, we should  
9 understand that you compared notes as to what had  
10 happened in your respective courses; is that it?

11 A. Yes, sir.

12 Q. On the question of the use of hoods prior to tactical  
13 questioning, what, if anything, did you learn from Staff  
14 Sergeant Davies?

15 A. That on his course at Chicksands he was demonstrated  
16 with the use of a sandbag to maintain operational  
17 security.

18 Q. So were sandbags to be used when prisoners were  
19 presented for tactical questioning? Is that what you  
20 understood?

21 A. Well, when they were -- they would move from the holding  
22 facility to the questioning area, they would have  
23 a sandbag placed over their head as a blindfold, and  
24 when they arrived in the questioning area the sandbag  
25 would have been removed.

1 Q. Would it be replaced when they left?

2 A. It would be replaced when they left until they returned  
3 back to the holding facility, where it would be removed  
4 again.

5 Q. That's what you learnt, was it, from Staff  
6 Sergeant Davies?

7 A. That's the way we understood the practice, sir, yes.

8 Q. Are you saying you already knew that from your 1995  
9 course?

10 A. Yes.

11 Q. I follow.

12 A. You couldn't hold a prisoner with deprivation of sight  
13 for an extended period, sir.

14 Q. Was anything said between you and Staff Sergeant Davies  
15 about the use of stress positions?

16 A. No, sir.

17 Q. It wasn't discussed at all?

18 A. No, sir.

19 Q. And, what, having had that discussion with Staff  
20 Sergeant Davies, you then began tactical questioning,  
21 did you?

22 A. I did. I didn't do a great deal of tactical  
23 questioning, probably about 20 detainees in all over the  
24 two and a half months I was out, but I did conduct  
25 tactical questioning.

1 Q. The tactical questioning that you conducted was, at  
2 least in part, was it, prisoners who had been detained  
3 by 1 QLR soldiers?  
4 A. In part, sir, yes.  
5 Q. So it was tactical questioning at BG Main?  
6 A. Yes, sir.  
7 Q. Do you remember before carrying out your first tactical  
8 questioning session, in the conversation or  
9 conversations that you would have had with Staff  
10 Sergeant Davies, anything being said about whether  
11 prisoners were to sleep or not before questioning?  
12 A. No, sir.  
13 Q. Nothing was said or you don't remember?  
14 A. I certainly don't remember, sir.  
15 Q. Was anything said by Staff Sergeant Davies to you about  
16 any practices at 1 QLR about which you needed to know?  
17 A. No, sir.  
18 Q. Had you been instructed on the course -- and if you had,  
19 did you remember -- how, for example, prisoners were to  
20 be selected for questioning by you, the tactical  
21 questioner?  
22 A. You would generally operate off the intelligence you'd  
23 been given and gleaned, either from the arresting  
24 multiple or from an intelligence pack that's been  
25 prepared. If you knew the identity or possible identity

1 of any of the prisoners, you'd start with them to build  
2 up a picture, sir.

3 Q. So when you questioned -- tactically questioned -- at  
4 BG Main for 1 QLR, with whom would you liaise there?

5 A. The battlegroup internment officer, Major Tony Royce or  
6 Major Mike Peebles, sir.

7 Q. Was it a question of them giving you information, you  
8 giving them information?

9 A. A complete mix, sir.

10 Q. I follow. In terms of the order, for example, in which  
11 you may wish to TQ prisoners, that would be your  
12 decision, would it?

13 A. It would be my decision, but part of a discussion, sir.

14 Q. So you would be briefed by the BGIRO, as we have been  
15 calling the holder of that office; correct?

16 A. That's correct, sir.

17 Q. Would you visit the TDF?

18 A. Occasionally, sir, yes.

19 Q. For what purpose would you visit the TDF?

20 A. Maybe to select a prisoner that I wanted to tactically  
21 question; maybe just a passing visit to view how things  
22 were going, that the detainees were in reasonable shape.

23 Q. Why would you want to know that the detainees were in  
24 reasonable shape?

25 A. Well, it is part of your duty of care as an officer,

1           sir.

2   Q.   It might be part of your duty of care as an officer, but

3           might it also be information that would be helpful to

4           you in determining, for example, how to approach

5           a particular prisoner in questioning?

6   A.   Certainly, sir.

7   Q.   The order in which to take prisoners?

8   A.   Very much so.

9   Q.   If you noticed, for example, from your observation, that

10          a prisoner perhaps appeared to be more timid or nervous

11          or frightened, that might be something that would be

12          valuable to you in questioning, would it?

13  A.   It might be, sir.

14  Q.   These would all be reasons, would they, why you may want

15          to go to see prisoners in the TDF before you questioned

16          them?

17  A.   That could be, sir, yes.

18  Q.   Was that one of the reasons that you did it?

19  A.   Yes.

20  Q.   When you went to the TDF in Battlegroup Main for 1 QLR

21          prisoners, you did see prisoners there, did you?

22  A.   I did, sir.

23  Q.   You know the layout or you knew the layout then?

24  A.   Yes.

25  Q.   Did you ever see prisoners hooded?

1 A. No, sir.

2 Q. Hooded within the TDF --

3 A. No, sir.

4 Q. -- or indeed hooded outside?

5 A. Well, if they were outside of the holding facility,  
6 they'd need to be hooded for security.

7 Q. That may be so. I am asking you whether you ever saw  
8 it, Major.

9 A. I didn't, sir, no.

10 Q. So you never saw prisoners hooded at Battlegroup Main,  
11 did you?

12 A. Only when they were being moved between facilities for  
13 operational security, sir.

14 Q. I was to say, save when they were brought to you.

15 A. So when they were brought to me, they had a hood on that  
16 was removed, sir, so I could question them.

17 Q. I follow. Did you ever see prisoners in the TDF in any  
18 form of stress position?

19 A. No, sir.

20 Q. Would you regard being made to stand through a lengthy  
21 period of time something that might be a stress  
22 position?

23 A. It could be uncomfortable if it was for a very prolonged  
24 period, sir, yes, but I wouldn't regard it as a stress  
25 position, no.

1 Q. You wouldn't regard it in itself as being a stress  
2 position?

3 A. Not in itself, sir, no.

4 Q. But it could become such if it were maintained for  
5 a period?

6 A. For a long, long period of time it would be  
7 uncomfortable to stand, sir.

8 Q. The ski or ski/sit position, as I think you may have  
9 described it in your court martial evidence, that would  
10 be a stress position --

11 A. Very much so. It's an uncomfortable position to hold  
12 for any length of time.

13 Q. You never saw such thing as that happening at the TDF,  
14 did you, on your visits?

15 A. No, sir.

16 Q. How often would you have visited the TDF?

17 A. Probably a couple of times when I was questioning.

18 Q. "A couple" may mean many different things to many  
19 different people.

20 A. Two/three.

21 Q. You mean two or three, do you?

22 A. Two or three times, sir, yes, and not necessarily  
23 a deliberate visit either; again, just, as you say,  
24 assessing welfare, generally checking.

25 Q. If you went there, would you go on your own or would you

1 go with the BGIRO or someone else?

2 A. Again, nothing specific. I might go with somebody or --  
3 quite honestly I would wander past on my own.

4 Q. When you did see prisoners with sandbags on, presented  
5 to you for TQ'ing, did they sometimes have two bags?

6 A. Not that I have seen, sir, no.

7 Q. Could we have a look at just a passage of your evidence  
8 to the court martial, please, at Day 60, page 6,  
9 line 16, if we can start there, please. I think you are  
10 now being cross-examined by Mr Carter-Manning. At  
11 line 16:

12 "Question: One of the things you did discuss with  
13 the Staff Sergeant [that's Staff Sergeant Davies] was  
14 the question of sandbags, was it not?

15 "Answer: I would imagine so, sir, I would not go  
16 into the detail of that conversation now, I would not  
17 remember specifics. But --

18 "Question: When you did your course, you were  
19 taught that heads could be covered by sandbags?

20 "Answer: Use of a double sandbag, yes.

21 "Question: Usually double sandbag?

22 "Answer: Because you can see through a single  
23 sandbag.

24 "Question: The purpose being, as you understood it  
25 rightly or wrongly, in part to implement the shock of

1 capture?

2 "Answer: Yes.

3 "Question: It has a disorientation effect

4 inevitably, does it not?

5 "Answer: Yes, but I would say that would be -- you

6 would not use it to disorientate a prisoner. You would

7 use it to protect yourselves in the tactical situation,

8 barracks, location, et cetera, but it does have

9 a disorientating effect as well."

10 I have just read the whole of that question and

11 answer session because it seems to apply to the same.

12 What I really want to ask you about is whether it's

13 correct that the use of a double sandbag, because you

14 can see through a single sandbag, was something that you

15 were trained in and which you regarded as being, if you

16 like, almost an SOP.

17 A. I cannot recall the specifics, but I have clearly said

18 it in court there, sir, so obviously that's how

19 I recollected it at that time, sir.

20 Q. When you arrived in Iraq in 2003, you knew that hooding

21 was taking place?

22 A. Yes, sir.

23 Q. How did you know that?

24 A. Because I had discussed it with Staff Sergeant Davies.

25 Q. And he told you the circumstances in which it was taking

1 place, did he?

2 A. Well, we discussed the use of sandbags as a blindfold,  
3 sir.

4 Q. Does it follow that at that stage -- we are talking  
5 about August, as you told us -- you didn't know, if it  
6 were the case, that there was any ban on the use of  
7 hoods?

8 A. I didn't know of any ban on the use of hoods, sir.

9 Q. Did you ever become aware, during your time in Iraq, of  
10 any ban on the use of hoods?

11 A. Yes, I did, sir.

12 Q. When did you become aware?

13 A. Again, I couldn't be specific on time, but it was around  
14 about the death of Baha Mousa.

15 Q. Was that a ban following his death and as a consequence  
16 of it, did you understand?

17 A. Possibly, yes.

18 Q. Prior to that you were not aware, if it were the case,  
19 that there had been any ban on the use of hoods?

20 A. Not at all. I would not have used, them, sir, if they  
21 had been banned.

22 Q. Did you, in fact, ever use them?

23 A. Sandbags?

24 Q. Yes.

25 A. Yes, sir.

1 Q. What did you use them for?

2 A. For sight deprivation in order to maintain operational  
3 security.

4 Q. Did you actually use them?

5 A. Yes.

6 Q. You put them on prisoners?

7 A. Well, I put them on after I had finished questioning  
8 them.

9 Q. So you would put the hood back on the prisoner --

10 A. If I finished questioning him, I would put the hood back  
11 onto his head, sir, yes.

12 Q. Would you take the hood off at the beginning of tactical  
13 questioning as well?

14 A. Quite often, sir, yes.

15 Q. Was that something that you were instructed to do?

16 A. Well, you want to actually be able to speak to the face  
17 of the person you are questioning, sir.

18 Q. I understand that. But it may be, for example --  
19 prisoners were brought in, were they, by guards?

20 A. They would be brought in usually by two guards, sir.

21 Q. But it wasn't the guards who took the hood off, it would  
22 be you?

23 A. They could do if I instructed them to do so. I would  
24 control the tactical questioning phase, sir.

25 Q. That moves me on to the next topic I just want to ask

1           you about in relation to the practices. You would  
2           control the prisoner when he was in the tactical  
3           questioning room with you?

4   A.   Yes.

5   Q.   Would the guards in fact retire from the room?

6   A.   They would retire from the room and stand outside, sir.

7   Q.   So did you conduct the tactical questioning on your own?

8   A.   Most of the time, yes, with an interpreter clearly.

9   Q.   You took your own notes and so on?

10  A.   Most of the time, sir, yes. I kept them mentally  
11       because it would look untidy if you were standing in  
12       front of someone with a notebook. Occasionally I would  
13       use a scribe. Often it was -- you were better off  
14       taking your own notes mentally.

15  Q.   The guards, did you brief guards from time to time?

16  A.   Occasionally, sir, yes.

17  Q.   What would you brief the guards about?

18  A.   I briefed them on bringing the prisoner to me.

19  Q.   Obviously, therefore, before it had happened?

20  A.   Yes.

21  Q.   What briefing would you give them about bringing the  
22       prisoner to you?

23  A.   I'd make sure -- I'd say, "I want the prisoner  
24       plasticuffed and blindfolded when he's brought through  
25       sensitive location and brought by two prisoners -- two

1 guards", so the prisoner is guided, because he is  
2 blindfolded, so he won't bump into any objects, hit  
3 doorframes, things like that, on his way to the area.

4 Q. Did you give any instruction to guards on how they  
5 should perform their guard duty within the TDF?

6 A. Firmly, but fairly.

7 Q. Did you give that instruction to them?

8 A. Well, not -- guarding in the TDF -- in the detention  
9 area?

10 Q. Yes.

11 A. Not generally.

12 Q. What does that mean? Sometimes you did?

13 A. If I was involved in an arrest operation from the  
14 beginning, I'd try and put an input into the orders  
15 process in the brief at the beginning to everybody.  
16 However, at other times, I'd have a call that I was to  
17 go to QLR or 40 Regiment because they picked up  
18 a prisoner and needed a tactical questioner, at which  
19 point everything was already in place. But the guarding  
20 of the prisoner was mainly run by the BGIRO.

21 Q. So if you were involved in an arrest operation from the  
22 beginning of -- presumably we are talking about  
23 detainees that you may have been alerted to the fact you  
24 may be TQ'ing in due course --

25 A. Yes.

1 Q. -- you might then give instruction, might you, to the  
2 guard force?

3 A. Well, I'd give it to the arresting multiple and guard  
4 force, yes, I would.

5 Q. You say in paragraph 31 of your statement to this  
6 Inquiry -- can we just have that on the screen, please,  
7 at BMI04143, top of the page, halfway through:

8 "... I would, as a matter of routine, outline what  
9 I considered to be standard practice; this was that  
10 prisoners should be 'hooded' or 'blindfolded' on initial  
11 arrest ..."

12 Was that your understanding of what should happen?

13 A. Yes, we'd usually blindfold them on initial arrest and  
14 move them into a vehicle --

15 Q. That was a standard operating procedure, as you  
16 understood it, in August 2003, was it?

17 A. Yes, sir.

18 Q. Then you say:

19 "... faced outwards in order to stop them colluding  
20 and compromising the intelligence we might gain from  
21 them."

22 A. Yes.

23 Q. Did you actually give the guards any instruction that  
24 hoods were to be removed once the prisoner had been  
25 taken inside the detention area?

1 A. I can't remember a specific direction that I offered,  
2 sir, but if I had gone to a detention facility and found  
3 people hooded or blindfolded within a detention  
4 facility, I would ask for blindfolds to be removed.

5 Q. On your visits to BG Main and to the TDF in particular,  
6 did you encounter Mr Payne?

7 A. I have met Corporal Payne, yes, sir.

8 Q. You saw him carrying out his work there from time to  
9 time, did you?

10 A. I did, sir.

11 Q. You say in the statement that you never had reason --  
12 I paraphrase -- to be concerned about anything that he  
13 was doing in relation to prisoners.

14 A. No, no, sir.

15 Q. He has told this Inquiry that conditioning prisoners --  
16 that is by putting them into stress positions and  
17 so on -- was, if you like, his SOP. Did you ever see  
18 him --

19 A. Certainly not when I was tactical questioning, sir, no.

20 Q. You never saw that at the TDF?

21 A. No, sir.

22 Q. You never had discussions with him that this was the  
23 appropriate thing to do?

24 A. Certainly not, sir.

25 Q. Can we just have a look, please, at the statement that

1 he's made to this Inquiry at BMI01729, which he heads  
2 "Moving to the TDF and setting up prisoner-handling  
3 systems". He refers, in the middle of that  
4 paragraph 45, to learning of the creation of the post of  
5 BGIRO which had come down from division. Major Royce  
6 was appointed.

7 "I remember an occasion at about this time a TQer,  
8 the first one I mentioned earlier he was not from 1 QLR  
9 but I think he was based with brigade. He spoke to  
10 Major Royce, myself and Sergeant Smith and a couple of  
11 soldiers then guarding a prisoner we had in the TDF.

12 "46. This conversation took place in the TDF  
13 itself. The TQers were regarded as the specialists in  
14 interrogation of prisoners. It was on this occasion  
15 that the TQer explained how he wanted the prisoners when  
16 they came to him, the shock of capture still with them,  
17 lack of sleep, stress positions, plasticuffs and hoods,  
18 still scared as part of the conditioning process. This  
19 was the time when he set out the whole standard  
20 operating procedure. He was the one who said that once  
21 he had questioned them they could relax.

22 47. The next day Major Royce came back and said  
23 that he had spoken to brigade and everything the TQer  
24 had said had been authorised and it was now a standard  
25 operating procedure."

1           You didn't give that advice --

2   A.   I certainly didn't, sir, no.

3   Q.   -- to Corporal Payne?

4   A.   Certainly not, sir, no.

5   Q.   Can I just ask you to look at two FRAGOs with me,

6        please? Can we look please, at MOD030899,

7        Operation Quebec FRAGO. Do you see that?

8   A.   Yes, sir.

9   Q.   You see the date is 13 August. If we go over the page,

10       please, to paragraph 6 in the middle, there is

11       a reference there to "TQ", do you see?

12           "TQ will take place at BG Main HQ under the

13       direction of the IO [the intelligence officer], using

14       brigade TQ assets ..."

15           Of course you were a brigade TQ asset, weren't you?

16   A.   I was a TQ asset, sir, yes.

17   Q.   "... arresting soldiers will be required. Prisoners

18       should arrive for TQ bagged and tagged unless over

19       45 years of age."

20           Did you understand that to mean that prisoners

21       should arrived for TQ hooded and handcuffed?

22   A.   I think it's an extremely clumsy use of phrase in an

23       order, sir.

24   Q.   But is that --

25   A.   "Bagged and tagged" -- I mean, some people would suggest

1 a "bag and tag" is a body bag with a tag saying the name  
2 of the soldier or whoever is in the bag. Other people  
3 would suggest that "bagged and tagged" is with a sandbag  
4 on the head and plasticuffed, which is, in this context,  
5 I presume, what it means.

6 Q. It must mean that, mustn't it, since --

7 A. It does.

8 Q. The last phrase makes it quite clear, doesn't it? It's  
9 nothing to do with dead bodies, is it?

10 A. No, quite, but I just think it's a very crude phrase to  
11 use in an order.

12 Q. That may be so. The reason I am showing it to you is  
13 simply to ask whether you ever saw anything like that  
14 yourself in any orders that were issued in relation to  
15 TQ'ing or prisoner-handling.

16 A. No, sir.

17 Q. In fact, as I understand your evidence -- but tell me  
18 that I am wrong if I am -- that would have accorded with  
19 what you would have instructed guards should happened,  
20 that for TQ purposes prisoners should be hooded and  
21 plasticuffed?

22 A. Blindfolded and plasticuffed, sir, yes.

23 Q. Can we move on, please, to look in MOD043232, "Operation  
24 Lightning warning FRAGO". You see that's dated  
25 25 August 2003. If we go to the middle section and the

1 bottom ten lines -- thank you -- there is a reference  
2 there, as you can see, to prisoner handling.

3 "... evidence examination is to be conducted by the  
4 IO, BGIRO assisted by TQ from 19 Mech Brigade, TCC if  
5 available and provost sergeant."

6 Then this:

7 "Prisoners are not to be conditioned unless TQ is  
8 authorised on the basis of substantial evidence found  
9 during searches."

10 "Prisoners are not to be conditioned ..."

11 Did you ever see that phrase in an order when you  
12 were in Iraq?

13 A. Not in a FRAGO order like that, sir, no.

14 Q. Where did you see it then?

15 A. I know from reading documents -- I have used  
16 "conditioned" in a document and it has been used in  
17 a division document. But it's quite a -- it's  
18 a controversial term that has become controversial  
19 during this Inquiry.

20 Q. What would it have -- forgive me.

21 A. I am concerned that in this context it looks like  
22 "conditioning" meaning "stress positions and illegal  
23 practices".

24 Q. How would you have read this, if you had read this in  
25 2003, "Prisoners are not to be conditioned ..."? What

1           does it mean?

2    A.   I see "conditioning" as a negative term, whereas I see  
3           "shock of capture" as a spin-off and positive term.  
4           "Conditioning" could possibly mean the use of stress  
5           positions, sir.

6    Q.   Yes.  Can you think of any other meaning that could be  
7           given to "conditioning" in this context in the way that  
8           it is used here?

9    A.   Shock of capture.  I can't see -- I see "Prisoners are  
10           not to be conditioned unless ..." -- I can't see another  
11           context.  It's badly written again.

12   Q.   The implication of what is written on 25 August 2003,  
13           would you agree, is that, for that to be put  
14           specifically into this FRAGO, it must have been that on  
15           occasions recipients of orders for those who had to  
16           handle prisoners who were to be tactically questioned  
17           would understand that they could condition prisoners?

18   A.   I feel that probably is implied, sir, yes.

19   Q.   Here is a FRAGO that is telling them that they may not  
20           do it on this occasion, the implication being that it's  
21           being done on other occasions; would you agree?

22   A.   It reads like that, sir, yes.

23   Q.   Corporal Payne, as I say, has told this Inquiry that  
24           elements of conditioning anyway were, as far as he was  
25           concerned -- and you have seen that extract from his

1 statement -- an SOP. If it was going on, Major, did you  
2 know nothing about it?

3 A. I didn't sir, no.

4 Q. The question of conditioning, specifically, was that  
5 something that was ever raised by Staff Sergeant Davies  
6 with you?

7 A. No, it wasn't, sir.

8 Q. Or by anyone else who might have had concern about it?

9 A. No, sir.

10 Q. Did you have a conversation with Major Royce about  
11 conditioning?

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

13 Q. You didn't ever express to anyone, did you, that you  
14 felt that in certain circumstances conditioning --  
15 perhaps to maintain the shock of capture -- would be  
16 permissible?

17 A. No, sir.

18 Q. You had nothing to do, did you, with the  
19 Operation Salerno detainees themselves?

20 A. I didn't, sir.

21 Q. You became aware of the death of Baha Mousa, did you?

22 A. I was aware of the death, sir.

23 Q. Did you speak to any other tactical questioner who may  
24 have been involved with those detainees subsequently?

25 A. No, it wasn't a subject I discussed with Staff Davies or

1 Sergeant Smulski.

2 Q. Was there a reason for that? Was there a specific  
3 reason for it?

4 A. No specific reason, sir, no.

5 Q. Forgive me?

6 A. No.

7 Q. Was it, to you, a shocking event, the death of  
8 a prisoner in custody?

9 A. Very much so, sir, yes.

10 Q. Did you talk to anybody about it after the event?

11 A. No, sir.

12 Q. Well, did you ever want to know what had happened?

13 A. Well, it was mentioned that a soldier had died in  
14 custody by brigade --

15 Q. A prisoner, I think you mean.

16 A. A prisoner -- sorry, apologies -- had died in custody  
17 and there was an investigation ongoing.

18 Q. That's all you ever knew about it, was it?

19 A. Pretty much, sir, yes. It was not discussed widely.

20 Q. And it wasn't something that was, in fact, discussed  
21 quite widely, was it, such that, for example -- let me  
22 just put you fully in the picture for my question -- it  
23 became clear to all and sundry that there had been  
24 serious assault of detainees?

25 A. It was clear that there had been a serious assault,

1           resulting in a death and a serious injury of another  
2           detainee, sir.

3    Q.   And you knew that, what, within a day or days, did you?

4    A.   Yes, sir.

5    Q.   What, from what people were talking about?

6    A.   In brigade headquarters, sir.

7    Q.   Could we have a look, please, at a document which  
8           I think is drawn up by you.  We find it at MOD030853.  
9           We see it's dated 27 September, Major.

10   A.   Yes.

11   Q.   On the second page we can see that it's your signature,  
12           isn't it, on the document issuing it?

13   A.   It is, sir.  That's my signature block.

14   Q.   It's headed "Prisoner-handling and tactical questioning  
15           procedures (PHTQ)".

16   A.   Yes, sir.

17   Q.   Can you recall why this document was drawn up at this  
18           time?

19   A.   It was to do with -- the death of Baha Mousa had brought  
20           the matter to a head.  Charlie Burbridge -- Captain  
21           Charlie Burbridge at the time -- had put together  
22           a timeline and I took it upon myself to highlight some  
23           ways maybe that prisoner-handling could be conducted to  
24           ensure such an event didn't happen again.

25   Q.   You will forgive me for putting it this way -- and

1 I don't mean it offensively at all -- you were not  
2 trained in this area, were you, at least not since 1995?

3 A. That's correct, sir.

4 Q. Why was it thought appropriate that you were the person  
5 who should be producing a document or a policy, if you  
6 like, of this kind at this stage?

7 A. I can't remember the circumstances that led to it, but  
8 it was a case of making sure that something was put into  
9 place, so I did, sir. I wrote the document.

10 Q. Before you wrote the document, since it was written  
11 directly, as I understand it, as a result of the death  
12 of Baha Mousa --

13 A. Yes, sir.

14 Q. -- who did you consult before you wrote it? In  
15 answering that question, could I just ask you please to  
16 be careful, as I am sure you will have been warned,  
17 about the use of names. Some witnesses are ciphered and  
18 you may have a list in front of you.

19 A. Yes. I actually don't know any of those witnesses, sir,  
20 particularly, so ...

21 I discussed it with Charlie Burbridge, the brigade  
22 ops officer, Ed Fenton, the chief of staff,  
23 Major Robinson, Staff Davies. We put together  
24 a document which was then pushed up to divisional --

25 Q. We will come to the document in a moment. I am really

1 asking the question for the moment as to whom you  
2 consulted before you produced it in the light of the  
3 reasons that you tell us it was being produced. Did  
4 you, for example, speak with Colonel Mendonca or anyone  
5 at 1 QLR who had been involved in holding the detainees?  
6 A. No, no, I didn't.  
7 Q. Did you not think that was wise?  
8 A. Not at the time. I based the document on a draft  
9 SOI 390 from division, which is that at reference A,  
10 sir.  
11 Q. I follow.  
12 A. With my rather scruffy start(?) work, I include it as an  
13 annex, when it should have been an attachment, sir, or  
14 an enclosure.  
15 Q. So it was reference A that you used, if you like, as  
16 a base document; would that be fair?  
17 A. It was, sir.  
18 Q. Can I take you to parts of the document please? In  
19 paragraph 1:  
20 "the aim of PHTQ [prisoner-handling and tactical  
21 questioning] is to gain time-sensitive tactical  
22 intelligence from a detainee ..."  
23 This all has to happen rapidly --  
24 A. It does, sir.  
25 Q. -- if it is to be effective?

1 A. It does, sir.

2 Q. If we go to 2 and "Conduct", please:

3 "Reference A defines how PHTQ should be conducted

4 and highlights the importance of using qualified

5 personnel ..."

6 A. Yes.

7 Q. That's a reference, is it, to those who have undergone

8 the refresher training at least every two years?

9 A. It is, sir.

10 Q. Then four or five lines down:

11 "Reference C highlights timelines to be adhered to

12 from detention to movement to the TIF."

13 Why was it important for the timelines to be adhered

14 to from detention to movement to the TIF? We know that,

15 don't we, at this time, to be 14 hours? Why was it

16 important that those timelines were adhered to?

17 A. Because the battlegroups don't have the facility to hold

18 prisoners for longer than that, sir.

19 Q. Then you refer to the aide-memoire at annex D, the

20 framework for TQ'ing to follow at annex C and so on.

21 Can I take you just to parts of those annexes, please?

22 Can we look at annex A at page MOD030855? There again

23 it is underlined under "Conduct" at paragraph 3:

24 "[Tactical questioning] ... may only be carried out

25 by personnel who have undergone and passed a course of

1           qualification ... and/or interrogation run by F Branch  
2           Joint Services Interrogation Organisation ... or  
3           a course run by qualified instructors and sanctioned by  
4           JSIO. Additionally TQ should only be carried [out] by  
5           persons who have either carried out TQ operationally or  
6           taken part in practical resistance to interrogation  
7           training with 4 (Conduct after Capture) Company within  
8           the last two years."

9           So what was being set out there was that to TQ you  
10          had to have relevant experience or relevant training or  
11          conduct after capture training; is that right?

12         A. That's correct, sir.

13         Q. There is then set out at 4:

14                 "TQ cannot be undertaken without the internee first  
15                 being examined by a suitably qualified medic."

16                 Do you see that?

17         A. Yes, sir.

18         Q. "This should be at the first practical opportunity ..."

19                 Do you recall, Major, did you understand that  
20                 medical examination was taking place or was not taking  
21                 place on detainees prior to the death of Baha Mousa?

22         A. It was taking place.

23         Q. That was your understanding, was it?

24         A. It was my understanding, sir.

25         Q. So this, what, simply reinforces what you believed to be

1 practice, was it?

2 A. I believe so.

3 Q. At 4a:

4 "The MO is to sign a fit for detention and  
5 questioning form."

6 A. Yes.

7 Q. Do you recall whose decision it was to put that into  
8 this document?

9 A. Well, this is the one I should have really enclosed as  
10 an attachment or enclosure, because this is the draft of  
11 SOI 390. SOI 390 was not issued until 30 September  
12 which is after this document was written, but I based  
13 and lifted a lot of my document from this draft in order  
14 to get something out --

15 Q. I follow.

16 A. -- in practice, sir.

17 Q. Just to run through just a couple more parts of this  
18 document, 5c, please:

19 "The period of detention for the entire TQ phase for  
20 each internee should last no longer than 12 hours. At  
21 the end of the 14 hour period the internee should either  
22 be released, handed to the Police or moved to the TIF  
23 for questioning."

24 Did you understand, Major, do you remember -- and  
25 please tell me if you don't -- at this time that the

1 14-hour rule, can I call it that, was a practical rule?

2 A. It's a rule that should be adhered to, however there  
3 will be operational reasons why it couldn't be adhered  
4 to.

5 Q. It is said at 6, isn't it:

6 "The nature of the current operation may make it  
7 difficult to abide by these rules all of the time."

8 By that you were referring, were you, to the  
9 exigencies of the moment? A particular operation may  
10 make that difficult --

11 A. It may do. The trouble with Iraq at the time was there  
12 was obviously a serious terrorist threat and improvised  
13 explosive roadside bomb threat and any move by a vehicle  
14 would mean at least two vehicles with eight-man patrols.  
15 It's a deliberate move to transfer a prisoner to the  
16 TIF. It was a dangerous operational environment.

17 Q. That would be a very good example of why it might not be  
18 possible to fulfil that requirement within that  
19 timescale?

20 A. It would be, sir.

21 Q. I follow. Can we move on, please, to paragraph 7, under  
22 "Guarding and holding of detainees". Can you help with  
23 this?

24 "Whilst the guarding and hoods of internees is  
25 a J/G3 function it forms an important part of the

1 conditioning process which allows an internee to be  
2 susceptible to the approaches of the TQ."

3 In what way, Major, did the guarding or holding of  
4 internees form an important part of the conditioning  
5 process?

6 A. Again, this is not my document. It's the SOI 390 draft.

7 I'm thinking -- this is a lot of the time -- I think  
8 there's a confusion between the term of "conditioning"  
9 and "shock of capture".

10 The swift movement from the point of arrest to the  
11 TQ area for sharp questioning and onward movement, if  
12 necessary, to the TIF is vital for intelligence to be  
13 gleaned quickly. However, if that process is elongated  
14 and the prisoner has a chance to settle and become used  
15 to his environment, it's less effective.

16 Q. So what would you have recommended, for example, that  
17 the guards, in holding internees, should do to maintain,  
18 if you like, the conditioning process?

19 A. Basically, the whole point is it's the speed from the  
20 point of arrest to the point of questioning.

21 Q. That I understand. You see why I am asking you that  
22 question. 7 seems to be suggesting that it's for guards  
23 holding internees, in their conduct, in some way, that  
24 they form an important part in the conditioning process  
25 prior to TQ.

1 A. They are an important part of the maintenance of shock  
2 of capture.

3 Q. And that would not have included, would it, stress  
4 positions?

5 A. It wouldn't have included stress positions because they  
6 are prohibited, sir.

7 Q. Over the page to paragraph 9:  
8 "Internees are not to be hooded during the  
9 TQ process ..."

10 That meant, did it, as you understood it, while they  
11 were being questioned?

12 A. Yes, sir.

13 Q. But that never happened anyway, did it?

14 A. It didn't happen to my knowledge, sir, no.

15 Q. "... however the Geneva Convention allows for internees  
16 to be blindfolded when moving around a military  
17 sensitive area."

18 That was your understanding, wasn't it?

19 A. That's correct, sir.

20 Q. "Likewise internees are not to be held in stress  
21 positions."

22 Can we go over the page, please, to annex B? This  
23 is the timeline. We can see in the table -- and I don't  
24 go through it -- references to water being made  
25 available, a meal provided and so on. It goes from A,

1 "Arrival at TQ location", through to A+16; do you see?

2 A. Yes.

3 Q. Was this another document or part of a document that you

4 lifted?

5 A. Again that was produced, I believe, by

6 Charlie Burbridge, Captain Charlie Burbridge, the

7 brigade ops officer -- now Major Charlie Burbridge -- or

8 certainly from the G3 chain.

9 Q. Then I will leave that. Can we go through, please, to

10 the last section of this document at MOD030862,

11 "Background to tactical questioning" and so on. Where

12 did this --

13 A. This again is from division. It's one of the

14 intelligence corps recommendation procedures for

15 tactical questioning, lifted again, sir. I believe it's

16 reference C off the front page of the document, sir.

17 Q. Thank you very much. Under 5:

18 "All TQ should be conducted using the

19 neutral/logical approach."

20 Was that the approach that you adopted?

21 A. It wasn't until this document. I would occasionally use

22 the harsh technique.

23 Q. Was that something that you discussed with Staff

24 Sergeant Davies?

25 A. Yes, because it was taught to us on both of our courses,

1           sir.

2   Q.   The document goes on at 6, the one that goes out in your  
3       name, as it were:

4                "NO STRESS POSITIONS, CONDITIONING, PHYSICAL ABUSE,  
5       HOODS OR WHITE NOISE TO BE USED.  However, in order to  
6       preserve the shock of capture where possible, detainees  
7       are to be kept apart and prevented from communicating  
8       with each other.  Blindfolds are ONLY [in capitals] to  
9       be used when detainee is passing through sensitive areas  
10      and must be removed afterwards.

11               "7.  Restraints should be used sparingly in line  
12      with divisional SOPs."

13               Was that in any shape or form a change of practice  
14      so far as you were concerned?

15   A.   No, sir.  It was just reiterating good practice, sir.

16   Q.   Just to complete this document, at annex D -- MOD030864,  
17      please -- and under the heading "Arrival at camp",  
18      paragraph 4:

19               "As prisoners are about to enter the camp location  
20      they should be blindfolded (blacked-out goggles not  
21      sandbags) to prevent reconnaissance of the location."

22   A.   Yes, sir.

23   Q.   So that was something new, wasn't it?

24   A.   That was a line I inserted, sir, in response to the  
25      order that came down that sandbags were no longer to be

1           used.

2    Q.   Were blacked-out goggles in fact available at this time?

3    A.   Well, goggles were available and masking tape to black

4           them out.  So they were available and it was a more

5           sensible way to blindfold a prisoner, sir.

6    Q.   Why do you say "more sensible"?

7    A.   Well, first of all, it's more effective because black

8           masking tape can't be seen through, and the seal

9           provided by the goggles mean that the prisoner is

10          genuinely blindfolded.  Also it gets away from the use

11          of a hot and itchy sandbag.  It's more humane.

12   Q.   That was inserted, you say, by you, paragraph 4.

13   A.   Yes, on response to the direction that had come down

14          from division that sandbags were no longer to be used

15          for blindfolding.

16   Q.   And paragraph 5:

17                "Once in the holding area blindfolds should be

18                removed ..."

19                Is that right?

20   A.   This is lifted from the draft SOI 390, sir.

21   Q.   "... the same procedures in paragraph 3 should be

22          implemented.  Prisoners should be made to stand or sit,

23          but must not be placed in stress positions.  However,

24          they must not be allowed to relax or lie down to

25          condition the shock of capture and conditioning

1 process."

2 A. That was a direct lift from the draft SOI, sir.

3 Q. What did you understand by that, that they were not to  
4 be allowed to sleep?

5 A. That's the way it looks, doesn't it, sir, I agree, which  
6 is therefore an illegal practice to stop people from  
7 sleeping.

8 Q. You must have realised that at the time this document  
9 was going out, did you?

10 A. Well, it looks fairly clear from that paragraph that  
11 that is what it means, sir.

12 THE CHAIRMAN: : Did you question it, Major, at the time?

13 A. I didn't question it, sir, no.

14 Q. Why didn't you?

15 A. I should have, sir, with hindsight.

16 MR ELIAS: Sir, I have perhaps ten minutes left. I wonder  
17 whether now would be convenient.

18 THE CHAIRMAN: Certainly. We will break off now for  
19 a ten-minute break, Major.

20 A. Yes, Sir.

21 (3.21 pm)

22 (A short break)

23 (3.29 pm)

24 THE CHAIRMAN: You are still under oath, Major.

25 A. Yes, sir.

1 MR ELIAS: We have looked at that document. I have taken  
2 you to parts of it. We were just looking, please, at  
3 MOD030864 and to paragraph 5, Major. You have told us  
4 how much of the document at the annexes anyway were  
5 lifted -- I don't mean that in any improper way -- from  
6 a draft SOI 390 which you say was issued on  
7 30 September.

8 A. Well, it wasn't -- the actual SOI was issued on  
9 30 September. This was a draft because this document  
10 was written on 27th September, sir.

11 Q. I understand. If we look, however, at paragraph 5 and  
12 the last sentence, beginning "However ...", that  
13 sentence was not lifted from any draft other document,  
14 was it? It's yours, isn't it?

15 A. I don't know, sir. I wouldn't know without checking.

16 Q. Well the document can be checked.

17 A. I take your word for it, sir.

18 Q. "However, they must not be allowed to relax or lie  
19 down."

20 Now you have told us in your evidence earlier that  
21 that was your view that that would be permissible for  
22 a 14-hour period.

23 A. For a 14-hour period, but equally you can't deny sleep,  
24 as we've discussed.

25 Q. Well, "... they must not be allowed to relax or lie down

1 to continue the shock of capture and conditioning  
2 process". If you wrote that -- and I suggest that you  
3 did -- the shock of capture and conditioning process are  
4 there being set out by you as being two separate things,  
5 aren't they?

6 A. That's how it reads, sir, yes.

7 Q. What did you mean, Major? What was "conditioning" as  
8 opposed to "shock of capture"?

9 A. Again, "conditioning" could -- it could be construed --  
10 and in this Inquiry certainly has been construed as  
11 a negative thing, the use of illegal processes which  
12 I wouldn't condone, sir.

13 THE CHAIRMAN: This Inquiry hasn't made any findings at all  
14 as yet. Let me be quite clear about that.

15 A. Of course, sir. My apologies, sir.

16 MR ELIAS: You see, what you seem to be saying there in  
17 paragraph 5 -- you correct me if I am wrong about it --  
18 what you were saying is that prisoners mustn't be  
19 allowed to relax or indeed to lie down so that the shock  
20 of capture could be continued and the conditioning  
21 process.

22 A. That's how it reads, sir.

23 Q. Yes. The only interpretation that you have been able to  
24 give us about "conditioning" is, for example, the use of  
25 stress positions and matters of that kind.

1 A. That's so, sir, yes.

2 Q. If you were saying that on 27 September 2003, Major, was  
3 it because you knew at that time that such conditioning  
4 techniques were being employed?

5 A. I didn't know they were employed, sir --

6 Q. Well why does it appear in this document, please?

7 A. -- but I know that they were employed in the case of  
8 Baha Mousa's death, which is why this document was  
9 produced.

10 Q. But far from saying, in paragraph 5, "Under no  
11 circumstances may conditioning techniques be used", you  
12 were saying quite the opposite here, weren't you?

13 A. I can see how that reads, sir, yes.

14 Q. Well, you were saying quite the opposite, weren't you?

15 A. I wouldn't condone stress positions and banned  
16 techniques, sir.

17 Q. That's not my question, Major. In this document on  
18 27 September, you were saying quite clearly that  
19 prisoners mustn't be allowed to relax, they mustn't be  
20 allowed to lie down, because the shock of capture may be  
21 maintained and the conditioning process continued.  
22 That's what you were saying here, wasn't it?

23 A. That's what it said there, sir, yes.

24 Q. If we go back, please, to page MOD030862 -- the last  
25 point on this document, please, in paragraph 6 -- put

1           into capitals -- and I don't think that comes from any  
2           other document, but I will be corrected if I am wrong  
3           about it:

4                   "NO STRESS POSITIONS, CONDITIONING, PHYSICAL ABUSE,  
5           HOODS OR WHITE NOISE TO BE USED."

6           Do you see that?

7   A.   Yes, sir.

8   Q.   Do you recall whether you put that into capitals?

9   A.   I imagine I did, sir, yes.

10  Q.   If you did put it into capitals, was it because you had  
11       become aware or knew that those techniques were being  
12       and had been used at BG Main?

13  A.   They weren't being used to my knowledge, sir.  I wanted  
14       to make it abundantly clear that they should not be  
15       used, though, sir.

16  Q.   It isn't that you have underlined it, as it were, by  
17       putting them in large capitals because you knew it was  
18       happening?

19  A.   It's not because I knew it was happening, sir.  It's  
20       because I wanted to make it abundantly clear that they  
21       shouldn't happen, sir.

22  Q.   Then I move on from that document, please, just to a few  
23       other miscellaneous matters.  You tell us in your  
24       statement that you recall receiving a call from  
25       Major Peebles about a group of prisoners whose time was

1 going to go over the 14-hour rule.

2 A. Yes, sir.

3 Q. Do you know whether it was the detainees that this  
4 Inquiry is concerned with?

5 A. I believe it was, sir.

6 Q. Why did the call come through to you or why did you take  
7 it, perhaps I should ask?

8 A. I was in the brigade G2 cell at the time when the call  
9 came through and I was stood in for Major Robinson.

10 Q. Was the position that you were being asked to sanction  
11 some extension of time?

12 A. It was, but I was not in a position to sanction that  
13 extension of time.

14 Q. Did you explain that to Major Peebles?

15 A. Yes. I told him it was -- movement of prisoners was  
16 a battlegroup responsibility and it was a G3 movements  
17 function, an operations function.

18 Q. Did you tell him that he did not have sanction?

19 A. I didn't tell him either way, sir. I told him it was  
20 not my position to give that sanction.

21 Q. Do you recall whether he gave any explanation as to why  
22 the time limit could not be met?

23 A. I don't, sir.

24 Q. You refer to this in a statement that you made in  
25 January 2006. We have looked at part of it already.

1 Can we have MOD000982? You say in the second paragraph:

2 "I do recall receiving a telephone call, I believe  
3 from Major Peebles, regarding a particular group of  
4 detainees, the names of whom I do not recall. I do not  
5 recall the date or time of the ... call. From what  
6 I recall, it was explained that a group of detainees  
7 were being held for a longer period than the 14 hours  
8 because of information forthcoming."

9 Is that what you were told?

10 A. If I placed it in that statement there, sir, yes.

11 Q. What would that have meant, "... because of information  
12 forthcoming"?

13 A. I don't know whether they thought they were gaining more  
14 information from the prisoners and needed longer to  
15 question them, sir.

16 Q. Is that what you were told?

17 A. I can't remember, sir.

18 Q. "I do not recall it being mentioned how much longer the  
19 detention period would be."

20 You didn't ask, did you?

21 A. I don't recall, sir.

22 Q. You go on to say in this statement that:

23 "As I was not involved in the TQ'ing of these  
24 particular detainees and the fact that Major Peebles was  
25 the BGIRO, I did not feel it my place to comment and

1 believed that what was being done was being correctly  
2 handled."

3 That's how you put it in 2006. Forgive me, Major,  
4 can that be right?

5 A. In hindsight I just should have said, "No, you can't  
6 move them", but I don't have the power of hindsight --

7 Q. Perhaps either you should have said "no" or you should  
8 have referred it to some higher authority.

9 A. Referred it to G3 for an operational move.

10 Q. Could we have a look, please, at the witness statement  
11 of Mark Andrew to this Inquiry at BMI05565? May I show  
12 you, please, paragraph 18 of his statement at BMI05568.  
13 He refers to an officer who he believed was a captain  
14 coming to interrogate detainees. He didn't know his  
15 name. He refers in the next paragraph to detainees  
16 being put in stress positions for approximately half an  
17 hour at a time.

18 "I recall that the officer who interrogated them  
19 (who was the same person described in the paragraph  
20 above) ordered us to keep them in stress positions until  
21 he had spoken to them ..."

22 Did you ever give an order of that kind?

23 A. No, sir.

24 Q. Would you ever have done so?

25 A. No, sir.

1 Q. When you did carry out tactical questioning, you did,  
2 did you, take, as you have told us, the harsh technique  
3 from time to time?  
4 A. I have done, sir, yes.  
5 Q. And that would have involved, would it, amongst other  
6 things, shouting?  
7 A. Yes.  
8 Q. Screaming?  
9 A. Yes, sir.  
10 Q. Would it have involved threats?  
11 A. No, sir.  
12 Q. Could it have involved saying things such as, if they  
13 didn't answer the question, it would be made known to  
14 their friends that they were cooperating with the  
15 British and that might cause them harm?  
16 A. I couldn't remember specifically making a threat, no.  
17 Q. Or that they would not see their families again --  
18 A. No, I wouldn't make a threat that you couldn't carry  
19 out, sir. That would be wrong.  
20 Q. What, only threats that you could?  
21 A. You can't threaten a detainee, sir.  
22 Q. Have you ever said to any guard of a prisoner that it  
23 would be as well if the prisoner or prisoners were  
24 roughed up or turned over?  
25 A. Certainly not, sir, no.

1 Q. Would you have ever regarded such a course of conduct as  
2 being appropriate in terms of preparing for TQ'ing?

3 A. No, sir.

4 Q. Was the position, Major, that, as a TQer, you were well  
5 aware that the practices at 1 QLR involved the use of  
6 stress positions and hoods --

7 A. No, sir.

8 Q. -- for the purposes of conditioning?

9 A. No, sir.

10 Q. And that you went along with that until at least the  
11 death of Baha Mousa perhaps brought a stop to it?

12 A. Certainly not, sir.

13 MR ELIAS: Thank you.

14 THE CHAIRMAN: Yes, Mr Friedman?

15 Questions by MR FRIEDMAN

16 MR FRIEDMAN: Major, looking back at that tour now, does it  
17 strike you that the group of you that worked in G2 at  
18 brigade collectively were incredibly inexperienced at  
19 what you were being asked to do?

20 A. Well I hadn't experienced anything like it before.

21 THE CHAIRMAN: I am not sure that's quite what you are being  
22 asked. Were you inexperienced officers? Not  
23 necessarily you hadn't experienced anything like that.

24 A. We were not inexperienced officers for the position,  
25 sir, no.

1 MR FRIEDMAN: Can we just look at that for a moment?

2 Major Robinson is heading up that G2 group.

3 A. Yes.

4 Q. Did you know that he had only been able to complete part  
5 of an intelligence course at Chicksands before he came  
6 out?

7 A. I didn't know, no.

8 Q. You didn't know that. Did he ever express to you that,  
9 in effect, he was very new to this discipline of  
10 intelligence?

11 A. No, not at all.

12 Q. Do you know the officer -- the female officer --  
13 Trowell, who headed up --

14 A. Shantha Trowell, yes.

15 Q. Yes. Did she express lack of experience to you at any  
16 time?

17 A. Well, she was a young officer straight from Sandhurst  
18 training and intelligence corps training, so she was  
19 a new officer, that's correct.

20 Q. Just looking at the TQers -- perhaps we can look at this  
21 through the draft of SOI 390, if we go again back to  
22 MOD030855, and focusing on paragraph 3 of the draft, the  
23 underlining. You were taken to this before, but if we  
24 look at this test for who would qualify to TQ, the  
25 person has to have done a recognised course, and then it

1           says, additionally, that the person has to have carried  
2           it out operationally or taken part in a conduct after  
3           capture exercise. So if that test had applied at the  
4           beginning of the tour, none of you who were on that tour  
5           would have been able to TQ, would you?

6    A. I certainly couldn't. I couldn't comment with authority  
7           on the others.

8    Q. Well, someone who you obviously recognised in terms of  
9           his ability was Staff Sergeant Davies. Did you know  
10           that he had effectively done his course only a few  
11           weeks/months before coming out to Telic 2?

12   A. I knew it was reasonably close to the tour, yes.

13   Q. And, in effect, he had never had any experience before  
14           going on the tour you met him on.

15   A. He probably hadn't.

16   Q. No. And he was a -- and I don't make criticism of him  
17           or you -- but he was the person who you were looking to  
18           as having the most authority because he had had the most  
19           recent training.

20   A. The most recent training and the most recent experience,  
21           because I joined theatre late in August and he had been  
22           there for a good two months plus before.

23   Q. Yes. Presumably as head of G2 at brigade,  
24           Major Robinson was the nominal person who was  
25           supervising the TQers before they went to the

1           battlegroups, where they would be supervised under the  
2           battlegroups. Is that the nominal supervisory role?  
3    A. He controlled the likes of Smulski and Davies. There  
4           were some other TQers in the wider area of the brigade  
5           who -- I only met one of them once. There were a couple  
6           of others who I can't recall.  
7    Q. When you were developing your role on that tour ad hoc,  
8           did you take on a role of being the nominal supervisor  
9           or touchpoint for TQers?  
10   A. No.  
11   Q. Did Davies, in an ad hoc way, take on that role because  
12           of the experience he had acquired?  
13   A. He was certainly a person who we turned to for advice  
14           because of his experience. I wouldn't say it was  
15           a formalised arrangement, no.  
16   Q. But informally he may have been the person that everyone  
17           was turning to?  
18   A. I would say so.  
19   Q. I will not take you through it, but you regarded him as  
20           exceptionally bright and extremely keen and committed --  
21   A. Yes, he was a very good senior NCO.  
22   Q. The situation you were in as a G2 group was a bad one in  
23           the sense that, especially by the time you got out,  
24           Dai Jones murdered by terrorists, I think the day after  
25           you arrive --

1 A. That's correct.

2 Q. -- and a serious problem of trying to get reliable  
3 intelligence in Basra.

4 A. That would be fair.

5 Q. How much assistance were you getting from division G2 in  
6 terms of communication and feedback and supervision?

7 A. I would not be in a position to comment as strongly as  
8 Major Robinson would be.

9 Q. What impression did you get?

10 A. I didn't have a great deal of dealing with division.

11 Q. Well, in your discussions with Staff Sergeant Davies,  
12 did he express the view that he has expressed at various  
13 times in his evidence over the years that the JFIT --  
14 the division asset up at Um Qasr --

15 A. Yes.

16 Q. -- was not fit for purpose in effect?

17 A. There was a feeling that when prisoners went on to the  
18 JFIT, that they were sort of lost in a black hole and  
19 the intelligence didn't come back down on what was  
20 gleaned.

21 Q. Yes.

22 A. There was that feeling. That would be correct.

23 Q. So, again, assuming you wanted to do it lawfully and  
24 properly, did that put an impetus behind your efforts in  
25 TQ that effectively you needed to get some information

1           for yourself at the level you were TQ'ing at?

2    A.   That would be a fair comment.

3    Q.   Just on hooding and this question of shock of capture

4           and assuming the security rationale that you have

5           explained, you have expressed sensitivity about how

6           conditioning is looked at now.  Would that same

7           sensitivity apply to your concerns about how shock of

8           capture through hooding might be looked at now?

9    A.   No.  I mean shock of capture is -- that's fine.  I would

10          be happy with shock of capture.

11   Q.   Right.  Well, you were taken to the one statement in

12          January 2006 where you explained that the purpose of

13          hooding was for shock of capture and then the secondary

14          reason for security.  You told Mr Elias that this was

15          you passing through Basra Airport and the like --

16   A.   Yes, the primary reason is security.

17   Q.   Can I just take you to your earlier statement to the

18          SIB?

19   A.   Okay.

20   Q.   This was at May 2005 and at MOD000692.  It's the second

21          paragraph from the top.  You are trying to recall back

22          to your training nearly ten years ago.  And you say in

23          the second sentence:

24                 "I do recall that I was taught that POWs should be

25          cuffed using plasticuffs either to the front or back and

1           also for their heads to be covered either with sandbags  
2           or blindfolds. This is to implement the shock of  
3           capture element, to disorientate the prisoner and to  
4           ensure that they cannot identify where they are  
5           located."

6           This is in May 2005, Major, before having to give  
7           statements in Basra Airport in Telic 7.

8    A. Right, okay.

9    Q. Again, you are forefronting a purpose of hooding that  
10   you say you have been taught, which is to implement the  
11   shock of capture element and to disorientate the  
12   prisoner.

13   A. That is the shock of capture element, but it is also  
14   there to protect the location, and that's the primary  
15   reason.

16   Q. You see, I just want to put to you one last time --  
17   because one understands how, in hindsight, people become  
18   sensitive about language -- but do you think that your  
19   original account is a better description of not only  
20   what you were taught, but also how you approached  
21   things, that there were two reasons -- one was shock of  
22   capture to aid questioning and one was security -- and  
23   both of those were not matters which you or anyone  
24   worried about until after the death of Baha Mousa?

25   A. I would say they certainly came very sharply into focus

1 after the death of Baha Mousa.

2 Q. But you can see why I'm asking the question. Move away  
3 from criticising you or not and look more generally  
4 about how this happened. You and others did not have  
5 a hang-up about the benefits that you would get from  
6 keeping people hooded so that they stayed under shock of  
7 capture so it would make it easier to question them, and  
8 that's how you approached it at the time?

9 A. Yes, but when you are talking about keeping people  
10 hooded --

11 Q. Yes.

12 A. -- they are only hooded when security is at risk and the  
13 shock of capture is -- yes, it is a useful spin-off.

14 Q. You said to Mr Elias that once someone gets put in  
15 a secure room, then you cannot hood them anymore because  
16 they are in a secure room. But going to the real world  
17 of 1 QLR BG Main, you knew, didn't you, that the secure  
18 room they had available would have all of the prisoners  
19 put into that room or two rooms together, the TDF?

20 A. Yes.

21 Q. Now in those circumstances I think you had a concern --  
22 and others had a concern who were TQ'ing -- that people  
23 would be able to communicate with one another, get their  
24 script together, and therefore make it a lot harder to  
25 get anything out of them in TQ. Was that a concern you

1 had?

2 A. That would always be a concern, yes.

3 Q. So did you, in your discussions with Staff Sergeant  
4 Davies, come to the view that it would be better,  
5 because they were going to be multiple occupancy in that  
6 TDF, to keep them hooded --

7 A. No.

8 Q. -- pending their questioning?

9 A. No. We wouldn't hold them in the facility hooded.

10 Q. Just turning, then, to after the death please. It's not  
11 a question about whether you had specific detailed  
12 discussions with people, but it would be ludicrous to  
13 think that you didn't have discussions about this death  
14 with Staff Sergeant Davies, wouldn't it?

15 A. I discussed it with him, yes.

16 Q. He says, with regard to the battlegroup guide that you  
17 put together, that he had a significant impact into the  
18 drafting of that --

19 A. Yes, he did.

20 Q. -- having had the experience of -- unfortunately for  
21 him -- being there when the tragedy happened.

22 A. Yes.

23 Q. Yes.

24 A. And on the 25th I put out a smaller document that went  
25 to the battlegroups as a sort of pre-feeler.

1 Q. Just in terms of the general discussions at any time,  
2 was it ever expressed to you by Staff Sergeant Davies,  
3 when he was looking back on it, that his gut feeling was  
4 that, rather than being insurgents, these blokes were  
5 effectively hotel workers and nothing else?

6 A. No.

7 Q. No. Did he or anyone ever express to you a view that  
8 they may have been roughed up at some point, maybe at  
9 arrest?

10 A. No.

11 Q. Then the last brief topic, please. Just on these  
12 documents that you did put together, can I just look at  
13 the one that came down from division? It is at  
14 MOD030862. This document, I think you said, came down  
15 from the intel core at division level.

16 A. Yes.

17 Q. Did you know this to come from the people at JFIT, to be  
18 more specific?

19 A. I don't know.

20 Q. Just on paragraph 5, either from that paragraph itself  
21 or from other discussions, did you become aware that the  
22 more trained interrogators were concerned about TQers  
23 using the harsh technique?

24 A. I wasn't aware of that particular point you have just  
25 made there, no.

1 Q. Why, in effect, was one of the questioning techniques,  
2 as opposed to the other ones, being insisted upon at  
3 paragraph 5, as far as you understood?

4 A. It's a considerably -- neutral and logical approach, as  
5 taught on the course, is just a very bland way of  
6 questioning somebody and it's not divisive. It's --  
7 when you are taught to use the harsh technique with  
8 shouting and getting close to somebody, to their  
9 personal space without touching, it naturally raises  
10 tensions.

11 Q. Was there ever a concern that, however properly the  
12 TQers may have behaved, if you had a guard outside  
13 hearing the harsh technique going on, it might send the  
14 wrong message to him and those who would take the  
15 prisoner away from you once you finished?

16 A. It could.

17 Q. Was that ever expressed to you?

18 A. It wasn't to expressed to me, but I could see it could.

19 THE CHAIRMAN: Mr Friedman, your time is very nearly up.

20 MR FRIEDMAN: Yes, sir. Finally, on paragraph 10 of that  
21 same document, really reflecting something that you said  
22 in your own covering letter, that these practical  
23 questioning processes must go quickly, did you come to  
24 learn, in the Operation Salerno process, that Staff  
25 Sergeant Davies had effectively waited some 12 hours

1 before he had begun his questioning, particularly in  
2 relation to a man who had escaped from the hotel? Did  
3 you learn about that?

4 A. I didn't, no.

5 MR FRIEDMAN: Thank you, Sir.

6 THE CHAIRMAN: Thank you.

7 Mr Garnham?

8 Questions by MR GARNHAM

9 MR GARNHAM: Thank you, Sir.

10 I wonder if we could begin by going back to an order  
11 that you were shown by Mr Elias, Operation Lightning,  
12 MOD043232, and to the middle section, the last ten  
13 lines. You will remember that Mr Elias showed you  
14 this section.

15 "Prisoners are not to be conditioned unless TQ is  
16 authorised on the basis of substantial evidence found  
17 during searches."

18 That plainly contemplates, doesn't it, that there  
19 are circumstances in which prisoners should be  
20 conditioned? That I think you agreed with Mr Elias.

21 A. I did agree that that was divisive, yes.

22 Q. But what that means depends on the meaning of the word  
23 "conditioning", doesn't it?

24 A. It does.

25 Q. Would it be right to say that you used the word

1 "conditioning" in at least two different senses in some  
2 of these documents, Major?

3 A. It is right that I lifted from the SOI 390.

4 Q. Could we look at MOD031235 please, just to remind you of  
5 the document, and then going to MOD031238.

6 At paragraph 7 you say:

7 "Whilst the guarding and hoods of internees is a  
8 J/G3 function it forms an important part of the  
9 conditioning process ..."

10 A. Yes.

11 Q. So you are there, are you not, regarding conditioning as  
12 proper and legitimate?

13 A. Shock of capture is proper and legitimate --

14 Q. Yes, but I am using the words you have used in that  
15 document and you have used the word "conditioning".

16 A. I have.

17 Q. You have used it in a similar sense --

18 MR BEER: I hesitate to interrupt. My friend is using --

19 THE CHAIRMAN: Sorry, I can't hear what you are saying,  
20 Mr Beer.

21 MR BEER: My friend has used the word "you" on a number of  
22 occasions, I think leading us to believe that this was  
23 his creation, ie one of the documents that he himself  
24 wrote.

25 THE CHAIRMAN: I follow that. It isn't his creation,

1 I know, but he has put his name to it. I understand  
2 that position.

3 MR BEER: I am grateful.

4 MR GARNHAM: If I didn't make that clear, Major,  
5 I apologise. This is a document you have adopted, isn't  
6 it? You have not written every word yourself.

7 A. It is referenced, yes.

8 Q. You are using the word "conditioning" in that paragraph  
9 in one particular sense, are you not, in a sense which  
10 you regard as legitimate?

11 A. Shock of capture.

12 Q. Yes, and then if you look at paragraph 9 -- if you go to  
13 the next page, please -- you say:

14 "Internees are not to be hooded during the TQ  
15 process ... however the Geneva Convention allows for  
16 internees to be blindfolded ... likewise internees are  
17 not to be held in stress positions."

18 Yes?

19 A. That's correct.

20 Q. So is it right that when you are using -- adopting --  
21 a document that uses the word "conditioning" in the  
22 first sense, you are not including stress positions as  
23 part of conditioning?

24 A. Well, stress positions are illegal, so that's correct.

25 Q. By comparison, if we go on four pages in that document

1 to MOD031244, in paragraph 6, you say:

2 "NO STRESS POSITIONS, CONDITIONING ... TO BE USED."

3 What I want to suggest to you, to see if this is

4 right, is that you -- or the authors of the document

5 which you adopt -- are being loose in the way they use

6 the word "conditioning".

7 A. They are being loose, sir, yes, I would agree with that.

8 Q. On the first occasions when they use it, they are

9 deliberately excluding things like stress positions, but

10 in another sense it can be used to include them. Is

11 that right?

12 A. Well, this document's not including them.

13 Q. No, this document is seeking to use the word excluding

14 that meaning, isn't it?

15 A. Yes, it doesn't condone stress positions, sir.

16 Q. Do you recall speaking to Major Burrbridge about

17 conditioning?

18 A. Major Burrbridge?

19 Q. Yes.

20 A. I don't know a Major Burrbridge.

21 Q. I am sorry, Burbridge.

22 A. Charlie Burbridge?

23 Q. Do you remember speaking to him about conditioning?

24 A. No.

25 Q. Do you remember you telling him that TQers were

1 conditioning detainees, but describing "conditioning" as  
2 holding prisoners for a period of time and not including  
3 any form of beating or assaulting?

4 A. No, I don't recall that discussion.

5 Q. In other words, I am suggesting that you said to  
6 Major Burbridge that prisoners were being conditioned in  
7 the innocent sense that it's used in these documents,  
8 rather than in the illegal sense.

9 A. I certainly don't recall the discussion, but I would say  
10 I wouldn't condone the illegal sense.

11 Q. Thank you. May we go back to MOD031237? At paragraph 4  
12 you deal with the need for a medical examination; yes?

13 A. Yes, that's from the draft SOI, sir.

14 Q. You have adopted again --

15 A. I have adopted again.

16 Q. -- a draft from elsewhere.

17 A. Agreed.

18 Q. And at 4, there, you say that the medical officer is to  
19 sign a fit for detention and questioning form.

20 A. Yes.

21 Q. Did you understand, when you drew up that document, that  
22 a medical officer was to sign a form that certified  
23 a man fit for questioning?

24 A. Yes. It was normal to have a medical examination before  
25 questioning, so --

1 Q. That's not quite my question. Did you understand that  
2 it was necessary for there to be a medical examination  
3 that the man was fit to be questioned?

4 A. Yes.

5 Q. What was the basis of that belief? Why did you think it  
6 was required that a medic provided a fit for questioning  
7 certificate?

8 A. Well, a lot of the time, from the detainee arriving into  
9 the TQ and holding facility, it is prudent of the  
10 battlegroup to log if that detainee has any injuries, so  
11 when the medical examination happens before they leave  
12 or they are at the TIF, that no other further injuries  
13 have been caused.

14 Q. That explains your understanding of why it would be  
15 prudent --

16 A. It would be prudent, sir, yes.

17 Q. That was not quite my question. Did you have any basis  
18 upon which you were asserting that it was required that  
19 there should be a fit for questioning examination?

20 A. No, sir --

21 Q. Thank you.

22 A. -- apart from this document here, that was coming  
23 towards me from division.

24 THE CHAIRMAN: Sorry, you mean, somebody else --

25 A. Well, this is somebody else's words suggesting the

1 medical examination. I agree with the medical  
2 examination because it's a prudent thing for them to do.

3 THE CHAIRMAN: I rather suspect that you did your best to  
4 translate wholesale what someone else had done; is that  
5 right?

6 A. That's correct, sir.

7 THE CHAIRMAN: Yes.

8 MR GARNHAM: You were taken by Mr Elias to your court  
9 martial evidence. I can show you it again if need be,  
10 but the essence of it was that you said during the court  
11 martial that you were taught to use double hoods on your  
12 training course.

13 A. If that's what I said, then yes, sir.

14 Q. Might it be right that you are mistaken about that and  
15 that hooding was not taught on that training course?

16 A. The use of sandbags for a blindfold was correct. It was  
17 taught on the course, sir.

18 Q. Do you remember Major Barber?

19 A. No, sir.

20 Q. Did you understand that qualification to carry out  
21 TQ'ing required, firstly, completion of the necessary  
22 course and, secondly, either experience or attendance on  
23 the conduct after capture course?

24 A. Yes.

25 Q. They were two separate requirements, each of which had

1 to be met, were they?

2 A. That was the direction that came down. My understanding  
3 at the beginning, when I started the tour, is that you  
4 should have undertaken the prisoner-handling tactical  
5 questioning course within the last two or three years.  
6 However, further direction came down for the practical  
7 experience as well.

8 MR GARNHAM: Thank you.

9 Yes, thank you very much, Sir.

10 THE CHAIRMAN: Ms Dobbin?

11 MS DOBBIN: No thank you, Sir.

12 THE CHAIRMAN: Mr Ashley?

13 Questions by MR ASHLEY

14 MR ASHLEY: Mr Radbourne, so far as 1 QLR is concerned, by  
15 September 2003 I think they had been in theatre for  
16 about three months; is that about right? I know you  
17 hadn't, but they had.

18 A. Yes, that's about right, sir.

19 Q. I think it's right that you considered them to be well  
20 attuned to their task as a guard force at that point in  
21 time?

22 A. They had done a lot of arrest operations and held a lot  
23 of prisoners by that time, I believe.

24 Q. I think at the court martial you said that they were  
25 professional from what you had seen of them.

1 A. They were fine from what I had seen, sir.

2 Q. I think you told us that, so far as briefing the guys  
3 was concerned, if you had advance notice of an operation  
4 and you were in from the start, you might be able to  
5 brief them, but if you were parachuted in, that wasn't  
6 the case.

7 A. I can't remember giving a prior briefing to QLR. I had  
8 given prior briefings to 40 Regiment, for example.

9 Q. QLR having been in theatre, as we say, for three months.

10 A. Yes, but I had briefed 40 Regiment when I had been  
11 invited in earlier in the process.

12 Q. Indeed. Now, so far as sandbags are concerned, I think  
13 you have already answered questions in relation to that.  
14 But one of the purposes of the temporary detention  
15 centre was to ensure isolation of the detainees, is that  
16 right?

17 A. That's correct.

18 Q. Is it right that, despite best efforts, there were  
19 occasions when isolation was not achieved?

20 A. Through number of prisoners I would imagine quite  
21 a small facility would become overcrowded.

22 Q. Do you recall Operation Border and the report you wrote  
23 in relation to that?

24 A. Yes, I have seen the report I have written.

25 Q. Is it right that in the report you said that extracting

1 information was made difficult due to the time the  
2 detainees had spent together before questioning?

3 A. Yes.

4 Q. So there was a real difficulty with numbers or a large  
5 number of detainees in an inappropriate -- in terms of  
6 not being able to be held separately at the detention  
7 facility?

8 A. Due to lack of space in the old Baath headquarters  
9 there, it was quite tight, yes.

10 Q. Just so far as hooding is concerned, I think you said  
11 that hoods are allowed for certain reasons. You have  
12 given one reason, which was operational security.

13 A. Yes.

14 Q. If the position is that you can't achieve isolation  
15 because of, let's say, the number of people that are  
16 being held in a detention facility -- I think before --  
17 let me just say one other thing -- I think you have also  
18 told us that hooding for a number of hours might be  
19 acceptable, but certainly not for days, I think, was the  
20 way you put it.

21 A. Well, if operational security was at risk, I would keep  
22 the prisoner blindfolded.

23 Q. So if there's a good reason -- and you have cited  
24 operational security -- then a blindfold/hood is  
25 acceptable?

1 A. Yes.

2 Q. And if isolation cannot be achieved because of the  
3 facilities available or the number of detainees that are  
4 in situ, would hoods be deemed acceptable in your view  
5 for a short period of time in that situation?

6 A. No, not inside a detention facility.

7 Q. What is the difference? If it is acceptable for  
8 a number of hours for operational security, why is it  
9 not, in your view -- just so we understand it --  
10 acceptable for another valid reason for a limited period  
11 of time?

12 A. Because it is not operational security. It's the  
13 effectiveness of the questioning process and that can't  
14 be compromised.

15 Q. So far as your course is concerned, you were never  
16 specifically instructed that you could not hood in  
17 a detention facility, were you?

18 A. I can't remember, but I know from standard practice you  
19 should not hood in a detention facility.

20 Q. So far as TQ'ing is concerned, is it right that  
21 a detainee could be TQ'd on more than one occasion, in  
22 fact two occasions would be accepted?

23 A. Two occasions would be quite acceptable because you  
24 would have to cross-reference information you may have  
25 gleaned from other detainees or check on details that

1           you have gleaned from a previous questioning period.

2    Q.   Just so we are clear about it, you did indeed TQ in the  
3           presence of Staff Davies, didn't you?  I think you say  
4           as much in your statement --

5    A.   I think I have on one operation, yes.

6    Q.   So far as your experience of him is concerned, you  
7           didn't ever see him imposing stress positions, did you?

8    A.   Certainly not, no.

9    Q.   You didn't see him using white noise --

10   A.   No.

11   Q.   -- or doing anything else that would breach, as it were,  
12           the teaching that you had had in relation to tactical  
13           questioning?

14   A.   Certainly he was a good professional operator.

15   Q.   Just dealing very briefly, if I may, with the methods of  
16           tactical questioning.  So far as they are concerned, in  
17           terms of what you might do physically, you couldn't  
18           assault or touch a detainee; is that correct?

19   THE CHAIRMAN:  He has said that several times now.

20   A.   No.

21   MR ASHLEY:  How aggressive could you be without actually  
22           touching; in other words, how close to the line could  
23           you go?

24   A.   Well, I -- coming into close proximity and shout and  
25           raise my voice.

1 Q. We have seen a training video where chairs, for  
2 instance, are thrown around in a TQ training session.  
3 Did you see that training video when you were on your  
4 course --

5 A. I didn't, no, not to my memory.

6 Q. You didn't. So far as what you could say to a detainee,  
7 there was no difficulty in pointing out the factual  
8 situation that a detainee found themselves in, was  
9 there?

10 A. Sorry, could you just ...

11 Q. If he didn't answer questions, he might be sent on to  
12 the TIF. That could be pointed out to him because it's  
13 not a threat --

14 A. It's not a threat. It's a realistic action.

15 Q. Indeed. So you could point out the factual situation to  
16 a detainee in an attempt to influence him to give you an  
17 answer?

18 A. Yes, I could say I would forward him on to the TIF. It  
19 would be quite logical. But that's not a threat. It's  
20 a perfectly laudable thing to carry out.

21 THE CHAIRMAN: Well, "laudable" is debatable perhaps, but  
22 I hear what you say.

23 A. Okay, Sir. Understood.

24 MR ASHLEY: Thank you very much.

25 THE CHAIRMAN: Thank you.

1 Mr Beer?

2 Questions by MR BEER

3 MR BEER: Just three topics, Major Radbourne, if I may.

4 Firstly, you said you questioned tactically about  
5 20 people in the course of your two-and-a-half-month  
6 tour.

7 A. About that.

8 Q. And that some of them were from 1 QLR operations.

9 A. Yes.

10 Q. How many, roughly, were from 1 QLR operations and how  
11 many were from non 1 QLR operations?

12 A. 50/50, possibly.

13 Q. So about ten from 1 QLR operations?

14 A. About that, I would say, sir.

15 Q. And on how many occasions was that? Were there ten  
16 occasions --

17 A. No, no --

18 Q. -- ten operations or were there groups of people --

19 A. I believe I have questioned at QLR three or possibly  
20 four times.

21 Q. So perhaps a couple of people on each occasion?

22 A. Usually.

23 Q. Did you question QLR people at locations other than  
24 BG Main or was it always BG Main?

25 A. Always BG Main.

1 Q. In relation to the non-QLR people, was that at locations  
2 other than BG Main?

3 A. I've -- with 40 Regiment I have questioned at company  
4 patrol base and at their regimental headquarters main.

5 Q. Can we turn to the second point, please, namely looking  
6 at part of Corporal Payne's statement that you have been  
7 shown already.

8 It's BMI01729. You were shown this extract from his  
9 statement. Can we highlight the first paragraph,  
10 please? In the fourth line he says:

11 "At about the same time [that's as Major Royce's  
12 movement of the TDF from the sangar to the single-storey  
13 building] we learnt of the creation of the post of BGIRO  
14 which had come down from division and that Major Royce  
15 was appointed. I remember an occasion at about this  
16 time a TQer, the first one I mentioned ..."

17 And then he goes on to describe what the TQer says;  
18 yes?

19 A. Yes.

20 Q. You said that that person wasn't you?

21 A. No, no.

22 Q. Just to remember the timeline here, were you in theatre  
23 when the post of BGIRO was created?

24 A. It was already created before I was in theatre.

25 Q. I think we know that at least formally from 9 July

1           onwards.

2    A.   A good month before I was in theatre.

3    Q.   And you arrived on 13 August; is that right?

4    A.   That's correct, yes.

5    Q.   So for that reason you would say this person is not you?

6    A.   Yes.

7    Q.   Thirdly, finally, I want to look in some detail, if

8           I may, at your staff work.  Can we look at MOD030853?

9           You have been taken to this a number of times.  I just

10          want to attempt to get the position entirely clear.

11          This is a two-page document which you sent out on the

12          27 September 2003; is that right?

13   A.   That is correct.

14   Q.   Looking at the first page there, there were four

15          references, A to D; is that right?

16   A.   That's correct.

17   Q.   The references were not enclosed.  They are things that

18          people should go away and look at?

19   A.   Yes, but ...

20   Q.   Yes?

21   A.   Yes, that's true.

22   Q.   Then if you look --

23   A.   390 -- part of 390 is enclosed in that --

24   Q.   Part of 390 happens to be enclosed.  We will look at

25          that in a moment.

1 A. Okay.

2 Q. Can you look at paragraph 2, please?

3 A. Yes.

4 Q. Can you see that, within there, there is a reference to  
5 annexes A, B, C and D?

6 A. Yes.

7 Q. So there were four annexes as well that also happened to  
8 be A, B, C and D. So the same number of references as  
9 the same number of annexes.

10 A. Yes.

11 Q. And the annexes were the things that physically  
12 accompanied the documents?

13 A. Yes.

14 Q. I want to look, please, at each of the annexes to see  
15 which were your documents and which were created by  
16 a higher formation and you were passing on. Can we go  
17 to the second page of document at MOD030854, please?  
18 That is where you sign it off. Then the third page of  
19 document, MOD030855, this is annex A; yes?

20 A. Correct.

21 Q. This is part of SOI 390?

22 A. That's correct.

23 Q. We can look at it at our leisure if we are interested,  
24 but I think it's right that you made no changes  
25 whatsoever to annex A?

1 A. No, that is the draft.

2 Q. When you say that it's the draft --

3 A. It's the draft from SOI 390.

4 Q. And you made no changes to it whatsoever?

5 A. No.

6 Q. Whilst we are on it, to save going back, look at  
7 paragraph 4(a) please. This relates to one of the  
8 questions that Mr Garnham raised. He asked you where  
9 you got it from that a medical officer had to sign for,  
10 amongst other things, a detainee being fit for  
11 questioning. Did you create that requirement or was it  
12 from a higher formation?

13 A. That was from the higher formation.

14 THE CHAIRMAN: I think that must follow from the earlier  
15 question that you asked him.

16 MR BEER: Yes. It was specifically from something  
17 Mr Garnham asked.

18 Over the page, at MOD030856 and MOD030857, the rest  
19 of that document; yes?

20 A. Yes.

21 Q. That's the first one out of the way. The second one,  
22 annex B, please, the timeline. Did that come from  
23 elsewhere?

24 A. That has come from elsewhere. That's G3.

25 Q. Did you make any changes whatsoever to it?

1 A. None at all.

2 THE CHAIRMAN: G3 division?

3 A. It was adopted by G3 brigade. I don't know if they have  
4 lifted it direct from division, so I couldn't comment.

5 THE CHAIRMAN: It came from G3 brigade anyway.

6 A. Yes, Charlie Burbridge would be able to ascertain  
7 exactly where it came from.

8 MR BEER: Skip over to MOD030859, the second page of that  
9 document, and then to annex C, please. Thank you.

10 This document lasts for about four or five pages.  
11 Did you create this document?

12 A. No, that is lifted from the intelligence up at division.

13 Q. Did you make any changes whatsoever to that?

14 A. I didn't, no.

15 THE CHAIRMAN: Sorry, Mr Beer, but I may have got something  
16 wrong.

17 You said that consists of three pages, did you?

18 MR BEER: No, it is four pages, sir.

19 THE CHAIRMAN: MOD030862, I thought at paragraph 6 you told  
20 Mr Elias that you had put in --

21 MR BEER: That's exactly what I am going to deal with, Sir.

22 THE CHAIRMAN: All right. Go ahead.

23 MR BEER: Can we look to see exactly what annex C consists  
24 of please? Do you see at the bottom of MOD030860 the  
25 "C1", yes?

1 A. Yes.

2 Q. Then if we flip to the next page, please, "C2", at the  
3 bottom?

4 A. Correct.

5 Q. And at the bottom of the next page, "C3"?

6 A. Yes.

7 Q. And then the bottom of next page, "C4"?

8 A. That's correct.

9 Q. Are they the four pages that annex C consists of?

10 A. Yes.

11 Q. We can look at the other annexes and see that they  
12 consist of "D1" or "A1" or "A5".

13 A. That is correct.

14 Q. In respect of those four pages, C1 to C4, did you make  
15 any changes to them?

16 A. No.

17 Q. You said earlier, when you were being asked questions by  
18 Mr Elias, he put to you that you capitalised -- put into  
19 capitals -- the capital words in paragraph 6.

20 A. That is, sir, a document from division. No changes.

21 Q. You made no changes to it?

22 A. That is correct.

23 Q. Then lastly in relation to the four annexes, can we look  
24 at annex D, please, at MOD030864? Thank you very much.  
25 Now, unlike the rest of the three annexes, is this

1 a document that you wrote?

2 A. I have created. I have lifted certain sections from  
3 other documents like SOI 390 draft, but that's one page  
4 that I have created so a soldier could look at a simple  
5 side of A4 that he would actually read.

6 Q. So out of the four annexes, this one is your own work --

7 A. It's my own work.

8 Q. -- based on reading other materials?

9 A. Correct, and the other three should have been down as  
10 attachments. That's my shoddy staff work.

11 Q. You said, in answer to an earlier question, that you put  
12 a feeler out earlier than your minute of 27 September  
13 2003.

14 A. 25 September, sir.

15 Q. Yes, exactly. So can we have up on the screen, please,  
16 two documents at the same time, MOD030853 on the left,  
17 and MOD049436, please? Is the document on the  
18 right-hand side the feeler document, as you described  
19 it, that you put out on 25 September?

20 A. Yes.

21 Q. I don't think we have been shown this yet. Firstly,  
22 would you confirm that that's your document, addressed  
23 to the chief of staff -- COS --

24 A. Yes.

25 Q. Who was that?

1 A. Ed Fenton, now Lieutenant Colonel Ed Fenton.

2 Q. And as we have been calling them the BGIROs; is that  
3 right?

4 A. That's the intelligence officers.

5 Q. Intelligence officers?

6 A. It's intelligence officer, but he would work extremely  
7 closely with the BGIRO anyway.

8 Q. Thank you for correcting me. Do you see in the first  
9 paragraph it says "The aim of PHTQ" -- and goes right up  
10 to "separate entities"; yes?

11 A. Yes.

12 Q. And compare that to paragraph 1 of the left hand  
13 document, yes?

14 A. Yes.

15 Q. It's exactly the same?

16 A. It is.

17 Q. And then "Conduct", under paragraph 2, is broadly the  
18 same but there are some additional parts to it. I just  
19 want to examine those.

20 In the document on the right-hand side, the first  
21 line is the same in paragraph 2 as the document on the  
22 left-hand side. Yes?

23 A. Correct.

24 Q. Then the addition, in paragraph 2, on the left-hand  
25 side, is "19 Brigade have fully endorsed MND ... SOI 390

1           and full direction is enclosed at Annex A"?

2    A.   That is correct.

3    Q.   Does that mean that between 25 and 27 September the

4           issue of MND SOI 390 had been firmed up?

5    A.   It had certainly been firmed up, yes.

6    THE CHAIRMAN:   What does "firmed up" mean?

7    A.   I would say it had been sort of confirmed that it was

8           probably going to go forward to policy, sir.

9    THE CHAIRMAN:   All right.

10   MR BEER:   Last set of questions, then, please.  In your

11           feeler document, put out to the chief of staff and

12           battlegroup intelligence officers on the right-hand

13           side, there was one annex, wasn't there: annex A,

14           "Prisoner Handling -- A Battle Group Guide".

15   A.   Yes.

16   Q.   Can we flip forward please, the document on the

17           right-hand side.  That's the annex to your document of

18           the 25th?

19   A.   Yes.

20   Q.   Can we have alongside that, please, MOD030864.  So the

21           two documents I would like alongside each other, please,

22           is that one and MOD049437.  Thank you very much.

23           Document on the left is your Annex D, issued on

24           27 September; the only document you wrote, yes?

25   A.   Yes.

1 Q. And the document on the right-hand side is your Annex A,  
2 25 September 2003; yes?

3 A. Yes.

4 Q. They are identical, do you see?

5 A. Yes.

6 Q. When you issued the feeler document on the right-hand  
7 side, on 25 September, did you receive any feedback in  
8 respect of it that you should not issue it or that it  
9 should be changed?

10 A. No, everyone was happy with that.

11 Q. Is that why you issued it on 27 September as your  
12 Annex D?

13 A. Yes.

14 MR BEER: Thank you very much.

15 MR ELIAS: I am not going to go back into the comparison of  
16 documents, because that's a matter that can be done  
17 perhaps without questions.

18 THE CHAIRMAN: No.

19 Further questions by MR ELIAS

20 MR ELIAS: May I just take you, Major, back to your Annex D  
21 of your document: the document that you did yourself  
22 write.

23 A. Okay.

24 Q. Thank you very much. Just to ask you one question in  
25 the light of questions that Mr Garnham was asking you.

1           You have told the Inquiry that the term -- I think  
2           you said this a number of times -- that the use of the  
3           word "conditioning" has a negative import as far as you  
4           are concerned?

5   A.   Yes.

6   Q.   Mr Garnham was asking you about innocent uses of the  
7           term "conditioning"; do you recall?

8   A.   He was, yes.

9   Q.   If we look at paragraph 5 -- I have asked you about it  
10          before but I just want to be clear about it -- that last  
11          sentence, I am going to suggest, doesn't come from any  
12          other document in these terms anyway --

13   A.   Not in those terms, sir, that is correct.

14   Q.   No.   But I just want to know what it is that you mean in  
15          the light of negative import or some innocent  
16          explanation:

17                 "... they must not be allowed to relax or lie down  
18                 to continue the shock of capture and conditioning  
19                 process."

20                 What was the "conditioning process" that you had in  
21                 mind when you wrote that?

22   A.   It was keeping the process swift and quick: getting them  
23          from the point of arrest to the point of questioning as  
24          quickly as possible to maintain the shock --

25   Q.   Forgive me, Major, this is in relation to a sentence

1           that says -- look at the first few words if you will --  
2           "they must not be allowed to relax or lie down".

3           Nothing to do with transport from the point of  
4           capture or anything of the kind. "They must not be  
5           allowed to relax or lie down"; purpose: "to continue the  
6           shock of capture and conditioning process".

7           A simple question, I hope: what did "conditioning  
8           process" involve in that context?

9    A. Just holding the prisoners as swiftly as possible and  
10   getting them into questioning, sir.

11   MR ELIAS: I shan't pursue it further.

12   THE CHAIRMAN: No, all right. Please do not take that off.

13    Questions by THE CHAIRMAN

14   THE CHAIRMAN: So that I am not confused by the innumerable  
15           times we have looked at this document, do I understand  
16           that that sentence "However, they must not be allowed  
17           ..." et cetera, was something that you wrote in  
18           yourself?

19           That's not culled from anywhere else, or am I wrong  
20           about that?

21   A. I don't know, Sir.

22   THE CHAIRMAN: You did originally say to Mr Elias that those  
23           were your words.

24   A. They probably are, Sir. I can't remember -- well,  
25           I remember writing the document but I can't remember the

1           specifics of that line, Sir.

2   THE CHAIRMAN: All right. Well, there we are.

3           One other question: did you as a TQer, together with

4           Staff Sergeant Davies, who I understand you talked to

5           quite a lot about TQ'ing; is that right?

6   A. A reasonable amount, Sir, yes.

7   THE CHAIRMAN: Did other TQers talk about the way in which

8           they carried out their work?

9   A. I didn't really discuss with them because I didn't meet

10          many of them. Staff Davies is the one I --

11   THE CHAIRMAN: Mr Porter was in the area of your -- was he

12          not?

13   A. Porter?

14   THE CHAIRMAN: Yes.

15   A. Which regiment was he from, Sir?

16   THE CHAIRMAN: I thought he was attached -- do I have that

17          wrong?

18          No, he wasn't, you are quite right. He wasn't with

19          you. Did you ever meet him?

20   A. Not to my knowledge, Sir.

21   THE CHAIRMAN: So you won't remember if you spoke to him?

22   A. I don't remember, Sir, no.

23   THE CHAIRMAN: All right, thank you.

24          That is all the questions you are going to be asked

25          by the Inquiry. Thank you very much for coming. You



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