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Wednesday, 5 May 2010

(10.00 am)

Opening remarks

THE CHAIRMAN: Good morning, ladies and gentlemen.

MR ELIAS: Good morning, Sir. May I indicate, and

I apologise if I have held up the hearing for a moment or two, but I was in fact speaking to the witness who is currently on screen, S001. S001, self-evidently, is the subject of a restriction order in the usual terms as to publication of identity and so on. Obviously he is giving evidence by way of videolink from -- I am not going to mention the place, but from very far away.

Sir, there are some problems with the videolink at the witness's end. I think we should be able to see and hear her, but she will only be able to hear us and I think after a small delay. So there will be some time delay to-ing and fro-ing. But subject to that, I think the witness is now ready to give evidence.

THE CHAIRMAN: Well, I had better just introduce myself.

I am the chairman, S001. I understand that you can hear me but you can't see me, is that correct.

A. Yes, Sir, that's correct.

THE CHAIRMAN: I understand the fact that you can't see those people who are going to be questioning you -- but if not ideal, you are content we continue on that basis.

1 Am I right about that?

2 A. That's correct, Sir.

3 THE CHAIRMAN: Thank you very much. What I am now going to
4 do is ask that you be sworn to give evidence. Would you
5 be kind enough, please, to stand up?

6 Thank you. Now, if you could listen to the oath
7 that will be read to you and repeat it in the terms that
8 it read to you.

9 S001 (affirmed)

10 THE CHAIRMAN: Thank you very much, madam. Would you be
11 kind enough to sit down and make yourself as comfortable
12 as possible.

13 Yes, Mr Elias.

14 Questions by MR ELIAS

15 MR ELIAS: S001, as you know, we shall refer to you by that
16 cipher throughout your evidence and you are aware,
17 I know, that there are others who have ciphers whose
18 names are not to be used and I ask you to bear that in
19 mind, please, with all the answers that you give.

20 A. Yes.

21 Q. Thank you. You made a statement to this Inquiry, we
22 have it at our BMI05281, and I think you have a hard
23 copy. Is it correct that you signed that statement on
24 12 October of last year?

25 A. Yes, that's correct.

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

4 A. Yes, that's correct.

5 Q. May I also at this stage just check these facts too.
6 The Inquiry knows -- and we shall look at it in due
7 course -- that in July of 2005 you made a statement to
8 the SIB, correct?

9 A. Yes, that's correct.

10 Q. When you made that statement, were you endeavouring to
11 be accurate and tell the truth as far as you could?

12 A. Yes.

13 Q. The Inquiry also knows that on 18 December 2006, you
14 gave evidence to the court martial; again, were you
15 seeking to tell the truth when you gave evidence on that
16 occasion?

17 A. Yes.

18 Q. Thank you very much.

19 Well, now, I want to ask you please about your role
20 as the officer commanding 3 Training Company of the
21 JSIO, a position that I think you tell us in your
22 statement you held from 29 July 2002 until 26 April
23 2004. Those dates in your statement are correct, are
24 they?

25 A. Yes, they are.

1 Q. Thank you. If you would have a look with me, please, at
2 paragraph 2 -- if we have that on the screen at
3 BMI05267.

4 If we go over the page, to 2(c), you tell us that
5 part of your role as officer commanding
6 3 Training Company was to apply the systems approach to
7 training to all courses conducted by 3 Training Company.
8 What in a nutshell did applying the system's approach to
9 training involve?

10 A. It involved myself and whatever branch OC a course was
11 being looked at would sit with members of the training
12 development team from DISC to go through each course and
13 ensure that it was structured appropriately with
14 training objectives and enabling objectives.

15 Q. So you had a responsibility, did you, for course
16 content?

17 A. Course content, yes.

18 Q. Going on in paragraph 2 to (e), please, perhaps we
19 should just note in passing (d), you had a role in
20 ensuring maintenance of training standards, is that
21 correct?

22 A. Yes, that's correct.

23 Q. At (e):

24 "To advise [officers commanding] of training
25 branches below me on all matters of policy and

1 doctrine."

2 A. Yes, that's correct.

3 Q. What did that involve rather more specifically? What
4 advice would you give on policy and doctrine?

5 A. If my commanding officer received any new policy
6 documents from outwith JSIO, he would pass those to his
7 four company commanders. I would then decide which of
8 those policy documents to forward to my branch OCs which
9 may have HUMINT-related topics or may not have, but
10 basically it was a passage of information.

11 Q. If it were decided, for example, by you and/or your OCs,
12 that there were some defect in the doctrine in the sense
13 of there not being an appropriate directive or manual,
14 that would be part of your responsibility to rectify,
15 would it?

16 A. Yes. If a branch OC came to me with an issue like that,
17 I would then probably write a letter to my CO who then
18 would deal with the relevant policy authorities.

19 Q. But it would have been a matter, as it were, for you to
20 take up, if such a defect were discovered?

21 A. Absolutely, yes.

22 Q. Thank you. Now, you tell us at paragraph 5 -- and I am
23 putting this up on the screen only because it is in the
24 circumstances perhaps easier for everyone else to
25 follow -- paragraph 5 of your statement, S001, you were

1 yourself deployed on Op Telic 1 from February to June
2 2003.

3 A. Yes, that's correct.

4 Q. You set out in your statement in the succeeding
5 paragraphs the part that you played in relation to
6 Op Telic 1, but I don't propose to ask you anything
7 about that save this. When you were in Iraq, did you
8 yourself witness or did you become aware that prisoners
9 were being hooded?

10 A. No, I did not.

11 Q. So I want to ask you just a little more, please, about
12 your role as the OC in relation to training. You follow
13 that?

14 A. Yes.

15 Q. Can you we look, please, at paragraph 12 of your
16 statement, BMI05271, in which you say this:

17 "I should say at the outset that I have only
18 superficial knowledge of interrogation, tactical
19 questioning and prisoner handling and would be the wrong
20 person to ask about these matters. Accordingly, as
21 regards many of the questions asked of me in the [rule 9
22 request]... subject matter experts in respect of each
23 topic would obviously be in a better position to provide
24 the detailed information."

25 You suggest that they would be the branch OCs and

1 their instructors. You go on to say this:

2 "My limited awareness of the content of the teaching
3 material of the courses comes from the following:

4 (a) I occasionally sat in the back of classrooms
5 observing the instructors while they gave lessons, to
6 enable me to... write performance reports..."

7 That's correct, is it?

8 A. Yes, that's correct.

9 Q. "(b) As OC [3 Training Company] I was involved (amongst
10 many other things) in arranging the review of the
11 training material used on courses to ensure that it was
12 in accordance with the systems approach to training...
13 This review involved scrutinising the lesson plans used
14 on each of the courses. However this detailed review
15 was undertaken primarily by the subject matter
16 experts..."

17 So, do I understand it correctly, you suggest there
18 that your knowledge of the course content, as you put it
19 at the foot of the main body of paragraph 12, was very
20 limited?

21 A. I was aware of the topics that were being taught in
22 terms of broad brush, but I wasn't aware of the exact
23 detail on each topic.

24 Q. Can we have a look, then, please, in the light of that.
25 Would you like to turn up your statement made on 7 July

1 2005. We find it at MOD000299. Do you have that page?

2 A. Yes, I have that.

3 Q. We can see in the second paragraph you indicate:

4 "Between 28 July... and 23 April 2004, I was
5 employed as the officer commanding,
6 3 Training Company..."

7 Then, the next two paragraphs:

8 "As OC, 3 Training Company, I was responsible for
9 selection and loading of all courses..."

10 What does "loading of all courses" mean?

11 A. Preparing the nominal roles for each course.

12 Q. As to who would attend or who would give them?

13 A. Yes -- no, as a student would apply to my headquarters,
14 my company headquarters to apply to do a course; myself
15 and my courses clerk would go through the application to
16 make sure the student who is applying had the correct
17 criteria. And then if they had the correct criteria we
18 would load them on to a course.

19 Q. I understand. So:

20 "... I was responsible for the selection and loading
21 of all courses run by my department, the supervision of
22 training staff and the general administration of
23 personnel under my command."

24 Who would presumably include the instructors.

25 A. Yes.

1 Q. You go to say, in 2005:

2 "I am fully conversant with the contents of all
3 courses run by 3 Training Company, JSIO, during July
4 2002 [to] April 2004. I have also been employed as the
5 OC field HUMINT team in Iraq..."

6 As you tell us, between April and June of 2003.

7 But "I am fully conversant with the contents of all
8 courses run by 3 Training Company" is what you were
9 saying in July of 2005. Was that accurate?

10 A. Yes. Well, the reason I am conversant with the content
11 and not the detail is because I was frequently asked to
12 give presentations on what 3 Training Company was. So
13 I had bullet points on each branch and what they did.
14 So that is why I was familiar with the content of each
15 branch.

16 Q. You told the court martial, if we could look at your
17 court martial evidence for a moment, please, Day 61,
18 page 51 of that day. If we start at line 16:

19 "My main function was the administrative and the
20 support to ensuring the correct people were selected to
21 attend the numbers -- the numerous different courses we
22 actually ran within OC 3 Training Company."

23 Then:

24 "Question: Would it be right to say that you were
25 fully conversant with the contents of all those courses?"

1 "Answer: I would say -- yes, I would say probably
2 about 95 per cent of all the courses I was fully
3 conversant with."

4 That means, does it, that you --

5 A. Yes, and I refer again -- sorry, go ahead.

6 Q. My fault. I just wanted to know whether being "fully
7 conversant with" meant that you knew the content of all
8 courses.

9 A. I knew what the course breakdown and the course
10 programme was, which was normally laid out on a weekly
11 basis, so from the headings that each of the lectures
12 that were going to be given, I was familiar with those.
13 But in terms of the detail, as I have never actually
14 been trained in a lot of the courses, then I don't know
15 the actual detail of what the instructors teach.

16 Q. You say, do you, that it wasn't your job to know that?

17 A. Well, if I ended up having to know exactly what every
18 single instructor taught, then I would be sat doing
19 courses all the time and not actually managing the
20 company.

21 Q. Can we have a look then, please, at the in camera court
22 martial transcript? Again, Day 61 and the in
23 camera sections, at page 7?

24 A. Yes.

25 Q. Page 7, let's begin at line 24, please. Perhaps we

1 should start at 20 with the question:

2 "Question: So when you say you are fully conversant
3 with the contents of all courses run by
4 3 Training Company, what does that mean in real life?

5 "Answer: That means in a managerial role in terms of
6 looking at each course specifically broken down into its
7 training objectives. One of my roles was to ensure that
8 I had done that for each and every course."

9 So for every course you had to break it down --

10 A. Yes --

11 Q. -- into training objectives, correct?

12 A. Yes, that is correct. But what I must point out is when
13 I arrived at the company, this rolling review of courses
14 under the SAT process had already been started and
15 therefore I was just continuing on work which had
16 already been started by my predecessor and I don't
17 recall which course had been done and which hadn't, so,
18 yes, it was a review but I am not sure where we were
19 with all of the courses.

20 Q. At page 8 of the same transcript, at line 9, you were
21 asked this question:

22 "So you had a good knowledge of the course?

23 "Answer: Yes, a good knowledge of each of the
24 courses, and I have done a couple of the courses myself
25 but not all of them."

1 A. Yes, that's correct.

2 Q. If you just drop back please to page 6 of the in camera
3 transcript, you were telling the court martial at line
4 19 that there were probably about eight specific courses
5 going on intermittently throughout the year for which
6 you had responsibility, is that correct?

7 A. From within F Branch, yes, but there were more in the
8 other branches.

9 Q. But it was eight F branch courses dealing or focusing
10 upon prisoner handling, tactical questioning and
11 interrogation, would that be right?

12 A. And I think also defence contact handling.

13 Q. Thank you.

14 I want to ask you, please, about your understanding
15 of hooding. Can we look at paragraph 17 of your
16 statement to this Inquiry again, BMI05273. You begin
17 the paragraph, S001, by saying:

18 "I am not aware to what extent hooding took place
19 during Op Telic 1."

20 But it does remain the case --

21 A. Correct.

22 Q. -- does it, that having said that, you yourself did not
23 either witness it, neither were you aware of it if it
24 took place at all?

25 A. Yes.

1 Q. But you go on to say in paragraph 17:

2 "... on the training courses I observed during my
3 two year tenure [between 2002 and 004, therefore]... it
4 was made clear that vision should only be obscured for
5 operational security reasons."

6 You go to say:

7 "On a few occasions, I observed sandbags or goggles
8 being used to obscure the vision of character players on
9 courses, when it was being demonstrated how to move
10 a prisoner from a holding area to the questioning room
11 through a sensitive area."

12 So certainly you would have seen used and
13 demonstrated sandbags for hooding at Chicksands in 2002
14 and 2003, would that be right?

15 A. Yes. Hooding for the purposes of restriction of vision.

16 Q. For security reasons?

17 A. For operational security reasons only, yes.

18 Q. You go on to say, in this paragraph:

19 "I recall that at some point during 2003, after
20 I had returned from Iraq, we were directed by the chain
21 of command to use only goggles."

22 You say at the end of --

23 A. Yes, that's correct.

24 Q. Thank you. You say at the end of that paragraph:

25 "I do not remember whether any explanation was given

1 for the change."

2 A. Yes.

3 Q. May I ask you this: when you were given that instruction
4 that only goggles were to be used, that means, does it,
5 you were told that hoods were not to be used?

6 A. No. I think we were told that the practice of using
7 sandbags rolled up to the bridge of the nose to obscure
8 vision was not to be used.

9 Q. Forgive me, does that mean that you were told that
10 sandbags were not to be used at all?

11 A. I believe so, yes.

12 Q. When you were told that, you tell us in the statement
13 that you can't remember whether any explanation was
14 given. Did you ask for any explanation as to why there
15 would be this change of policy, as it were?

16 A. No. But I think it was probably quite clear that after
17 September 2003, after the events that occurred in Iraq,
18 it is probably quite clear that that was the main reason
19 for the change.

20 Q. So from that answer it follows you became aware, did
21 you, of what, as you put it, had gone on in Iraq in
22 September?

23 A. Yes.

24 Q. The death of Baha Mousa?

25 A. Yes.

1 Q. Did you understand that that had anything to do with the
2 use of a hood or hoods?

3 A. No. I didn't. But I assumed that it must have had
4 something to do with it.

5 Q. In paragraph 19 of your statement, you reiterate the
6 fact that from general awareness and discussion you
7 believe it was taught that sight deprivation was only
8 allowed for operational security reasons.

9 A. Yes.

10 Q. You go on to say, at the foot of paragraph 19:

11 "I do know therefore that those attending the
12 training sessions were taught that sight deprivation is
13 not to be used as a means of sensory deprivation to aid
14 TQ or interrogation."

15 A. Yes.

16 Q. When you say you know that, you remember it, do you?

17 A. Well, I believe I had discussions with various members
18 of the company and that was made clear to me.

19 Q. If we look at your statement from July 2005, please, at
20 MOD000299, and the last paragraph at the foot of the
21 page, you say this:

22 "Having been asked, with regards to hooding, this is
23 highlighted on the PH&TQ course. Students on the course
24 are informed that hooding should not be used for sensory
25 deprivation reasons, however, prisoners may be hooded

1 for operational security reasons, but only for short
2 durations and should be properly controlled, for
3 example, periodic checks on prisoners to ensure that the
4 hoods are not causing discomfort."

5 Do you recall that being taught on any course, that
6 hoods may be used only for short durations and that the
7 wearers should be checked from time to time?

8 A. No. This is my fault, because I have described this
9 wrong. What I should have said was that prisoners may
10 have sandbags over their eyes up to the bridge of their
11 nose to obscure their vision. But clearly I didn't say
12 that. I said the word "hood", but I didn't say the word
13 "hood" with the full plan of the use of the hood which
14 is the full face covering. It was purely for the vision
15 restriction.

16 Q. So what are you telling us was taught on the course that
17 you were aware of?

18 A. That restriction of vision for operational security
19 reasons could be used and preferably with goggles, but
20 if you didn't have goggles, then you had to improvise
21 and a rolled-up sandbag was suitable.

22 Q. Again, self-evidently -- I was going to come to it
23 a little later but let's deal with it now -- in this
24 statement in 2005 you don't refer to goggles or to
25 blindfolds, but you only refer to hoods, don't you?

1 A. Yes.

2 Q. There's no reference to rolled-up hoods or hoods rolled
3 up above the nose, is there?

4 A. No, there's not.

5 Q. How does that come about, S001?

6 A. Well, I think my own personal definition of what is
7 a hood, I -- when I was referring to a hood, it wasn't
8 a complete over the face, absolute blocking everything.
9 All I had seen in 2005 was a rolled-up sandbag used to
10 obscure the eyesight as a blindfold. That's what
11 I referred to as a hood. That was incorrect of me and
12 I shouldn't have referred to it as a hood.

13 Q. So you had seen a rolled-up sandbag used as a blindfold?

14 A. Yes.

15 Q. Do you mean put over the head but rolled up from the
16 bottom, as it were, in some way?

17 A. Yes. So that it would sit on the bridge of the nose.

18 Q. Are you telling the Inquiry now that that is what you
19 saw when you observed sandbags used in training?

20 A. Yes.

21 Q. Why doesn't any of this appear in the statement of July
22 2005?

23 A. Because at that time I wasn't going -- I didn't think
24 the detail was that important. But clearly it is.

25 Q. Can we have a look then, please, at what it was that you

1 said in the court martial evidence about this. Can we
2 look at Day 61, page 52, please, to line 14. You were
3 asked the specific question at line 14, weren't you:

4 "Question: First of all, hooding: what is taught on
5 the PH and TQ course about hooding?

6 Your answer:

7 "Answer: What is taught is that hooding is not
8 a preferred option to use, however hooding can be used
9 in certain circumstances primarily for operational
10 security reasons, i.e. if an individual, a detainee or
11 prisoner, is not able to be -- if you do not want that
12 individual to see certain elements of camp or
13 a barracks, or if the individual does not necessarily
14 want his fellow detainees to see him being taken out to
15 give evidence or to give information to the British
16 forces. Then they are the reasons why hooding would be
17 used.

18 "Question: For operational --

19 "Answer: Operational security, primarily, yes."

20 You went on to say, on page 53:

21 "Answer: Well hooding is not a particularly nice
22 terminology. It is really -- it is obscuring the vision
23 of the individual. So if you have something nice like
24 goggles you might use for ski-ing and you can black them
25 out, but obviously when you are out on the ground you

1 would not necessarily have those luxuries and you just
2 use what you have to hand really.

3 "Question: What about hooding for the purpose of
4 sensory deprivation?

5 "Answer: No, that is not taught at all. In fact
6 probably, if I can recall, they may well on the courses
7 actually, you know, reinforce that it should not be used
8 for that.

9 "Question: So I think it probably follows but just
10 to spell it out anyway: are you allowed to hood for
11 purposes of -- as an aid to interrogation?

12 "Answer: No, operational security reasons only.

13 "Question: If you do have to hood for operational
14 security reasons, for what sort of length of time?

15 "Answer: I would imagine, you know, from removing
16 one person from one room to another or another part of
17 the barracks to another, but it really depends on the
18 individual and depends on the location."

19 Again, there wasn't mention there, was there, of the
20 rolled-up hood?

21 A. No. But that's what I'm saying is -- my definition of
22 hooding is actually restriction of vision.

23 Q. I understand that. But I am simply querying whether
24 that is really what you meant at the time in 2005 and
25 2006 when you gave this evidence.

1 A. Well, it is what I meant, but clearly I didn't
2 articulate it.

3 Q. Can we have a look then, please, at page 54 and line 25.
4 You have a hard copy there. Last line on page 54,
5 running into page 55:
6 "Question: I think you said ought to be checked as
7 well?
8 "Answer: Ought to be checked to ensure that he can
9 still breathe and, you know, he is not suffering."
10 Do you have that?

11 A. Yes, I do.

12 Q. "Ought to be checked to ensure that he can still breathe
13 and, you know, he is not suffering."
14 You didn't go on to say, "But of course the hoods
15 were rolled up above the mouth anyway, or above the
16 nose", did you?

17 A. No, I didn't.

18 Q. Would that be, S001, because it wasn't a consideration
19 at the time in your mind?

20 A. It probably wasn't a consideration in my mind at the
21 time, no.

22 Q. Because the truth is that what you had seen on the
23 course demonstrated was hooding in what I will call the
24 full sense, the bag over the head?

25 A. No, that's not correct.

1 Q. Can we have a look then, please, at just two parts of
2 the in camera transcript. Day 61. Can you go to
3 page 8, and to line 22:

4 "Question: But as far as you are concerned, have
5 I understood your evidence correctly, that within the
6 qualifications you say that you did not teach the
7 course, hooding is permissible or was permissible within
8 2002, 2003 for operational security reasons?"

9 You answer:

10 "Yes."

11 A. And again I think I meant --

12 Q. Please continue.

13 A. I say, again, I think I was referring purely to
14 restriction of vision as opposed to hooding.

15 Q. But again you don't take the opportunity there to
16 indicate that, do you?

17 A. No.

18 Q. Indeed, as we have seen in your statement in July 2005,
19 there's nothing in there about rolled-up hoods.

20 A. No.

21 Q. Could it be the case, S001, that your memory plays
22 tricks with you now, that you think that that may have
23 been now what the position was, but in fact on the
24 course when you were there, hoods were used in the full
25 sense of hooding?

1 A. No, I don't think that is memory.

2 Q. Can you help us then as to why you don't seem to have
3 referred to that qualification about the use of hoods
4 anywhere?

5 A. No, I don't know why I didn't elaborate and go into
6 detail as to what type of material was used and where it
7 was rolled up to.

8 Q. Can I move on then, please, to the question of stress
9 positions. You know what I mean by stress positions?

10 A. Yes.

11 Q. Paragraph 20 of your statement to this Inquiry:

12 "I cannot remember now whether during the training
13 courses, the use of stress positions was discussed."

14 Can you remember this: in 2003, for example, would
15 you have regarded the use of stress positions as being
16 lawful.

17 A. No, I wouldn't have regarded that as being lawful.

18 Q. So if stress positions had been discussed, as you put it
19 in paragraph 20, that would be something you would be
20 likely to remember, isn't it?

21 A. I believe so, yes.

22 Q. Could it be the case that stress positions were
23 discussed on the courses, or some of them?

24 A. Speculation, it could have been discussed but I'm not
25 really familiar with the exact detail of what is

1 discussed on the courses.

2 Q. What was your view in 2003 about the use of conditioning
3 techniques upon a prisoner before TQ'ing?

4 A. I believe my view would have been that it's not
5 something that was done, but I'm not really sure.

6 I have a view of what I think conditioning is but I
7 don't think it was taught. But again, I can't be sure.

8 Q. What was your understanding in 2003 of what conditioning
9 was?

10 A. I think it was using the shock of capture of an
11 individual, and that individual would naturally undergo
12 self-induced pressures, fear and alarm, concern,
13 et cetera, and then also probably system-induced
14 pressures and I think conditioning was -- the aim of
15 conditioning was to try and take an unwilling subject
16 and to make him a willing subject, but without use of
17 force. Or physical violence.

18 Q. So how were those self-induced or system-induced
19 pressures to be exploited, did you understand?

20 A. Well, I didn't understand that because I hadn't been
21 trained.

22 Q. Did you not make it your business to find out what
23 happened to prisoners in the conditioning process?

24 A. No, I didn't.

25 Q. Shouldn't you have done that, given your position here?

1 And your responsibility for the courses?

2 A. I guess with the benefit of hindsight I should have, but
3 at the time I didn't.

4 Q. Can we have a look, please, at what you said about the
5 use of stress positions and conditioning, or elements of
6 it, in 2005 at MOD000300 again, please.

7 A. Is that the SIB statement?

8 Q. It is.

9 A. Okay.

10 Q. Second page of it, S001. You have just said in the
11 statement -- as I read it a little earlier -- about the
12 direction that was given on courses in relation to
13 hooding. Then you say this:

14 "In relation to all other courses run by my
15 department, I can state that students were never taught
16 to use sleep deprivation or stress positions as tactics
17 when dealing with detainees or prisoners."

18 You can be certain about that, can you, or you could
19 in 2005 anyway?

20 A. Well, I could in 2005, yes, obviously.

21 Q. "In fact, they were specifically taught not to use these
22 methods."

23 How could you say that?

24 A. Well, presumably in 2005 I had better recollection of
25 discussions with various instructors.

1 Q. So you would have discussed with instructors, would you,
2 the use of stress positions and other conditioning
3 techniques as sometimes they are called like sleep
4 deprivation?

5 A. I may well have. I don't recall.

6 Q. Well, if you hadn't, how else could you have given this
7 information in 2005 to the SIB in this statement?

8 A. That's why I am saying I must have, but I genuinely
9 don't recall at this moment in time in 2010.

10 Q. Again, may we just look, please, at what you have said
11 at the court martial. If we look at the in
12 camera section again, Day 61, page 14, if we just start
13 at the foot of page 13 and line 24. Do you have it?

14 A. I don't have the line numbers, but if you start reading
15 it, I will be able to find it.

16 Q. Thank you very much. It's the very foot of page 13.
17 "Question: You must not use force, that is rammed
18 home at every possible opportunity, is it not?"
19 That's at the foot of page 13.

20 A. Yes, I have a different version from you.

21 Q. Do you have the part that starts:
22 "Question: You must not use force, that is rammed
23 home at every possible opportunity, is it not?"

24 A. Yes.

25 Q. And your answer:

1 "Answer: Yes, it is."

2 Then the next question, then, please:

3 "Question: But you certainly understand that
4 a tactical questioner is taught to use proper
5 conditioning as part of his trade, in other words, shock
6 of capture and matters that go with it?

7 "Answer: Yes.

8 "Question: And there is nothing wrong with that?

9 "Answer: No."

10 Does it follow, S001, that in answering yes to that
11 question:

12 "... you certainly understand that a tactical
13 questioner is taught to use proper conditioning..."

14 You must have understood what proper conditioning
15 meant?

16 A. The definition I have of conditioning is utilising the
17 self-induced pressures of the individual as well as the
18 system-induced pressures.

19 Q. And that you tell us --

20 A. So --

21 Q. Please carry on.

22 A. So that's what I would assume with that question was --
23 that tactical questioner would utilise those two
24 particular areas.

25 Q. Can we go on then, please, in your in camera evidence,

1 Day 61. It is our page 26, and halfway down the page if
2 you can find it, there's a passage that begins with
3 a question to you:

4 "The common ground between us goes as far as to the
5 effect that you do not hood somebody purely for sensory
6 deprivation?"

7 Can you find that for me? "the common ground
8 between us"?

9 A. No, I can't find that.

10 Q. If you go to the end of the in camera section, do you
11 have it broken down into days?

12 A. I have letters on the left-hand side of each page from A
13 through H, and it is -- it goes up to page 16.

14 Q. Just let me read you a passage if I may. If you can try
15 to follow it --

16 A. Okay.

17 Q. -- it's not a long passage. I am reading it from our
18 page 26 at line 13 and I will take it in stages:

19 "Question: The common ground between us goes as far
20 as to the effect that you do not hood somebody purely
21 for sensory deprivation?"

22 "Answer: Correct, sir."

23 You would agree with that now, wouldn't you?

24 A. Yes.

25 Q. Then:

1 "Question: But that is inevitably a side effect of
2 hooding, is it not?

3 "Answer: Yes, sir, especially if it is for a long
4 time.

5 "Question: It has got to have a side effect which
6 grows with time.

7 "Answer: Yes, sir.

8 "Question: And back to the word conditioning, if
9 you are conditioning within proper shock of capture
10 behaviour, the fact that somebody is hooded part of the
11 time, coming to or from wherever they have to be taken
12 at whatever stage, is going to be one factor, is it not?

13 "Answer: Yes, sir.

14 "Question: And whatever you try to do you cannot
15 get over that if the person needs to be hooded for
16 operational security reasons?

17 "Answer: Yes, sir."

18 In those questions, you were accepting, weren't you,
19 in your answers to those questions, that maintaining the
20 shock of capture because a prisoner was hooded may be
21 a side effect of it.

22 A. Yes.

23 Q. Would it ever have been proper to maintain or prolong
24 the shock of capture by hooding if there were not
25 a security consideration?

1 A. No. I do not think so.

2 Q. Can I move on then, please, to another matter. Can we
3 go back to your statement of July 2005, and the second
4 page at MOD000300. You say this in the penultimate
5 paragraph on that page:

6 "The only courses I cannot comment on [are] the
7 courses run by Conduct after Capture... These courses
8 were run separately and didn't form part of
9 3 Training Company. Because I was not involved in the
10 Conduct after Capture Company training I cannot state
11 whether the use of sleep deprivation or stress
12 [positions] were taught to students attending courses
13 run by CAC."

14 That was the position, was it? You had nothing to
15 do with the CAC courses?

16 A. Absolutely. It was a separate company from
17 3 Training Company. It was part of 4 Company.

18 Q. Did you have any appreciation at the time, S001, of any
19 responsibility of what might be called contamination of
20 those who went on the conduct after capture course; that
21 is to say that they might learn practices which they
22 would have to be warned clearly about that they should
23 not use in dealing with prisoners that they may
24 themselves take?

25 A. The people -- CAC would not be in a position to be

1 taking prisoners. They were -- as far as I am
2 concerned, they were part of CAC Company where they
3 dealt with British forces. They weren't ever going to
4 be out on the ground where they would be in a position
5 to be questioning live prisoners.

6 Q. Forgive me, but the soldiers or some of them who
7 undertook the CAC courses may themselves have been
8 soldiers on the ground who took prisoners, mightn't
9 they?

10 A. They may well have, but they -- unless they had
11 completed either the tactical questioning or the
12 interrogation course from 3 Training Company, they would
13 not be allowed to conduct that on the ground.

14 Q. My question to you was simply whether you at the time
15 considered or were part of any discussion about possible
16 contamination effects of those who went on the CAC
17 course.

18 A. No.

19 Q. Thank you.

20 In your position as OC, and having responsibility as
21 you did for at least in part the content of the course,
22 did you give consideration to the legal audit of that
23 content from time to time?

24 A. No. I wasn't asked to.

25 Q. You may not have been asked, but did you yourself give

1 any consideration to the course content being given
2 a legal audit?

3 A. No. But when the course reviews were being conducted,
4 I was under the impression that the training delivery
5 team would be looking at legal aspects, so I probably
6 assumed that legal aspects were being covered when that
7 review was being done. But otherwise, no, I didn't.

8 Q. The matters that were being covered by the course, would
9 you agree with S012 who gave evidence to this Inquiry
10 yesterday, that those matters plainly involved
11 consideration of legal concepts, at least in part?

12 A. I'm sorry, can you repeat the question?

13 Q. Yes. Would you agree that elements of the course
14 plainly involved consideration of legal concepts, the
15 lawfulness for example of hooding and if they were
16 discussed, conditioning techniques, stress positions,
17 and matters of that kind?

18 A. Yes, I would consider that.

19 Q. Did it not occur to you that these elements of the
20 course -- the course content -- ought to be reviewed
21 from time to time by a lawyer?

22 A. No, it didn't occur to me at that time, but in
23 hindsight, yes, I guess I should have ensured that
24 happened.

25 Q. You tell us -- I don't think it need be turned up -- in

1 paragraph 30 of your statement to this Inquiry that
2 Chicksands had an army lawyer. You tell us of
3 David Yates, would that be right?

4 A. Yes.

5 Q. He is going to tell us that he didn't come into post
6 until later in 2003. Would you dispute that?

7 A. No. I just -- I don't recall the date. I know it was
8 some time in 2003.

9 Q. You also tell us, I think, that there were no refresher
10 courses for TQers who were qualified in your time.

11 A. No.

12 Q. We now know that there are refresher courses and that
13 indeed TQers may not operate unless they have, as it
14 were, a qualification two years or more recently given.

15 A. Yes, and that's a new -- that's a new system.

16 Q. Did it occur to you at the time that this was, as it
17 were, some defect in the system, if there were no need
18 for refresher courses at all?

19 A. No. I do not think so.

20 Q. Again, do you think, looking back, that that is
21 something that perhaps ought to have occurred to you in
22 the training of TQers?

23 A. I think the difficulty is at which point -- which
24 courses do you say need to have refreshers, because
25 there are so many courses that are being run and people

1 are being trained in, and I think it is difficult to
2 determine which ones should have refresher courses,
3 which of course are manpower intensive/resource
4 intensive to actually run.

5 Q. Accepting, if I may say so, that there were resource
6 implications and leaving that to one side for the
7 moment, would you agree that in the practice of
8 TQ'ing -- quite a specialised matter -- it is obviously
9 desirable that TQers are kept up to date with the latest
10 techniques?

11 A. Yes. I would agree with that.

12 Q. But that wasn't something that you gave any thought
13 to -- maybe for perfectly natural reasons -- but you
14 didn't give any thought to that during your tenure as
15 OC.

16 A. No.

17 Q. You may be aware, S001 -- just moving on -- that
18 a number of soldiers and former soldiers have given
19 differing accounts as to what they were taught at
20 Chicksands in relation to hooding and the use of stress
21 positions, sleep deprivation and matters of that kind;
22 that the Inquiry has heard differing views as to what
23 precisely was taught in that area and indeed has heard
24 differing views from some of the instructors as to what
25 was taught also. You may be aware of that.

1 A. Yes, I am aware of that.

2 Q. Do you agree that what I might call, therefore, the
3 confusion as between students and some of the
4 instructors reflects an obvious need for there to have
5 been some more clarification and direction on the
6 course, or the courses?

7 A. Yes, I do agree.

8 Q. Would you agree with the evidence that S012 gave the
9 Inquiry yesterday -- my words, not his -- that perhaps
10 there was a clear need for some sort of written manual
11 in this area of prisoner handling and tactical
12 questioning, to which reference could be made by those
13 who may be uncertain?

14 A. Yes, I think that is a good idea -- was a good idea.

15 Q. Again, then, coming back to your position at the time as
16 OC, wasn't that something that you should have been
17 looking to, either the production of a written manual or
18 flagging up the fact that there was a deficiency in the
19 written doctrine at the time?

20 A. With hindsight, yes. But I was occupied with other
21 priorities and F Branch wasn't my highest priority, so
22 I probably didn't focus on it as much as clearly
23 I should have.

24 Q. Would you it be right to say -- as you put it, F Branch
25 was not your highest priority -- would it be right to

1 say that prisoner handling was a matter which was
2 generally of low priority?
3 A. I'm sorry, in what respect?
4 Q. Well, across the board if you like. Prisoner handling
5 and --
6 A. Yes. I -- I would say that.
7 Q. So your, as it were, lack of regard for these matters --
8 taking up these matters both with F branch and indeed
9 with any superior that you may have turned to was
10 somewhat symptomatic, was it, of the fact that prisoner
11 handling across the board was given a rather low
12 priority?
13 A. Yes, I would agree with that, because there were other
14 higher priorities that I was dealing with.
15 Q. What were the higher priorities than training and
16 prisoner handling that you were dealing with? Can you
17 remember?
18 A. Training in other -- yes, I do remember, but -- training
19 in other areas of HUMINT which is quite sensitive --
20 Q. I am not going to ask you --
21 A. -- and ensuring that --
22 Q. Let me just interrupt you. I am not going to ask you
23 for the detail. There was training in other HUMINT
24 areas, I follow?
25 A. Yes.

1 Q. But at the end of the day, if the Inquiry were to
2 conclude that there were deficiencies in the training
3 and/or in the written doctrine, during your time, for
4 whatever reasons, you did not give consideration to
5 remedying those defects. Would that be fair?
6 A. That's correct.
7 Q. Do you think now, looking back, and perhaps having
8 regard to what did happen in September 2003, that you
9 should have given more attention to what I am calling
10 these defects?
11 A. Absolutely. And I would have requested policy guidance
12 from the MoD who provide us with policy and doctrine.
13 But unfortunately there wasn't any, so ...
14 Q. There wasn't any, so -- but you did nothing about it?
15 A. No, I did nothing about it.
16 Q. Finally this, from me, S001: you have seen, I think,
17 have you, and been made aware of what is sometimes
18 called the Heath directive from 1972?
19 A. Yes, the one on internal security operations?
20 Q. Yes. It is issued by the Cabinet office. You have it
21 in hard copy there, do you?
22 A. Yes, I do.
23 Q. Did you see this at any time during your tenure as OC of
24 3 Training Company?
25 A. No.

1 Q. Never brought --

2 A. I only saw it when I got involved in the Inquiry.

3 Q. You saw it when you were involved in the Inquiry. Thank
4 you for that. So it was never brought to your attention
5 in 2003 and it therefore follows, does it, that if we go
6 over the page to CAB001024, please, and paragraph 7 --
7 the Inquiry will be very familiar with this now --
8 paragraph 7, S001, under "Treatment":

9 "7. Searching and sustained interrogation..."

10 The foot of that page:

11 "But no form of coercion is to be inflicted on
12 persons being interrogated. Persons who refuse to
13 answer questions are not to be threatened, insulted, or
14 exposed to other forms of ill-treatment. Techniques
15 such as the following are prohibited.

16 "(a) any form of blindfold or hood..."

17 Were you ever made aware of that directive issued in
18 1972, and as far as the Inquiry knows, still extant in
19 2002 and 2003. Were you ever made aware of that
20 directive:

21 "Techniques such as the following are prohibited...
22 any form of blindfold or hood..."

23 A. No, I wasn't.

24 Q. Was that ever discussed at any course or by any
25 instructor or at any time in your presence at Chicksands

1 during your tenure of office?

2 A. I don't believe so. I can't recall.

3 MR ELIAS: Thank you very much.

4 THE CHAIRMAN: Now, if you would kindly wait there, there
5 will be questions from other counsel, S001.

6 Mr Friedman?

7 Questions by MR FRIEDMAN

8 MR FRIEDMAN: Thank you, S001. I am going to start just by
9 asking you about that directive that we just looked at.
10 The question is this: when you come into a post such as
11 OC of F Branch, how would you go about discovering what
12 the army sometimes calls corporate memory about how the
13 area you are going into has been run in the past?

14 A. You normally -- you normally complete a handover with
15 your predecessor and he would normally have relevant
16 documents that pertain to the post on his filing system
17 on his computer or hard copy on his shelves. And he
18 would take you through the various presentations and
19 that's basically how you would do a handover.

20 Q. When you were talking earlier -- answering questions
21 earlier -- about the absence of the written doctrine or
22 manual, you say you would have got on to the MoD., if
23 you had thought about the problem at the time.

24 This directive we have just looked at, was there
25 a sense in which you expected or should have had

1 a briefing from anyone at MoD, when you took on the role
2 that you took on?

3 A. Well, I did have briefings with a member -- a number of
4 the defence intelligence HUMINT staff who were
5 effectively the policymakers for the HUMINT environment.
6 So I was aware of those individuals, and I did talk to
7 some of them on a daily basis about various HUMINT
8 issues. But as I explained to the previous questioner,
9 the whole interrogation, PH&TQ were not top of my
10 priority so I didn't discuss it with them.

11 Q. If we could just bring up that directive again and just
12 look at paragraph 6. It is CAB001024. You have the
13 hard copy. It is under the section entitled "Domestic
14 Law". There is a last sentence which says:

15 "The Director of Operations should, whenever
16 possible, have the services of a legal adviser to ensure
17 that the methods adopted are in strict conformity with
18 the requirements of international and domestic law."

19 Just looking at your position as OC, until
20 Lieutenant Colonel Yates came, he says in September
21 2003, is it right that you did not have the services of
22 a legal adviser on the training matters --

23 A. No, we did have -- we didn't physically have one on
24 site, but we had legal advisers who we could go to with
25 queries and we would go up the chain of command for

1 that.

2 Q. You would go to MoD, would you, for the legal advice, or
3 somewhere else in the chain of command?

4 A. I think either through DI HUMINT or through headquarters
5 DISC, we would pose the questions and we would talk on
6 telephones or by email with legal advisers. They just
7 weren't located at Chicksands at that time.

8 Q. Did you take, or are you aware of anyone else in the
9 training company taking legal advice, before
10 Lieutenant Colonel Yates came to Chicksands, about the
11 methods of interrogation and tactical questioning?

12 A. I genuinely don't recall. I don't know.

13 Q. You don't have it in front of you, but without testing
14 your memory of the articles, are you aware of the
15 Article 82 of the additional protocol to the
16 Geneva Convention that requires the high contracting
17 parties to ensure that legal advisers are available and
18 when necessary to advise military commanders at the
19 appropriate level on the application of the Geneva
20 Conventions, and on appropriate instruction to be given.
21 Are you aware of that principle?

22 A. I can't recall. I don't know if I'm aware of it or not.
23 I may well have been briefed on it before, but it
24 doesn't sound familiar to me now.

25 Q. Just in terms of Lieutenant Colonel Yates coming, when

1 he did come to Chicksands, why was it from your
2 understanding that you were being given an onsite
3 lawyer?

4 A. I think, because Chicksands was the centre of all
5 defence intelligence training -- on not just human
6 intelligence but all aspects of intelligence training --
7 I think there was clearly a lack of having a resident,
8 permanent legal adviser and I think it was a proposal
9 from a few years before that Chicksands was to be given
10 its own lawyer. So I think having that presence was
11 something that was an ambition for quite a while and
12 just so happened that the lawyer turned up whenever, at
13 the end of 2003. It wasn't just for human intelligence,
14 it was for other aspects.

15 Q. To your knowledge, was Lieutenant Colonel Yates
16 commissioned and did he in fact carry out a full and
17 complete legal audit of the training in terms of the
18 materials and what was being taught?

19 A. To be honest, I don't know. I can't recall.

20 Q. Just briefly on qualifications of people to come on the
21 courses. You explained that you and your clerk did
22 check the criteria of people who were going to do the
23 courses. Was that checking of the criteria something
24 that you did in relation to people who were going to do
25 the prisoner handling and TQ course, or was it just for

1 those who would do the interrogation course?

2 A. It was for both courses.

3 Q. I asked you that because we have heard from someone we
4 know as S004 who replaced S012, that a sifting process
5 to check on the criteria of people doing the courses did
6 not begin until this year, 2010; and that before that it
7 was essentially the regiments who sent them who would
8 decide who they wanted to do the courses. Do you
9 disagree with that evidence?

10 A. No, I don't disagree with that. What myself and my
11 clerk would do would be to look at the rank of an
12 individual who would apply to make sure that it wasn't
13 just a private soldier, but we would also quite often
14 not have very many people apply, so I would be trying to
15 ensure that the courses would still be run and getting
16 other people to do the courses. So when I say we sifted
17 through, we didn't look at whether the person was
18 suitable enough to do the course; it was simply a means
19 of making sure we had the correct numbers for each
20 course to be run.

21 Q. As regards the training itself, did you observe the
22 training exercises where people practised interrogation
23 from time to time?

24 A. I observed one or two of those but not whilst they were
25 doing -- I observed them from the monitors where the

1 instructors were watching them on camera and I observed
2 one or two of those. But I was primarily interested in
3 the instructors because I wanted to see how they
4 performed and how they were doing their jobs.

5 Q. In terms of those instructors, we have heard about the
6 training materials that you say you didn't look at in
7 detail. Were you aware that they were given a level of
8 discretion in terms of the anecdotes, as it has been
9 described, that they could use when they were doing
10 their instructions? Anecdotes of their own experience
11 and the like?

12 A. Well, I presumed they would use anecdotes but I don't
13 know to what extent they were -- you know, using --
14 utilising their own experience.

15 Q. In your time of tenure, was there a policy to strictly
16 keep the trainers and the trainees separate when people
17 were outside the classroom, effectively in the
18 socialising times?

19 A. I don't recall. I think probably, but then, at the end
20 of a course, there is generally a get-together of some
21 social event, so I guess probably. I'm not sure -- I
22 don't understand the question.

23 Q. We have heard some evidence that there was a strict
24 position where trainers and trainees were kept separate,
25 didn't have coffee breaks together, didn't have meals

1 together -- a deliberate design -- and other evidence to
2 the contrary. I don't want you to speculate; I just
3 want to know whether you knew of a policy to keep people
4 separate.

5 A. I think for some of the courses, yes. But I can't --
6 there's no point in speculating so I don't know.

7 Q. Just on hoods, [redacted]

8 [redacted]

9 [redacted]

10 [redacted]

11 MR GARNHAM: Sir, I apologise for interrupting. I wonder if
12 I might have a word before this matter is canvassed
13 further.

14 A. Yes, I do know who you are referring to.

15 THE CHAIRMAN: Hang on a moment, please.

16 MR GARNHAM: Before this matter is canvassed, I would like
17 the opportunity to speak to both my learned friends
18 about this.

19 THE CHAIRMAN: I tell you what we will do: you continue but
20 not on that topic and wait until we get to the end.

21 MR FRIEDMAN: Yes, Sir. I am going to jump off that topic
22 but just ask you about the court martial evidence that
23 we went through where you were asked a series of
24 questions where you acknowledged that sensory
25 deprivation would be a by-product of using the sight

1 deprivation for security purposes. Do you remember
2 Mr Elias, he read it out -- you could not find the
3 reference but you remember him reading that out to you?

4 A. Yes.

5 Q. I just want to know from the answers that you gave: was
6 the fact or reality of that by-product something that
7 was discussed in Chicksands, whether inside the
8 classroom or outside the classroom, to your knowledge?

9 A. I don't know.

10 Q. The chairman has heard quite a lot of evidence about the
11 questioning styles that were taught, including what we
12 know to be the harsh technique. Did you see the harsh
13 technique in any exercises that you observed on the
14 monitor?

15 A. No. But I have read the transcript.

16 Q. That's a transcript of a training video. Were you asked
17 to read that just in preparation for giving your
18 evidence, or have you read it at an earlier time?

19 A. No, I was asked to read it in preparation of giving my
20 evidence.

21 Q. That is a transcript of a video that we know was in
22 existence from 2002 onwards and used on the course. Had
23 you seen a video or can you remember seeing something
24 like what is depicted in the transcript as a training
25 video?

1 A. No. No, and I haven't seen that video.

2 Q. No. Did you watch the video in preparing for the
3 evidence?

4 THE CHAIRMAN: I think she said she hasn't seen it.

5 A. No, I wasn't given a copy of the video.

6 MR FRIEDMAN: Briefly, then, on this question about doctrine
7 or needing a written manual. Moving earlier in time to
8 the death of Baha Mousa, which was in September 2003,
9 when S012 came off Operation Telic 1 in May 2003, as did
10 someone we know of as S040 who was head of the JFIT, did
11 either of them communicate to you that they regarded it
12 as necessary, particularly because of their experience,
13 that there was some kind of written doctrine formulated?

14 A. I didn't come back from Telic 1 until June 2003. But
15 I do recall that S040 actually wrote a post-operational
16 report about the JFIT and the various issues. I think
17 he was leading on some type of policy writing. I just
18 don't know what it was, what ended up as a result of it.

19 Q. Was there some kind of institutional politics at play
20 that meant that the doctrine could not simply be
21 written, in your view?

22 A. I don't know, is the answer. But I know there were
23 various -- various discussions or various proposals put
24 forward by -- certainly I know one was put forward by
25 S040, but I don't think -- I don't know -- the answer to

1 your question, I don't know.

2 Q. Lastly this: the morale in the interrogation corps
3 during your time in tenure, was it low in terms of its
4 sense of its potential effectiveness.

5 A. Sorry, can you say the question again, because you said
6 "interrogation corps". I am not sure what you mean by
7 that.

8 Q. Well, perhaps, just in terms of the trainers that you
9 had contact with in F Branch and anyone else who was
10 a practitioner, did you perceive morale to be low in
11 terms of the effectiveness of its -- the potential
12 effectiveness of its capability?

13 A. No. I do not think so. I think all instructors were
14 frustrated with lack of resources and constant demands
15 for additional courses. But I don't think their morale
16 was low. No.

17 Q. Last question on that: within either the interrogation
18 instructors or in the wider intelligence community, did
19 you ever come into contact with a view that regarded
20 capability as being hampered because of legal reasons or
21 a wider concern about public relations and image?

22 A. No, I didn't.

23 MR FRIEDMAN: Thank you, Sir. Thank you.

24 THE CHAIRMAN: Thank you. Do you still want to ask or deal
25 with the point that you were about to?

1 MR FRIEDMAN: I would like to deal with it, obviously
2 subject to --
3 THE CHAIRMAN: How long is it going to take you just to
4 informally discuss it?
5 MR GARNHAM: 15 minutes, Sir.
6 THE CHAIRMAN: As long as that?
7 MR GARNHAM: It depends slightly on what Mr Friedman says.
8 THE CHAIRMAN: My point is this. I really would be very
9 keen to get this lady's evidence over quickly now while
10 we still have the video running. If we lose it there
11 may be a problem. Is it possible that you could have
12 a quick word now, all three of you, and see if we --
13 MR FRIEDMAN: Yes.
14 MR GARNHAM: Yes.
15 THE CHAIRMAN: Sorry about this, S001, would you be kind
16 enough to hold on for a moment. We won't break the
17 videolink for the moment. We will just leave it as it
18 is while your counsel and other counsel have a very
19 quick word together. I will rise for a moment so you
20 can do it.
21 A. Of course, Sir.
22 THE CHAIRMAN: Thank you.
23 (11.24 am)
24 (A short break)
25 (11.28 am)

1 MR ELIAS: I think you know, Sir, and I just say it for the
2 record, that Mr Garnham is clarifying with your consent
3 one matter with his client.

4 THE CHAIRMAN: I understand.

5 MR ELIAS: So the material which should not be elicited does
6 not inadvertently emerge.

7 THE CHAIRMAN: I quite understand.

8 (11.29 am)

9 (A short break)

10 (11.30 am)

11 MR GARNHAM: Thank you very much, Sir. That conversation
12 has enabled us to carry on.

13 THE CHAIRMAN: Thank you all for your cooperation. One more
14 matter you are going to be asked about now, S001.

15 Yes, Mr Friedman.

16 MR FRIEDMAN: Thank you, S001. Just in relation to the
17 person we know as S014, the Inquiry has heard evidence
18 that he was the 2IC in the JFIT at Umm Qasr during the
19 very early stages of Operation Telic 1. Were you aware
20 of that?

21 A. Yes, I was.

22 Q. Did you have discussions with him when he returned
23 generally about the lessons learnt and experience that
24 he had had during that role?

25 A. Yes, I did, along with S040.

1 Q. Yes. Did they make you aware that there had been
2 a complaint by the ICRC, as well as a complaint by some
3 senior officers outside of the interrogation corps about
4 methods used?

5 A. No. They didn't.

6 Q. Should they have done?

7 A. I would like to have hoped so, so that if there was any
8 issue with methods used, then we could look at training
9 and see if training needed to be altered.

10 Q. In your discussions with either S014 or indeed S040, did
11 they ever say that they had used hoods for security
12 reasons?

13 A. No, they never said that.

14 Q. Particularly in relation to S014, at any time, whether
15 after Telic 1 or before, did he discuss with you the
16 technique of using a hood but rolling it up in the way
17 that you described in your evidence today?

18 A. I don't recall him doing so, no.

19 Q. Lastly this: you have spoken about a post-operational
20 tour report from S040. Do you recall seeing a written
21 report?

22 A. I don't recall seeing one, but I'm sure that S040 would
23 have shown it to me. But I just don't recall seeing it.

24 MR FRIEDMAN: Thank you very much, Sir.

25 THE CHAIRMAN: Thank you.

1 Mr Garnham?

2 MR ELIAS: Sir, I was only going to say that yesterday

3 Ms Dobbin indicated to us that they had no questions,

4 although they had put a pro forma in.

5 THE CHAIRMAN: All right. You are sure about that?

6 Questions by MR GARNHAM

7 MR GARNHAM: Sir, just four matters. S001, you cannot see

8 me, but it is Neil Garnham speaking now. Can you hear

9 me?

10 A. Yes, Neil, I can hear you.

11 Q. Four topics I want to ask you about. First, your role:

12 you answered a number of questions as to what your job

13 entailed when you were questioned by Mr Elias. Would it

14 be right to say that your job was essentially

15 managerial?

16 A. Absolutely. I was more of a facilitator in a managerial

17 role, that's correct.

18 Q. I missed the word. You were more of a what?

19 A. A facilitator, so I was assisting the branch OCs.

20 Q. Did you have any operational involvement with the

21 courses?

22 A. I am sorry, I don't understand the question.

23 Q. Did you have any involvement with the technical

24 operational element of what was being taught on the

25 courses?

1 A. No. I did not.

2 Q. Which two courses was it that you had done? You told
3 Mr Elias you had taken part in two courses.

4 A. I have completed the Whisky course and the Q course.

5 Q. You haven't done prisoner handling, tactical questioning
6 or interrogation?

7 A. No, I haven't done any of those courses.

8 Q. Do you think you might have been guilty of going
9 a little outside your area of expertise in answering
10 questions at the court martial?

11 A. I think in hindsight, yes.

12 Q. Second topic, please, sandbags. Was the question
13 whether sandbags were used as a hood and pulled down or
14 rolled up ever an issue you were asked to address at the
15 time of the court martial?

16 A. No. It wasn't.

17 Q. How much involvement in fact did you personally have in
18 teaching the use of hoods?

19 A. I never instructed on any of the PH&TQ or interrogation
20 courses. Therefore I had no experience in teaching the
21 use of hoods.

22 Q. Did you have the opportunity to comment on the method of
23 teaching the use of hoods?

24 A. No, I was never asked to.

25 Q. Thirdly, you agreed with Mr Elias that with the benefit

1 of hindsight, you should have made it your business to
2 find out what happened to prisoners during the
3 conditioning process. What was it about your job that
4 meant you should have done that?

5 A. Well, because I was effectively the chain of command for
6 F Branch, so I should have been scrutinising the detail
7 of every single lecture given on those courses. But of
8 course we never have the time to do that.

9 Q. I was going to ask you, was that a practical
10 proposition?

11 A. No. Not at all.

12 Q. Lastly this: were any defects or possible defects in
13 courses run by F Branch ever brought to your attention.

14 A. Not that I can recall.

15 MR GARNHAM: Thank you very much.

16 THE CHAIRMAN: Mr Elias?

17 Further questions by MR ELIAS

18 MR ELIAS: Just in the light of those answers, S001 -- it is
19 Gerard Elias asking you questions again.

20 Can we just go back to your statement of July 2005,
21 please, MOD000299, please; you have a copy of it.

22 A. Yes.

23 Q. I just want to take you to two parts. We have looked at
24 them already. That line, middle of the page, 299:

25 "I am fully conversant with the contents of all

1 courses run by 3 Training Company..."

2 Do you, as it were, want to backtrack on that
3 assertion or does that remain true?

4 A. As I explained earlier, I was conversant with the course
5 programme and the headings of the subjects that were
6 going to be taught, because I briefed about the whole
7 HUMINT training company piece. So it still remains
8 extant but it just says the content; it doesn't say the
9 detail of every single course.

10 Q. If we go over the page to page 300, when you say, the
11 fourth line down, if you like:

12 "As far as I am concerned this was the direction
13 [that's the direction in relation to hooding] given for
14 the PH&TQ course whilst I served..."

15 That remains true, does it, notwithstanding the
16 answers you have given this morning?

17 A. Well, this is referring to the restriction of vision for
18 operational security reasons.

19 Q. Yes?

20 A. As opposed to the term hooding, yes.

21 Q. When you go on to say, as you did in 2005, that you can
22 state that students were never taught to use sleep
23 deprivation or stress, in fact they were specifically
24 taught not to, you can still assert that to be true, can
25 you?

1 A. I still believe that to be true.

2 MR ELIAS: Thank you.

3 Thank you, Sir.

4 Questions by THE CHAIRMAN

5 THE CHAIRMAN: S001, I am the chairman. I wanted to ask you

6 one or two questions. You can hear me all right, can

7 you still?

8 A. Yes, Sir.

9 THE CHAIRMAN: Now, what I am a little puzzled about is the

10 relationship on the basis of responsibility between you

11 and your instructors on courses. Do you understand?

12 A. I'm not sure I do, Sir.

13 THE CHAIRMAN: Well, what puzzles me is this. You have

14 instructors, all of whom are subject matter experts on

15 their own topics. That's right, isn't it?

16 A. That's correct, Sir.

17 THE CHAIRMAN: As I understand what you are telling me in

18 your evidence today, you yourself are not a subject

19 matter expert in relation to the courses on which they

20 were instructors. Am I right about that?

21 A. That's correct, Sir.

22 THE CHAIRMAN: So where does the responsibility lie to

23 ensure that what they teach on their courses is correct

24 and in accordance with policy and legal advice?

25 A. This is the whole system of -- the systems approach to

1 training. This was the reason why all of the courses in
2 3 Training Company were being reviewed by the training
3 development team to ensure exactly that, so the customer
4 who owned the course would write down what they wanted
5 the student to achieve at the end of the course and then
6 the course would be designed around that need. So it's
7 a training needs analysis and that's what
8 3 Training Company was going through to ensure the
9 courses were appropriate for what was expected to be
10 resulting from the students.

11 THE CHAIRMAN: That doesn't quite answer my question. At
12 the time when you were there -- let's take it at this
13 stage in 2003 before you were deployed to Iraq -- who
14 would you have said was responsible for ensuring that
15 the courses had proper content and were in accordance
16 with policy?

17 A. Ultimately, the commanding officer of JSIO because we
18 worked through a chain of command.

19 THE CHAIRMAN: Right. Would you have any responsibility for
20 that aspect of the training, as the --

21 A. Yes, I would.

22 THE CHAIRMAN: You would.

23 A. As would OC F branch.

24 THE CHAIRMAN: I want to be clear about this. Do you
25 recognise that you did have some responsibility for

1 ensuring that courses were conducted in accordance with
2 proper practice and policy?

3 A. Yes.

4 THE CHAIRMAN: You do?

5 When did the --

6 A. Yes, Sir.

7 THE CHAIRMAN: Thank you. I am going to use a shorthand
8 term which I hope is accurate: when did the review of
9 the courses to ensure that they were really in
10 accordance with policy and practice, when did that
11 start.

12 A. When I arrived at the unit in 2002, it had already
13 started. I just -- today I am not able to tell you
14 which courses have been reviewed and which haven't in
15 that period.

16 THE CHAIRMAN: So it was an ongoing process from 2002, is
17 that right?

18 A. That's correct, Sir.

19 THE CHAIRMAN: Who instituted that, do you know?

20 A. I think it came from headquarters DISC.

21 THE CHAIRMAN: I follow. All right. Well, now, does
22 anybody want to ask any questions arising out of that?

23 Thank you --

24 MR ELIAS: It is only, as Mr Friedman reminds me, it is in
25 the statement of this witness, Sir. You will find it at

1 paragraph 13, that what the witness says in this
2 paragraph is:

3 "... I think that only R branch and S branch had had
4 their courses fully evaluated, and the courses run by A,
5 F and Y... still needed to be evaluated put I am not
6 certain about this."

7 THE CHAIRMAN: Yes, thank you very much.

8 Yes, well, very well, thank you very much, S001 for
9 giving your evidence. I assume that it is now
10 reasonably late in the evening for you -- when I say
11 reasonably late, about 8 o'clock -- thank you. These
12 are all the questions that we are going to ask you and
13 you are now free to go. We will turn off the videolink.
14 Thank you very much.

15 A. Okay, thank you, Sir.

16 THE CHAIRMAN: Right. Switch the link off. We will have
17 our break of ten minutes now.

18 (11.45 am)

19 (A short break)

20 (11.55 am)

21 THE CHAIRMAN: Yes.

22 MR MOSS: Sir, I call Mark Whiting please.

23 THE CHAIRMAN: Yes, could you stand up, please? I will ask,
24 please, that you take the oath.

25

1 Mark Whiting (affirmed)

2 THE CHAIRMAN: Thank you. Do sit down.

3 A. Thank you, Sir.

4 THE CHAIRMAN: Please would you speak into the microphone
5 and then we will all be able to hear you.

6 A. Yes, Sir.

7 THE CHAIRMAN: Yes, Mr Moss.

8 Questions by MR MOSS

9 MR MOSS: Could you start by giving the Inquiry your full
10 name, please.

11 A. Mark Whiting.

12 Q. Mr Whiting, if you take up the red folder on the table
13 in front of you, I hope you will find a hard copy of
14 your statement to the Inquiry. If you would look at the
15 last page of that which we have at BMI02461, do we see
16 that this is a statement you were providing to the
17 Inquiry on 28 June of last year?

18 A. Yes, sir.

19 Q. I am informed by your counsel that there's one aspect
20 that you would like to clarify. But subject to that
21 clarification, were the contents of this statement true
22 to the best of your knowledge and belief?

23 A. Yes, sir.

24 Q. Thank you. The matter of clarification, which
25 I understand you may want to deal with straightaway,

1 I think relates to paragraph 36 of your statement. May
2 we have that, please, at BMI02454. You were telling the
3 Inquiry there that during your second tour of Iraq in
4 2005, that is after Baha Mousa's death, that:

5 "... when detainees were brought into the prison,
6 they were wearing goggles, plasticuffs, and were walked
7 at fast walking pace with one soldier on each side..."

8 You go on to say a little bit later on in that same
9 paragraph:

10 "I never taught or received any other training on
11 this and certainly did not receive any prior to
12 September 2003. I understand this speedy processing and
13 visual impairment to be 'maintaining the shock of
14 capture'."

15 What was the clarification you wanted to make in
16 respect of that paragraph?

17 A. That the visual impairment was for security reasons and
18 it wasn't shock of capture.

19 Q. Thank you. I will come back to that later on in asking
20 you questions.

21 Everybody has had an opportunity to read your
22 statements and the documents that you have referred to,
23 including the chairman. So I only need to pick out some
24 aspects, please, Mr Whiting, arising out of it. May
25 I start just briefly with your career history. You tell

1 us in your witness statement that you joined the army,
2 is this right, straight from school in 1983?

3 A. Yes, that's correct.

4 Q. You started off your military career, I think, working
5 in motor transport matters?

6 A. Yes, that's correct.

7 Q. And spent your first decade or so of army service in
8 that capacity, including serving in Iraq in the first
9 Gulf War, again as part of motor transport, is that
10 right?

11 A. Yes.

12 Q. You tell us that you have also served in Bosnia and
13 Kosovo as well as that second tour in Iraq in 2005 that
14 we were looking at a moment ago. In Iraq in 2005, were
15 you serving at the Shaibah detention centre?

16 A. Yes.

17 Q. You tell us, however, that you had left the motor
18 transport side of the army in 1996 and at that stage you
19 transferred to the Military Corrective Training Centre
20 in Colchester, is that right?

21 A. Yes.

22 Q. You worked there until 2007, when you left the army to
23 work in the civilian Prison Service?

24 A. Yes.

25 Q. Are you still a serving prison officer now?

1 A. Yes.

2 Q. Thank you. You were promoted sergeant in 1996 and
3 promoted staff sergeant in 2001, is that right?

4 A. Yes.

5 Q. Of interest to this Inquiry, I think just so that we
6 have it at the outset, is that as well as the ordinary
7 duties on shifts on the wings at Colchester, you were
8 also an approved instructor for control and restraint
9 techniques after 2000 when you had done a qualification
10 course. Is that right?

11 A. Yes.

12 Q. Thank you. Against that background I would like to move
13 now if I may to your own military training. You tell us
14 that prior to joining the MCTC, you, like other
15 soldiers, had annual LOAC training, film presentations
16 and lectures and so on, is that right?

17 A. Yes.

18 Q. So far as prisoner handling is concerned, can you
19 remember what that annual training in the Law of Armed
20 Conflict taught about how prisoners should be handled?

21 A. As fairly and as humanely as possible.

22 Q. Did it go into details such as whether prisoners could
23 be blindfolded or hooded or anything about conditioning
24 techniques? Was that covered in LOAC training?

25 A. No.

1 Q. You tell us in your witness statement, is this right,
2 that you think you were told as part of this annual
3 training that you could not use stress positions, is
4 that right?

5 A. That's correct.

6 Q. Did that arise annually as part of the regular training
7 or did it come up more as an example one particular
8 year, can you remember?

9 A. As far as I'm aware, it came up every year.

10 Q. If we just have a look at paragraph 24 of your witness
11 statement where you deal with that, BMI02452, you told
12 us there that you had never seen stress positions used:

13 "I think that I was taught during annual training
14 that you could not use stress positions: this is because
15 I have a recollection of someone asking this as
16 a question during the annual training and the answer was
17 given that we could not."

18 Do you see that there?

19 A. Yes.

20 Q. One might have got the impression from your witness
21 statement that you were suggesting that a fellow soldier
22 had raised a question about it one particular year and
23 had received the answer, "No, you can't do that". Would
24 that be right?

25 A. Yes.

1 Q. Other years, would that have been covered as a matter of
2 course or not, do you think?

3 A. Yes, it would have.

4 Q. So you think every year you were told "no stress
5 positions"?

6 A. Yes.

7 Q. You tell us in your statement that when serving in the
8 first Gulf War that you can remember seeing prisoners
9 with goggles on with masking tape as a form of
10 blindfold. Is that right?

11 A. Yes.

12 Q. Did you see any prisoners at that time in Iraq --
13 obviously much earlier on -- with sandbags, hessian
14 sandbags over their heads?

15 A. Not that I can recall.

16 Q. From the training that you had received and from the
17 experiences that you had had operationally, can I ask as
18 of 2003 -- before Baha Mousa's death -- would you have
19 understood whether or not it was legitimate to deprive
20 a prisoner of his sight?

21 A. Not clearly.

22 Q. If prisoners were to be deprived of their sight -- you
23 tell us if you don't know or you didn't have an
24 understanding at the time -- but if it was legitimate,
25 did you know for what purposes prisoners could be

1 deprived of their sight prior to 2003?

2 A. That would have been for security reasons.

3 Q. Had anything in your training or your experience led you

4 to understand that there could be another purpose for

5 blindfolding or for hooding prisoners which was to

6 prolong or maintain the shock of capture? Is that

7 something that you had come across?

8 A. No, as far as I was concerned, it was for security

9 reasons.

10 Q. Just finally this: did you know one way or the other

11 whether or not hessian sandbags could legitimately be

12 used for that purpose, operational security, as opposed

13 to blindfolds or goggles?

14 A. I would not have expected them to have been used.

15 Q. Was there a reason for that?

16 A. It comes back to humane treatment, sir.

17 Q. Hoods would not be humane as you would have understood

18 it because, what?

19 A. Well, it would have interfered with breathing and other

20 sensory deprivations, maybe hearing.

21 Q. Thank you. If we go on then to the time when you are at

22 the Military Corrective Training Centre at Colchester,

23 perhaps we ought to just start with your normal

24 day-to-day responsibilities. It seems from your witness

25 statement that when you were a sergeant you would have

1 had routine prison officer-like duties on the wings,
2 would that be fair?

3 A. That would be fair to say that, sir, yes.

4 Q. Maintaining the discipline and the security and the
5 well-being of soldiers under sentence on particular
6 wings?

7 A. Yes.

8 Q. Then I think, when promoted to staff sergeant, you tell
9 us in paragraph 7 of your statement that you were more
10 of a shift manager with management responsibilities for
11 other sergeants working on the wings, is that right?

12 A. Yes.

13 Q. But as you detail in your witness statement, you had
14 this additional area of your responsibilities, didn't
15 you, as a control and restraint instructor?

16 A. Yes.

17 Q. You tell us that in order to be able to teach that you
18 had done a course in the year 2000, is that right?

19 A. Yes.

20 Q. If it matters, can you just help us as to how long the
21 course was?

22 A. The course was a ten-day course.

23 Q. You also tell us in your witness statement by way of the
24 background to how the army were using control and
25 restraint, is this right, that about 1997 -- I think you

1 tell us it was -- that a civilian prison and young
2 offenders' institute was set up within the boundaries of
3 the military facility at Colchester?

4 A. Yes.

5 Q. And at about that time the Military and Corrective
6 Training Centre at Colchester adopted the Prison
7 Service's policies and documents on control and
8 restraint. Is that right?

9 A. Yes.

10 Q. Those, as you tell us, comprised Prison Service Order
11 1600 and a manual that accompanied it giving details on
12 control and restraint methods, is that right?

13 A. Yes.

14 Q. When that civilian prison and young offenders' institute
15 closed some year or so later, is it right that
16 Colchester, the military facility, continued to apply
17 and use the civilian Prison Service guidance on control
18 and restraint?

19 A. Yes.

20 Q. Again, by way of background and if it matters, prior to
21 the adoption of the prison service techniques for
22 control and restraint, did you know what had been used
23 at Colchester by way of restraining soldiers under
24 sentence if that was necessary, what sort of approach
25 and technique had been used previously?

1 A. Only what I had heard from people who were there before
2 me.

3 Q. Can you remember what that was?

4 A. That two, three MPS staff would go into the prisoner's
5 cell, protecting themselves with a mattress.

6 THE CHAIRMAN: I don't think it matters hugely.

7 Can I just ask you one question: you presumably have
8 done restraint and control process and training in the
9 civilian prison that you now work in?

10 A. Yes, Sir.

11 THE CHAIRMAN: Is it vastly the same or is it more or less
12 the same as that which you did in the military prison?

13 A. It is exactly the same, Sir.

14 THE CHAIRMAN: Precisely the same?

15 A. Yes, Sir.

16 THE CHAIRMAN: Yes, I follow. It hasn't changed over the
17 years.

18 A. Over the years since I started teaching it, there have
19 been changes to the syllabus.

20 THE CHAIRMAN: But not a huge amount.

21 A. Not a huge amount, no.

22 THE CHAIRMAN: If it helps, I have some awareness of the
23 control and restraint procedures in an ordinary prison.

24 A. Sir.

25 THE CHAIRMAN: I say an ordinary; civilian prison I mean.

1 A. Yes, Sir.

2 MR MOSS: Now the Home Office procedures or the Prison
3 Service procedures of which you speak, you tell us in
4 your statement that the approved control and restraint
5 techniques require three people to use them, is that
6 right?

7 A. A minimum of three people, sir.

8 Q. You draw a distinction between control and restraint and
9 arrest and restraint, is that right?

10 A. Yes.

11 Q. Just briefly, can you outline what the difference is?

12 A. Control and restraint are techniques that are taught and
13 used where you need a minimum of three people to
14 actually utilise them. Arrest and restraint is one on
15 one.

16 Q. Thank you. I would like to ask you some questions just
17 briefly if I may about the training that you would have
18 given to new recruits working at the Military Corrective
19 Training Centre at Colchester. So I am not at the
20 moment dealing with the regimental police course, but
21 the C&R training that you would have given to MPS staff
22 working at Colchester, do you follow?

23 A. Yes.

24 Q. In relation to that training, how long would the
25 training have been for new members of staff that you

1 gave in control and restraint?

2 A. A five-day course.

3 Q. In your experience, was that about the length of time

4 which was necessary in order to make a recruit

5 sufficiently proficient and safe in the use of control

6 and restraint techniques?

7 A. Yes.

8 Q. Would they thereafter have had to have had any refresher

9 training in control and restraint techniques?

10 A. Eight hours yearly.

11 Q. Every year, is that right?

12 A. Yes.

13 Q. Again, perhaps you can just help us: in the Prison

14 Service now, do prison officers have to have annual

15 refresher training.

16 A. Yes.

17 Q. The control and restraint training for MPS staff, would

18 that have included anything on what is sometimes called

19 positional asphyxia?

20 A. Yes.

21 Q. Can you tell us in outline, please, what MPS staff would

22 have been told about the risks of positional asphyxia?

23 A. They would have been told that if you are restraining

24 a prisoner in the prone position, then if there was

25 weight applied to their back, or if they were in the

1 prone position for long enough, their own weight would
2 affect their ability to breathe and could lead to
3 unconsciousness or death.

4 Q. Thank you. You exhibited helpfully to your statement to
5 this Inquiry the Prison Service order on the use of
6 force. Can we just have a look at BMI02473.

7 It may be that you are well familiar with this, but
8 do we see at section 5.1.1, under "Chapter Five: Medical
9 Signs or Symptoms", that the PSO covers that:

10 "Staff involved in the application of restraints
11 must be made aware of the signs and symptoms that may
12 indicate a prisoner is in distress or that an incident
13 should be treated as a medical emergency."

14 Then:

15 "When a violent prisoner is being restrained
16 officers involved and the person supervising must look
17 out for the following signs..."

18 Then there is a list, including exceptional or
19 unexpected strength; rises in body temperature;
20 exceptional violence; abnormally high tolerance of pain;
21 bizarre behaviour, as if high on drugs; sudden, abnormal
22 passivity; noisy or laboured breathing and so on:

23 "One or more of these signs will warn staff that
24 they need to be particularly vigilant in monitoring the
25 prisoner's responses, and be prepared to treat the

1 incident as a medical emergency. Staff should pay
2 particular attention to the prisoner's responses during
3 relocation, if the prisoner has been laid in the
4 face-down position. A prisoner must not be left in this
5 position with their hands held behind their back in
6 ratchet handcuffs."

7 Pausing there, is that something that would have
8 been covered in the training that you gave to MPS staff?

9 A. Yes.

10 Q. I think also, is this right, that if we look at -- and
11 can we have on the screen the redacted version,
12 please -- MOD019454. The core participants have this in
13 unredacted form. But at 1.9.2, look at the very bottom
14 of the page:

15 "With the prisoner in the prone position, there is
16 an increased risk of the prisoner having difficulties in
17 breathing. Staff must not apply undue pressure to the
18 head, chest and back. At no time must pressure be
19 applied to the neck. Staff must monitor the breathing
20 of the prisoner, try and calm the situation and get the
21 prisoner to their feet as soon as is possible. Staff
22 must be particularly vigilant if a prisoner exhibits one
23 or more of the following signs..."

24 Then a similar list to that which we saw earlier in
25 the PSO:

1 "Any advice from healthcare staff must be acted on
2 immediately."

3 Pausing there, it is right, isn't it, that that is
4 part of the control and restraint basic manual?

5 A. Yes.

6 Q. And again, would that have been covered in the training
7 that you gave -- the five-day course -- to MPS staff at
8 Colchester?

9 A. Yes.

10 Q. In the training that was given to MPS staff at
11 Colchester, can I ask in general terms how important was
12 this sort of guidance seen as being?

13 A. Very.

14 Q. Is it something that would ever have been missed off in
15 the training in your experience or did it form
16 a significant part of it?

17 A. We gave handouts detailing the medical implications to
18 these students.

19 Q. In the annual refresher training again -- tell us if you
20 can't remember -- would these risks particularly in the
21 prone position have been covered in the annual refresher
22 training, as far as you can remember?

23 A. Yes.

24 Q. Now, you tell us in your statement that quite separate
25 from the training that you gave to the Colchester staff,

1 you were also involved in giving what you describe as
2 a demonstration to unit regimental police staff, to unit
3 provost staff, who came to do a course at Colchester, is
4 that right?

5 A. Yes.

6 Q. The Inquiry has heard evidence that that was a week-long
7 course for the unit provost staff. Within that
8 week-long course, can you remember how long the
9 demonstration was that you gave that related to control
10 and restraint matters?

11 A. It would be a three-hour session in the morning or
12 a two, two and a half session -- hour session -- in the
13 afternoon.

14 Q. So at most it was half a day within a one-week course,
15 is that right?

16 A. Yes.

17 Q. It may be a very obvious point, but was that sufficient
18 time to actually teach the safe use of control and
19 restraints or was it very much a demonstration course?

20 A. It was very much a demonstration.

21 Q. I think in fairness to you, I should ask this: did you
22 have any responsibility for deciding upon the course
23 content in this regimental police officers' course that
24 was done at Colchester.

25 A. No.

1 Q. Within the demonstration section on control and
2 restraint -- the two or the three-hour session that you
3 did -- did you decide upon the content at least of that
4 part of the course?

5 A. No, that was discussed between another instructor at the
6 time and a sergeant major who worked at provost branch.

7 Q. It may be that the policy for it, therefore, was above
8 your own level, but can I ask you this: do you recall
9 any discussion at the time as to whether it was right
10 that regimental police staff doing this course only got
11 this basic demonstration as opposed to the full training
12 in control and restraint techniques? Was that ever
13 something that was talked about?

14 A. At one stage it was talked about the possibility of
15 training regimental police staff, but it was decided
16 against, because of the problems in refreshing them and
17 keeping them in date.

18 THE CHAIRMAN: Was that your decision or someone else's
19 decision?

20 A. I am not sure at what level it was spoken of, Sir, but
21 it was above mine.

22 THE CHAIRMAN: Yes, I follow.

23 MR MOSS: Now, taking it relatively shortly, you tell us in
24 your witness statement, is this right, that the
25 demonstration that was given to regimental police didn't

1 have to cover some of the matters that would be covered
2 in the whole -- the fuller control and restraint
3 week-long course, is that right?

4 A. Yes.

5 Q. Some matters relating more to safety in vehicles and
6 that sort of point perhaps would not need to be covered.

7 Would that be right?

8 A. Yes.

9 Q. Can you help us, then, with what you did teach the
10 regimental police or demonstrate to them at least during
11 the course of the two to three-hour session?

12 A. From the top of my head, it was how to approach
13 a prisoner, control and protect the head; then it moved
14 on to arm locks, through to what is called the final
15 lock which is essentially a wrist lock while the
16 prisoner was stood up. Then it would progress on to the
17 same items while the prisoner was on the ground on their
18 front, and then it would progress on to the same items
19 when the prisoner was on the ground on their back. We
20 would then quickly demonstrate how to stand a prisoner
21 up from these positions.

22 THE CHAIRMAN: How much would have been taken from what is
23 now in the MPS -- sorry, the prison service order that
24 I have before me?

25 A. It was all taken from that, Sir.

1 THE CHAIRMAN: All taken from there, thank you.

2 MR MOSS: So what was being demonstrated was the approved
3 techniques from the control and restraint manual? Would
4 that be right?

5 A. Yes.

6 Q. Were they simply demonstrated by you and colleague
7 instructors or colleague MPS members, or did the
8 regimental police students get to try them out
9 themselves?

10 A. They got to try them out under our supervision.

11 Q. You tell us in your statement that they would have been
12 given a warning that this introductory session or
13 demonstration did not qualify them to use the control
14 and restraint techniques, is that right?

15 A. That's correct, at the beginning and the end of the
16 course.

17 Q. Thank you. Just help us with this, if you can: if they
18 weren't qualified and permitted to use them, what was
19 seen as being the point in demonstrating them to the
20 regimental police students.

21 A. As far as I'm aware, the purpose of it was the
22 Regimental Police course was a classroom intensive
23 course, and it was a short break from the classroom
24 lessons. And also with a view, hopefully, to maybe
25 after demonstrating the techniques, giving people on the

1 RP course an interest in maybe coming across to the
2 military provost staff.

3 Q. Thank you. Now, it may be that a particular interest
4 for the Inquiry is to know whether in the course of the
5 demonstration the risks of positional asphyxia were
6 covered. Bearing in mind that this was a two to
7 three-hour session rather than a five-day course, are
8 you able to help us now with whether positional asphyxia
9 was covered, at least when you ran the demonstration
10 session?

11 A. Positional asphyxia would have been covered. It was
12 drilled into us -- for want of a better phrase -- that
13 when we were teaching prisoner prone on the ground, we
14 would teach about positional asphyxia.

15 Q. So correct me if I am wrong, but from your experience of
16 the instruction course and from your own instructors at
17 the time, would you have expected every instructor, even
18 on a demonstration course such as this, to cover the
19 risks of positional asphyxia?

20 A. Yes, sir, I would have.

21 Q. You say that for the MPS staff handouts were given.
22 Again, I don't want you to guess if you can't remember,
23 but can you remember what was done for the Regimental
24 Police students? Were they given any handouts or
25 reminders or aide-memoires from the demonstrations?

1 A. On one or two occasions they may have been given the
2 handouts if we had any left. But generally they were
3 just told about the signs and symptoms of positional
4 asphyxia.

5 Q. So on the whole, if we go back if we may to the redacted
6 version of MOD019454, on the whole the sort of advice
7 that one sees here, would that have been given verbally
8 during the course of the demonstration rather than given
9 in writing?

10 A. Yes.

11 Q. And a matter of course out of your control, but the
12 Regimental Police students would not thereafter have had
13 any annual refresher training in that aspect, so far as
14 you know?

15 A. No, because they weren't qualified in anything.

16 Q. One of the provost staff who is on any view an important
17 witness to this Inquiry tells us that he did this course
18 in, I think, 1998 and therefore before the time when you
19 would have been instructing control and restraint. Do
20 you follow?

21 A. Yes.

22 Q. So far as you are aware, had this demonstration of
23 control and restraint techniques been going on for some
24 time at Colchester? Again, I don't want you to guess.

25 A. I couldn't say for certain.

1 Q. Help us with this, if you can: when you started doing
2 it, did you get the impression that it was a new thing
3 that was being done or were you given a handover from
4 those who had previously been doing it.

5 A. When I started instructing, the demonstrations were
6 already in place on the regimental police course.

7 Q. Thank you. Just look, please, if we may at paragraph 53
8 of your statement, please, Mr Whiting. It is not
9 perhaps necessary to go into more detail about the other
10 locks that would be involved in this particular
11 technique, if you follow what I mean, but in
12 paragraph 53, you are telling us about one technique
13 which from an angle can look like kneeling on a person's
14 back, because a raised knee is applied to the detainee's
15 leg. Pausing there, is that right, that one of the
16 approved C&R techniques involves one of the people doing
17 the control and restraint to kneel on the back of the
18 prisoner's knee?

19 A. Yes, that is correct.

20 Q. Kneeling on a prisoner's back, however -- whether with
21 one or two knees -- from your experience, would that be
22 an acceptable method of control and restraint?

23 A. No.

24 Q. Would there be any circumstances with a prone prisoner
25 where you, as an instructor, would have viewed that as

1 being reasonable or acceptable?

2 A. No.

3 Q. Again it may be an obvious question but the reason for
4 that is what?

5 A. It restricts breathing.

6 Q. Thank you. May we just then go back, please, to
7 paragraph 36 of your statement. It's a small matter in
8 a way. You do tell us about your experience in 2005 at
9 the Shaibah detention centre. You tell us in that
10 statement -- in paragraph 36 as I read at the beginning
11 of your evidence -- that during that tour:

12 "... when detainees were brought into the prison,
13 they were wearing goggles, plasticuffs, and were walked
14 at fast walking pace..."

15 Pausing there, was that very much an SOP that
16 prisoners were, when brought into the prison, would be
17 wearing goggles or was it only on some occasions?

18 A. No, whenever a prisoner was brought into the detention
19 facility, they would be wearing goggles.

20 Q. Is that on first arrival?

21 A. Yes.

22 Q. The matter that you sought to correct at the beginning
23 of your evidence appears at the end of paragraph 36:

24 "I understood this speedy processing and visual
25 impairment to be 'maintaining the shock of capture'."

1 some of the core differences between the MPS and
2 regimental provost staff. I think you said in
3 paragraph 16 that to join the MPS, there is a screening
4 process and you have to be interviewed; is that correct?

5 A. Yes.

6 Q. And in the MPS you do a 12-week training course?

7 A. Yes.

8 Q. That is compared, I think, to the one-week course that
9 the regimental provost would do?

10 A. Yes.

11 Q. Effectively one can understand that in the MPS you are
12 training to act like the equivalent of prison officers
13 for the MCTC establishment?

14 A. Yes.

15 Q. You personally were part of the first deployment to an
16 overseas situation in Kosovo in 1999 where presumably
17 there was an expectation that you were going to deal
18 with civilians?

19 A. Yes.

20 Q. Either you or other members of the MPS had been to Iraq
21 and Afghanistan and the likes, yes?

22 A. Yes.

23 Q. The regimental provost staff course, is the focus of
24 that course to teach the provost staff how to deal with
25 British soldiers within their regiment who will be in

1 the guardhouse for various discipline matters?

2 A. I have never actually seen the regimental police course,
3 but I would imagine that is what it revolves around.
4 The military aspect.

5 THE CHAIRMAN: I am not sure really that that -- if he can't
6 go that far --

7 MR FRIEDMAN: I am not going to push it.

8 THE CHAIRMAN: No.

9 MR FRIEDMAN: Then simply from the connection to that course
10 that we know about that you had, was it discussed in
11 this physical different part of the course that you were
12 giving that these techniques were going to be used on
13 civilians abroad, if a regiment was deployed, or was it
14 focusing on drunk British soldiers and the like?

15 A. It was focusing on people that were detained within
16 MCTC, sir.

17 Q. When you taught it to provost?

18 A. Yes --

19 Q. Regimental provost?

20 A. Yes, it was a demonstration of the techniques that we
21 used at MCTC.

22 Q. So was there an expectation it would be used on
23 civilians abroad by the regimental provost, if they were
24 deployed to Iraq or Afghanistan or the like?

25 A. Not at that time.

1 Q. No. Picking up on the chairman's question about your
2 ability to compare and contrast what happens in the
3 prison service because of your subsequent career, can we
4 just understand this: from paragraph 42 of your
5 statement, you did the Home Office civilian approved
6 course at HMP Kidlington in 2000, is that right?

7 A. Yes.

8 Q. So you did the same course the prison officers would do,
9 the extended course, the two-week course in order to
10 acquire your expertise?

11 A. Yes.

12 Q. Whilst the question has already suggested that no one
13 could possibly criticise you for deciding to put this
14 demonstration into the regimental provost course,
15 can I just ask you about why people had to be warned
16 that they were being given a taster but they were not to
17 use it. This is correct: the procedure requires before
18 control and restraint can be used that three trained
19 people are doing it. So it is not only that that person
20 needed the proper training but you would have known that
21 the rule was only one person had to come from the
22 regiment to do regimental provost training and so there
23 was a sense that there would not be three trained people
24 back in the regiment. Do you follow from my question
25 that that was a concern?

1 A. Yes, I understand, yes.

2 Q. Do you understand? Was that one of the reasons, apart
3 from the fact that you wanted them to be trained
4 properly, you knew they would not have two training
5 partners?

6 A. Yes, very much so.

7 Q. Was there a fear of effectively giving people some
8 information that they would then take back into their
9 regiment and, being untrained themselves, influence
10 others by teaching the little experience that they had.
11 Is that one of the reasons why you gave the warnings
12 that you did?

13 A. Yes.

14 Q. We well understand that you are not responsible for this
15 decision to give this demonstration. But given that you
16 have been through these courses -- given that you have
17 been through the refresher courses yourself and taught
18 them, would you regard the little knowledge that was
19 being given in these demonstrations now with hindsight
20 as a bad thing?

21 A. I would regard it as a thing not being necessary,
22 certainly.

23 Q. Do you understand a little knowledge can sometimes be
24 a bad thing?

25 A. Yes.

1 Q. Do you in hindsight regard it as that?

2 A. It would have been better --

3 THE CHAIRMAN: Again that is not going to help me a whole
4 heap, Mr Friedman.

5 Anything else you want to ask him?

6 MR FRIEDMAN: Just in relation to shock of capture as an
7 idea. That's not an issue that would ever relate to
8 Colchester, would it?

9 A. No.

10 Q. Where do you get the phrase "shock of capture" from?

11 A. "shock of capture" was a phrase used in theatre.

12 Q. In theatre. So did you hear it from someone?

13 A. Yes.

14 Q. Do you recall from who?

15 A. Not for certain, no.

16 Q. Is the theatre you refer to the 2005 theatre or an
17 earlier theatre?

18 A. It's the 2005 theatre.

19 Q. In the Shaibah base in 2005 -- that is where you were
20 posted, yes?

21 A. Yes.

22 Q. That was a prison, wasn't it, that had been utilised by
23 British forces?

24 A. I couldn't say, sir. It was a detention facility that
25 was built by the Royal Engineers for us, I think.

1 Q. So it was a complete up-and-running detention facility,
2 secure environment?

3 A. Yes.

4 THE CHAIRMAN: Again, Mr Friedman, that is not really
5 helping me. I know what your point is, I think, but I
6 don't think it is really going to assist hugely.

7 Now, is there anything else you want to ask?

8 MR FRIEDMAN: Well, I would like to know where in that
9 facility people were being deprived of their sight and
10 why --

11 THE CHAIRMAN: I don't think that is what he was saying.

12 Were the people in the facility being deprived of
13 their sight?

14 A. In the actual facility itself, no.

15 MR FRIEDMAN: So was it arriving?

16 A. When they were arriving.

17 Q. The last question on that, then. Without going into any
18 detail, was it your understanding that when they did
19 arrive, they would be questioned by intelligence corps
20 at the Shaibah base?

21 A. It was my understanding but by the time I arrived at the
22 Shaibah base, JFIT were no longer there.

23 MR FRIEDMAN: Thank you.

24 THE CHAIRMAN: Yes, Mr Donmall.

25 Questions by MR DONMALL

1 MR DONMALL: Just one very brief matter. Mr Whiting, how
2 did you come to give evidence to the SIB in
3 October 2003?

4 A. I was the only person in the MCTC at that time who was
5 available. The other instructors weren't in the MCTC.
6 They were off on leave or not in work.

7 MR DONMALL: I have no further questions, Sir, thank you.

8 MR MOSS: Sir, I have no questions arising out of those
9 questions, thank you.

10 Questions by THE CHAIRMAN

11 THE CHAIRMAN: Could you look back at paragraph 36 and the
12 final sentence:

13 "I understood this speedy processing and visual
14 impairment to be 'maintaining the shock of capture'."

15 I am really puzzled as to how you could make that as
16 an error for security. The two are quite different,
17 aren't they?

18 A. Yes, they are, Sir.

19 THE CHAIRMAN: How does it come about that you could have
20 made that error when you were making your statement?

21 A. Possibly by the way I put it across, Sir.

22 THE CHAIRMAN: When you say "the way you put it across", it
23 is completely different, isn't it, "maintaining the
24 shock of capture", an error for security?

25 A. Yes.

1 THE CHAIRMAN: It looks -- I find it puzzling, to say the
2 least, how you could make that mistake. Do you?
3 A. I understand it doesn't look the best of statements,
4 Sir, yes.
5 THE CHAIRMAN: I am not saying the statement does not look
6 the best. The statement is very informative. But that
7 passage does not look the best, to use your term.
8 A. Yes, agreed, Sir.
9 THE CHAIRMAN: Yes, all right. There we are. Do they still
10 call it the Glasshouse in Colchester?
11 A. It is informally referred to as that, yes, Sir.
12 THE CHAIRMAN: Yes. Thank you very much for coming along to
13 give your evidence. I am extremely grateful and you are
14 now free to go.
15 A. Thank you, Sir.
16 THE CHAIRMAN: Now, there is no reason why we shouldn't
17 start S046, is there?
18 MR MOSS: No, Sir, save that I think some arrangements need
19 to be made because he is screened.
20 THE CHAIRMAN: Yes, we had better put up the screens and the
21 like.
22 Just to say, I think everybody ought to know I must
23 finish by 4.00 this afternoon.
24 MR MOSS: Sir, perhaps while the arrangements are being
25 made, I can indicate in the usual way that S046 is

1 a soldier for whom a restriction order applies in pretty
2 much the standard terms. The details will be available
3 on the Inquiry's website but anyone, especially from the
4 media, listening to his evidence should please be aware
5 that the restriction order is in place.

6 THE CHAIRMAN: Yes. Mr Moss, this is S046?

7 MR MOSS: S046, thank you.

8 THE CHAIRMAN: If you could just remain standing for one
9 moment, I think some of you know, but maybe not all of
10 you know that I know S046 in a professional capacity.
11 I think I met him first some time after this Inquiry was
12 set up and I have seen him on two or three occasions and
13 probably will see him in the future in a professional
14 capacity. I want to make that clear from the outset.

15 Yes, very well. Well, now, I ask S046 if you would
16 take the oath. Are you going to affirm or are you going
17 to take the oath on the Bible?

18 A. The Bible.

19 S046 (sworn)

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

21 A. Thank you.

22 THE CHAIRMAN: If I could ask you, please, to get as close
23 as you reasonably can to the microphone. I don't
24 believe it is all that comfortable sitting there, but it
25 is essential, otherwise we won't hear your evidence.

1 Yes, Mr Moss.

2 Questions by MR MOSS

3 MR MOSS: Colonel, as you will know your name in these
4 proceedings is S046. Can I ask you please to take up
5 the hard copy of your statement which hopefully will be
6 in the folder on the table in front of you. If you look
7 at the final page of your statement, which we have at
8 BMI07328, please.

9 A. Page 22?

10 Q. Yes.

11 A. Yes.

12 Q. Do we see that that was a statement that you provided to
13 the Inquiry on 25 February of this year?

14 A. Yes, I do.

15 Q. When you provided that statement to the Inquiry, were
16 you telling the Inquiry that the contents were true to
17 the best of your knowledge and belief?

18 A. Yes, I did.

19 Q. Thank you. Everybody has had a chance to read that
20 statement. My task is to pick up the more significant
21 matters arising out of it. May we start just briefly
22 with your career background. You tell us in your
23 statement, is this right, that you joined the army back
24 in 1977?

25 A. Yes, that's correct.

1 Q. You had an infantry background initially, being with the
2 Royal Anglians and you remained in the infantry until,
3 I think, 1985 when you transferred to the intelligence
4 corps?
5 A. That's correct.
6 Q. You were promoted lieutenant colonel in 1999?
7 A. Correct.
8 Q. By September 2001 were you appointed as the commanding
9 officer of the JSIO at Chicksands?
10 A. Yes, I was.
11 Q. I think you tell us in your witness statement that you
12 retired in 2004 and so are no longer in the armed
13 services?
14 A. That's correct.
15 Q. And your rank, please, when you retired?
16 A. Lieutenant colonel.
17 Q. Thank you. I will come on, Colonel, to training that
18 was given at Chicksands a little later in your evidence.
19 But may I start, please, with the training that you,
20 yourself, received -- in particular during your time in
21 the infantry and on the courses that you did. In the
22 infantry would you have received annual training in the
23 Law of Armed Conflict?
24 A. Yes, I would.
25 Q. The Inquiry knows that that principally involved the

1 showing of a video and some instructor-led discussion.
2 Can you remember, looking back, what the overall message
3 of the LOAC training was, so far as prisoners of war
4 were concerned?

5 A. It is difficult, but fundamentally they could be dealt
6 with humanely.

7 Q. Thank you.

8 A. But I can't remember the detail of the training.

9 Q. As with all my questions, if you don't know and you
10 genuinely can't remember, please say so.

11 Can you help us with this, in relation to the LOAC
12 training. Do you recall whether it ever covered the
13 deprivation of sight of prisoners and whether that was
14 legitimate and if so, in what circumstances on the LOAC
15 training?

16 A. I do not recall that.

17 Q. You tell us in paragraph 30 of your statement that you
18 do recall -- again as part of your infantry training --
19 that you undertook a company escape and evasion
20 exercise, is that right?

21 A. That's right.

22 Q. Did that involve you personally being hooded?

23 A. It did.

24 Q. During that exercise, aside from being hooded on
25 capture, were you subject to mock questioning or

1 interrogation?

2 A. I wasn't.

3 Q. Was that training based at sub-unit or unit level and
4 led by those in your battalion, or was it led by the
5 then equivalent of 4 Conduct After Capture Training
6 giving specialist training in resistance to
7 interrogation?

8 A. No, it was sub-unit training within the battalion.

9 Q. Thank you. At the time when you yourself, Colonel, were
10 hooded as part of that escape and evasion exercise, did
11 you yourself have an understanding one way or the other
12 as to whether hooding was a permitted technique for
13 British forces to use on their prisoners?

14 A. I didn't.

15 Q. You didn't know one way or the other?

16 A. I didn't know one way or the other.

17 Q. Does it follow that so far as your infantry training was
18 concerned, nothing -- by that stage -- had taught you
19 anything about the prohibition on the use of the five
20 techniques?

21 A. That's correct.

22 Q. Moving on, you go on to tell us in your statement that
23 having joined the intelligence corps, you completed the
24 interrogation course which at that time lasted two
25 weeks. Is that right?

1 A. That's correct.

2 Q. Would that have been in 1985 or thereabouts?

3 A. It would, yes.

4 Q. As you remember it now -- and again say if you don't
5 remember -- did that interrogation course cover the
6 prohibition on the five techniques?

7 A. It did.

8 Q. Can I ask then what you were taught specifically about
9 hooding on that course back in 1985 if you can remember?

10 A. I can't remember in detail.

11 Q. So the aspect of the five techniques that relates to
12 sight deprivation or to hooding, can you help at all as
13 to what it is you think you were taught about that part
14 of the prohibition? Whether it was a prohibition for
15 all purposes or as an aid to interrogation or during
16 interrogation itself?

17 A. It was not during interrogation. Not the act of
18 questioning.

19 Q. Can I just check I understand that: are you saying that
20 the prohibition you were taught was you must not hood
21 during questioning itself?

22 A. Correct.

23 Q. Was anything said about the use of hoods at an earlier
24 stage, whether at the point of capture for operational
25 security, or as part of a process of softening up as an

1 aid to interrogation prior to the questioning itself?

2 A. I cannot recall the detail of what we were taught, but
3 certainly it would not have covered softening up in the
4 phrase that you used then.

5 Q. So you weren't positively taught that hoods should be
6 used or could be used for a process of softening up?

7 A. Not positively taught, no.

8 Q. But you correct me if I am wrong: is the position that
9 you can't remember one way or the other whether the
10 course covered a specific prohibition, "You must not use
11 hoods as part of a softening-up process as an aid to
12 interrogation"?

13 A. I can't remember that detail.

14 Q. Did you understand back then in 1985 that even in August
15 1971, the techniques being used by British interrogators
16 and the RUC as part of interrogation in depth had not
17 included the use of hoods during the interrogation
18 itself?

19 A. Sorry, could you repeat that question?

20 Q. Sorry, it is my fault. The Inquiry has seen evidence
21 that in 1971 interrogation in depth -- August 1971 in
22 Northern Ireland -- the interrogation in depth
23 techniques did not include the use of hoods during the
24 interrogation period itself; they were used in the
25 holding areas prior to interrogation. Were you aware of

1 that from what was taught in the course in 1985?

2 A. No, I wasn't.

3 Q. Thank you. You go on to tell us in your witness
4 statement that in 1989 you attended the Army
5 Staff College, is that right?

6 A. That's right.

7 Q. Can you remember -- appreciating it is a long time
8 ago -- whether that training included a section on
9 counter-insurgency?

10 A. Yes, I can remember there would have been a period on
11 counter-insurgency.

12 Q. Again, it may be asking a lot, but do you remember
13 whether in the course of the counter-insurgency, the
14 COIN training at the Staff College, you were taught
15 about such matters as the Parker Report for 1972 and the
16 Heath ruling --

17 A. I don't recall that.

18 Q. So if one could take matters, shall we say immediately
19 prior to Op Telic, can I just ask you what your
20 understanding was at that time, early 2003, about the
21 use of sight deprivation on British prisoners. Did you
22 understand whether it was legitimate, and if so in what
23 circumstances and by what means?

24 A. My understanding, when I was commanding officer of JSIO,
25 was that sight deprivation in the form of blindfolds was

1 acceptable when moving individuals, that that blindfold,
2 in my view, could remain on when they went into an
3 interrogation room. But that shortly after going into
4 the interrogation room it should be removed in order to
5 conduct questioning.

6 Q. You say a form of blindfolds was acceptable. Would that
7 include and extend to the use of hessian hoods?

8 A. Providing the hessian hoods did not affect breathing --
9 in other words, it did not go down below the nose,
10 a hessian sack could be used to cover the eyes but not
11 the full face.

12 Q. Where had you got that understanding from, that the nose
13 and mouth shouldn't be covered if a hessian hood was to
14 be used?

15 A. It comes from my own personal reading, having completed
16 the interrogators' course, looking at policy in various
17 capacities when I was in the defence intelligence staff
18 and my own views that full facial hooding was not
19 acceptable practice. I made sure that within JSIO that
20 was the practice that we covered. The fact that hessian
21 sacks could be used was entirely due to the notion of
22 what equipment was available at the time, because not
23 always bespoke blindfolds were available.

24 Q. We will come back to the training that was given by
25 3 Training Company a little later in your evidence. In

1 any event you say that was your understanding and in
2 part from what you had worked out from your own learning
3 in various different posts over the years, is that
4 correct?

5 A. That's correct.

6 Q. May we turn then next, please, Colonel, to your own role
7 and to the chain of command. No doubt the Inquiry
8 should bear in mind, should we, that as the CO of the
9 JSIO, first of all you had more than one company under
10 your command, is that right?

11 A. That's right.

12 Q. Is this right, that the JSIO itself, of which you were
13 the commander, was one of various different schools
14 dealing with different intelligence disciplines which
15 together made up the Defence Intelligence and Security
16 Centre, DISC?

17 A. That's correct.

18 Q. And that above you in the chain of command, commanding
19 all of those different schools and units of which JSIO
20 was one, would have been an officer at the level of
21 brigadier, is that right?

22 A. That's correct.

23 Q. You describe how the brigadier was effectively the chief
24 executive of DISC. You tell us that it was Brigadier
25 Holtom and then Brigadier Everson within your period as

1 the CO?

2 A. That's correct.

3 Q. The dates of your own holding at that place, I think you
4 tell us is in September in 2001 to September in 2003, is
5 that correct?

6 A. That's correct.

7 Q. Can you help with this: as well as to the brigadier who
8 sat directly above you in the chain of command at DISC,
9 did you have other reporting chains to, for example, the
10 staff of the chief of defence intelligence or to J2
11 within PJHQ?

12 A. No.

13 Q. Would you have routinely liaised with those intelligence
14 officers in those chains of command, the CDI and PJHQ?

15 A. I had reasonably frequent contact with ADI HUMINT office
16 in the defence intelligence staff. I did not have
17 routine or frequent relationships with the operational
18 staff at PJHQ.

19 Q. Thank you. The companies under your command, you set
20 them out in your witness statement, was that 1
21 Operations Company?

22 A. Yes.

23 Q. And 2 Reserve Company?

24 A. Yes.

25 Q. Can you deal briefly with what their principal functions

1 were?

2 A. 1 Ops Company, at least on paper, was established to
3 provide a deployable field HUMINT team as ordered by the
4 Ministry of Defence, and also a defence debriefing team
5 for specialist debriefing activities in the
6 United Kingdom.

7 Q. And 2 Reserve Company?

8 A. 2 Reserve Company was effectively three people, who had
9 a dual function. The OC of that company was responsible
10 for reservist training for the Army, Navy and Air Force,
11 but he also had a function as the officer commanding of
12 HMS Ferret which was a different chain of command to
13 mine.

14 Q. Then there was 3 Training Company, was there not?

15 A. There was, sir.

16 Q. For whom the OC, at least come 2002, was our first
17 within from this morning. 3 Training Company, I think,
18 would have had a number of branches within it of which
19 F Branch, dealing with tactical questioning and
20 interrogation, was only one aspect. Is that right?

21 A. Correct.

22 Q. Then 4 Conduct after Capture Company involved, obviously
23 as its name suggests, in the provision of conduct after
24 capture, resistance to interrogation training for
25 British soldiers. Would that be right?

1 A. That is correct.

2 Q. Perhaps in outline before we break for lunch, can I ask
3 you about your own responsibilities in general terms as
4 the CO, please, Colonel. You set out in your witness
5 statement that you would have had various
6 responsibilities dealing with the administrative
7 matters, finance, human resources and all of the
8 briefing duties that go with being the CO of any unit,
9 is that fair?

10 A. That's correct, plus other duties.

11 Q. To what extent in general terms were you involved in and
12 responsible for the actual content of the training which
13 was delivered by the two training companies,
14 3 Training Company and 4 CAC Company?

15 A. I wasn't directly responsible for the design of all of
16 the courses.

17 Q. On a day-to-day basis, would you have been involved in
18 what training was being given?

19 A. On a day-to-day basis, I would not have a set routine
20 that I would go and visit courses. For example, I did
21 not open every course. There were some courses which
22 would have been conducted that I didn't visit at all
23 because of circumstances.

24 Q. When you answered me a moment ago that you weren't
25 directly responsible for the design of all the courses?

1 A. Um-hm.

2 Q. Did you have an involvement in what was trained on the
3 tactical questioning and interrogation courses?

4 A. No, I didn't.

5 Q. It is perhaps not necessary to go into detail of what
6 the courses were or why, but did you have a more direct
7 involvement with certain other courses?

8 A. There was one other -- two other courses that I had
9 direct involvement in the design of, yes.

10 Q. Thank you. We may return to that matter when we look at
11 some of the courses from 3 Training Company. But, Sir,
12 would that be a convenient moment?

13 THE CHAIRMAN: Yes it would.

14 Colonel, we break now for lunch.

15 A. Certainly, Sir.

16 THE CHAIRMAN: Back at 2 o'clock, please, promptly and I am
17 sure I don't need to remind you, please don't talk to
18 anybody about your evidence during the course of the
19 break.

20 Thank you, 2 o'clock.

21 (1.00 pm)

22 (The short adjournment)

23 (2.00 pm)

24 THE CHAIRMAN: Yes, Mr Moss.

25 MR MOSS: Thank you, Sir.

1 S046, I would like to move on, please, to the
2 doctrine and guidance that was in place in that period
3 when you were the CO at the JSIO. You deal with this at
4 paragraph 16 of your statement. Can we look at that,
5 please, BMI07314.

6 A. Paragraph 60?

7 Q. 16.

8 A. 16, yes.

9 Q. You there list the doctrinal publications and the like
10 which you understood to be applicable at the time.

11 JWP 1-10, JSP 391, JSP 120(6), AJP 2, the
12 Geneva Conventions themselves, the Law of Armed
13 Conflict, and three STANAGs, do you follow?

14 A. Yes, I do.

15 Q. Thank you. Without necessarily having to turn to all of
16 those, are you aware that in general terms most of those
17 doctrinal publications deal with the handling of
18 prisoners of war at a fairly high level of generality
19 and that where there is detail it tends to be on the
20 logistics and documenting of prisoners of war, rather
21 than on specific guidance on tactical questioning and
22 interrogation methods?

23 A. That would be my understanding, yes.

24 Q. Is that a fair summary?

25 A. Yes.

1 Q. Were you aware of that during your tenure as CO of JSIO?

2 A. I was.

3 Q. Thank you. You go on to tell us in your statement that

4 you are not sure whether or not you had seen the

5 1972 Directive which addressed the five techniques.

6 Could we just look at that briefly. It will come up on

7 screen for you. It is CAB001020.

8 A. Yes, it is there.

9 Q. Directive on interrogation. Doing the best that you can

10 now, when do you think you first saw this directive

11 itself?

12 A. I really can't recall.

13 Q. May we just look at one point of detail in it,

14 CAB001025.

15 A. Yes.

16 Q. On the face of the directive, although its

17 interpretation may be a matter for debate, on the face

18 of the document it says:

19 "Techniques such as the following are prohibited..."

20 And then includes any form of blindfold or hood.

21 Did that correspond with your understanding of the

22 position?

23 A. No.

24 Q. Because?

25 A. Because that would be referring to, in my understanding,

1 to the act of interrogation, not necessarily the
2 activity outside the interrogation room.

3 Q. So as you look at this now, what, you understand that
4 reference to not -- prohibited techniques to be
5 prohibited during interrogation?

6 A. Correct.

7 Q. As you understand it, does it extend to acts preparatory
8 or as an aid to interrogation?

9 A. As far as possible, yes.

10 Q. But you simply can't help us one way or the other as to
11 whether you were specifically aware of this directive?

12 A. I'm afraid I can't.

13 Q. You will have, I hope, a cipher list in front of you.
14 If I can ask you to be careful as we move into issues
15 relating to names, but can you just have a look at S040.
16 I think you well know who that is?

17 A. Yes.

18 Q. Don't use the name. When S040 gave evidence, he told us
19 that in the course of the review that he did of
20 capability and doctrine -- we will come on to that and
21 the documents relating to it in due course -- but in the
22 course of that, he asked colleagues in the JSIO as well
23 as outside for all the extant doctrine, and that this
24 1972 Directive simply was not brought to his attention
25 at all from his trawl, as it were, for the extant

1 doctrine. Do you follow?

2 A. Yes, I do.

3 Q. Do you think it's possible that JSIO by this time --
4 2001-2003 -- didn't have this directive as part of its
5 log of extant doctrine?

6 A. It's possible they didn't have it.

7 Q. You deal in your statement with the HUMINT directive for
8 Op Telic. May we look briefly at that, please. We have
9 it at MOD049310.

10 This is 27 February 2003, CJO's directive to the
11 commander of British forces. I think first of all you
12 would not have been involved, Colonel, in drafting this
13 or indeed in giving any input into it, is that right?

14 A. That's correct.

15 Q. Your understanding though, I take it from your
16 statement, is that this directive ought to have been
17 given to the HUMINT personnel actually on the ground, so
18 that, for example, those running the JFIT ought to have
19 had access to it?

20 A. They ought to have done, yes.

21 Q. But ordinary battlegroups, if I can use that phrase
22 without meaning to be rude, though, would not have been
23 expected to receive that. Would that be right?

24 A. That's correct.

25 Q. Can I ask you, though, about the policy which led to the

1 production of this directive? May we look for those
2 purposes at MOD041753. As one see from the front sheet,
3 Colonel, this is 21 July 1997, so before your time,
4 obviously, as commanding officer. Coming from the CDI,
5 and you will see over page, high level distribution.

6 Paragraph 1, if we can go back to the front page,
7 says that:

8 "The previous MoD policy instruction on the use of
9 interrogation by the armed forces in internal security
10 operations is at reference A. This is now clearly dated
11 and applied to internal security operations only. It is
12 therefore cancelled and is replaced by the wider
13 guidelines at annex A to this letter which apply to
14 operations across the conflict spectrum."

15 Pausing there, that meant, did it not, not just in
16 warfare but in peace enforcement and peace-keeping
17 operations as well?

18 A. That would be my understanding, yes.

19 Q. Paragraph 2:

20 "Addressees may wish to note that UK interrogation
21 policy is now vested in the new [JSIO] which forms part
22 of the [DISC]... The new unit includes regular and
23 reserve interrogation elements that were components of
24 the old [JSIO] at Ashford."

25 If we go on two pages, please, we see the annex A

1 that is referred to, "Policy for Interrogation and
2 Related Activities". Of interest to the Inquiry is
3 paragraph 1(d):

4 "Procedures used by UK interrogators in an
5 operational theatre should be governed by a detailed
6 directive that incorporates current legal advice and is
7 issued on behalf of the UK joint commander."

8 Now, just pausing there, during your tenure as the
9 CO of the JSIO, did you ever see this policy for
10 interrogation and related activities?

11 A. Not to my recollection.

12 Q. Does that surprise you? Is this a document that you
13 think you ought to have been made aware of?

14 A. It does surprise me. But I am confused by the paragraph
15 on page 1 which says that policy was vested in my
16 organisation. That certainly wasn't anything that was
17 made clear to me, that we were responsible for policy.

18 Q. Thank you. So the terminology in the cover sheet you
19 would take issue with, at least to the extent that it
20 wasn't your understanding, would that be right?

21 A. That would be correct.

22 Q. But looking at this annex A, it does appear to be
23 a provision which is saying that before interrogators
24 are used in an operational theatre, their procedures
25 need to be governed by detailed directive and that that

1 directive, one, will be issued by the UK joint commander
2 but also will incorporate current legal advice. It may
3 be said that as the CO of the JSIO that was a matter
4 that was directly relevant to you. Would you agree?

5 A. Yes, insofar as I was responsible and had I the
6 resources to provide a joint forward interrogation team,
7 yes.

8 Q. Yes?

9 A. In other words, if I may clarify, I would expect to
10 receive the detailed directive from the permanent joint
11 headquarters.

12 Q. So that is on the operational side?

13 A. Yes.

14 Q. In the sense that if you were to deploy a JFIT on
15 operation the they would need to be aware?

16 A. Yes.

17 Q. So far as your training assets were concerned, they too
18 would need to be aware, would they not? Because they
19 would wish, it might be thought, to include within the
20 training the fact that interrogation procedures in
21 theatre need to be governed by a detailed directive
22 issued, as it were, from on high before the operation
23 starts. Is that fair?

24 A. That would be correct, although the training would not
25 necessarily be able to take account of specific

1 direction for specific theatres.

2 Q. No, but to alert interrogators to the fact that there
3 should be a detailed directive giving them procedures?

4 A. Absolutely, yes.

5 Q. Watch out for it when you are deployed?

6 A. Correct.

7 Q. May we look back at your own witness statement, Colonel,
8 at paragraph 36.

9 A. Yes.

10 Q. You say there that on the formation of JSIO -- halfway
11 down the paragraph:

12 "... interrogation training was separated from CAC
13 training in recognition that one could not advocate use
14 of the proscribed techniques whilst the other could."

15 I will come back to that, I am just giving you the
16 context. You then said this:

17 "Other than this, my understanding is that there was
18 little development of the PHTQ and interrogation
19 doctrine or courses over time prior to September 2003."

20 What did you mean by that?

21 A. I mean that from my own experience from the course that
22 I had not seen any development of doctrine that I would
23 have been interested in from a personal perspective as
24 a qualified interrogator. Nor had I come across
25 anything of substance during my time in policy branches

1 in the directorate army staff duty or in the defence
2 intelligence staff.

3 Q. Thank you. I would like to turn next if I may to two
4 aspects of policy issues that do appear from the
5 documents at least to have arisen during your period as
6 CO. They are interrelated. The first is the capability
7 shortfall, and the second is the shortfall in doctrine.
8 Could we look at those, please? If we start with the
9 capability shortfall, you deal with that aspect early on
10 in paragraph 5 of your witness statement, where you say
11 this:

12 "It was a constant frustration to me, as it was to
13 OC1 Ops Company and OC 2 Reserve Company, that I was
14 unable to secure resources sufficient to provide
15 a guaranteed deployable field HUMINT team... or
16 a guaranteed deployable interrogation capability. The
17 possibility of deploying JSIO assets, in my view, was
18 not taken seriously outside JSIO. Any deployment would
19 rely on robbing training staff and/or on the early
20 call-out of reservists. I lacked specialist equipment
21 and vehicles and there was little prospect of meaningful
22 collective training essential to preparedness."

23 Just dealing with that, please, when it came to
24 Op Telic 1 and Op Telic 2, was that basically how the
25 HUMINT had to be staffed in the sense that you had to

1 rob your own training staff and rely on the call-out of
2 reservists?

3 A. That is absolutely correct.

4 Q. Your constant frustration, as you put it, in relation to
5 these matters, how did that evidence itself?

6 A. In discussions that I would have had within the agency
7 management board of DISC when we were looking at the
8 annual cycle of resources and also in various
9 conversations I would have had, although I can't
10 remember any specifics. But I certainly would have
11 raised it as an issue at defence HUMINT working groups.

12 Q. Does that link in with the evidence that you gave this
13 morning to the effect that 2 Reserve Company, perhaps
14 sounding rather grand, in fact comprised three people?

15 A. Correct.

16 Q. During your two years in post, did you manage to secure
17 a resolution of this capability problem and resource
18 problem as you saw it?

19 A. No, I didn't.

20 Q. If we turn to what might be thought of or termed
21 "a doctrinal shortfall" --

22 THE CHAIRMAN: Before you do that, can I just ask for my own
23 benefit, you said two reserve companies comprised only
24 two people. Is that right?

25 A. Three people.

1 THE CHAIRMAN: Which were they?

2 A. That would have been the OC of 2 Reserve Company, S040.

3 He had a warrant officer from the Royal Navy. And he

4 had a female civilian clerk.

5 THE CHAIRMAN: Yes. And the other one was? Which was the

6 other company?

7 A. 1 Ops Company?

8 THE CHAIRMAN: 1 Ops Company, yes. Had the same, is that

9 right?

10 A. No, no. 1 Ops Company was bigger.

11 THE CHAIRMAN: I thought you said -- when you said 2 Reserve

12 Company -- you meant 2 Reserve Company, not two of the

13 reserve?

14 A. No I beg your pardon.

15 THE CHAIRMAN: Thank you very much.

16 MR MOSS: But I think this is right, isn't it, that it was

17 towards 2 Reserve Company that you would have looked for

18 the deployable JFIT?

19 A. Yes.

20 Q. Now, so far as doctrine is concerned, I was about to

21 take you to paragraph 8 of your witness statement?

22 A. Yes.

23 Q. Where you say, first of all, in general terms that:

24 "I do not recall discussing specifically PHTQ policy

25 or doctrine with [your] chain of command."

1 Does that remain your recollection now?

2 A. That remains my recollection.

3 Q. I would like you, I am afraid, to look with us at
4 a series of documents that are relevant to this issue.

5 May we start, please, with MOD028335. You will see,

6 Colonel, in fairness to you, from the date of this

7 document that this pre-dated your own tenure?

8 A. Yes.

9 Q. I think the Inquiry knows that this would have been
10 going to your predecessor, whose name is on your cipher
11 list. If we look at the final page, please, MOD028339,
12 do you recognise that this is a document which has been
13 written by the OC of 2 Reserve Company, S040?

14 A. Yes, I do.

15 Q. Thank you. He was dealing in this document with
16 a request for the review of doctrine and capability
17 which had come from your predecessor which is the
18 reference A. In paragraph 2 he was reporting, S040,
19 that a common factor which had become apparent during
20 the research into the subject is how little exists in
21 print.

22 If one goes over the page, one sees that theme again
23 in paragraph 3, where he says that:

24 "After extensive Inquiry in DISC, MoD and PJHQ, the
25 only evidence found to date of the existence of any

1 policy or doctrine on interrogation is in the old and
2 familiar publications..."

3 Then he lists JSP 391, the aide-memoire,
4 instructions for PW handling, two of the STANAGs and
5 JSP 120(6).

6 Can I just ask you about that? Once you did come
7 into post, was that aspect raised with you by S040 in
8 any shape or form, the relative paucity of any doctrine
9 in print for the work that he had already done?

10 A. I don't recollect discussions being confined to that
11 subject. I do recall several discussions with him
12 fairly informally in his office and my own where his
13 frustrations were clearly articulated to me and with
14 which I sympathised.

15 Q. One might well understand that discussions would not
16 have been confined to the relative paucity of doctrine.
17 I say that because as one looks at this document, if we
18 go down to paragraph 6 and the subheading above it, that
19 there was then a lengthy section that dealt with the
20 shortfalls in capability. Do you see that?

21 A. Yes.

22 Q. So no doubt frustration about capability would have been
23 raised as well, but do you remember the shortfall in
24 doctrine at least being raised, albeit part of other
25 concerns and frustrations?

1 A. I don't recollect that specifically.

2 Q. There's a point of detail here if we may, albeit
3 briefly. Could we look at paragraph 15, again, before
4 your time, but we see that S040 was referring to having
5 started the debate on legal issues by going to the Army
6 Legal Service who were asked to clarify the legal status
7 of interrogation in situations other than general war.

8 He attached the clarification and the answer -- or
9 the request for clarification -- and the answer that was
10 provided. If we have a look at those, we have them,
11 please, at MOD028354. This comes from
12 a Lieutenant Colonel Ridge S01 in international law from
13 the Army Legal Service, S046. If we see paragraph 3, he
14 was saying, having quoted article 17 of the
15 Geneva Convention, that:

16 "In effect this means that an interrogator can ask
17 questions but cannot demand answers. No threats of
18 harm, physical or psychological, violence or abuse can
19 be used. It would also be unlawful to restrict access
20 to food and water or place the individual in solitary
21 confinement."

22 If you look at paragraph 12, in "Conclusions",
23 picking up on the same theme, he says:

24 "Reference A..."

25 Which was the request for clarification from S040:

1 "... did not outline your methods of interrogation
2 and therefore unfortunately my comments have to be
3 rather general. As we discussed at reference B..."

4 Which I think is a reference to a telephone
5 conference between the two of them:

6 "... much will depend on the operational
7 circumstances. In an international armed conflict you
8 are very limited as to what you can do other than ask
9 questions."

10 Others may ask you questions about other aspects of
11 this legal advice, but can I ask you: did you see this
12 legal advice from Colonel Ridge, do you remember, during
13 your tenure?

14 A. No, I didn't.

15 Q. Were you made aware that legal advice had been sought
16 and that part of the answer that had been given was that
17 in an international armed conflict, interrogators would
18 be very limited as to what they could do other than
19 simply asking questions?

20 A. I don't recall receiving that information.

21 Q. Thank you. May we move on then, briefly, to look at
22 MOD028350. Again, 13 April, so still I am afraid before
23 your tenure, but so that we can follow what happened.

24 A. Sorry, 13 April of which year?

25 Q. 13 April 2000. MOD028347.

1 This then is the report from S040 that went up on
2 13 April, again to your predecessor as CO. We see
3 within this that in paragraph 4 -- if we can go to
4 paragraph 4 please -- there was a section, do you see,
5 on current doctrine.

6 A. Yes.

7 Q. It included at the end of paragraph 4:

8 "Extensive searching has not [yet] revealed any
9 parallel national requirements."

10 In paragraph 5, reference E -- which was a reference
11 to JWP 1-10, stating that apart from some matters:

12 "... it otherwise deals with interrogation in
13 a cursory manner."

14 And a reference to the fact that there was no
15 current intention to replace JSP 120(6), which was
16 reference C.

17 Just dealing with those aspects, this is a report
18 which I think you say in your witness statement you
19 think S040 may have referred you to, once you did come
20 into the post of CO. Is that right?

21 A. That's correct.

22 Q. So you think that this is a report you would have seen?

23 A. Yes.

24 Q. One sees again -- I don't want to take the references to
25 doctrine out of context -- that thereafter there is

1 a lengthier section dealing with capability and then
2 over the page asset requirements and training
3 requirements. Do you follow, without going into the
4 detail of it?

5 A. Yes.

6 Q. What's your recollection now of what S040 said to you in
7 general terms when he was showing you this report that
8 he had made?

9 A. My recollection is one of general frustration on his
10 part that he wanted to move this forward, wanted to
11 establish a capability. As I say I sympathised with
12 that view. The reason I think I did see this document
13 was because there were other documents which I have seen
14 as part of this Inquiry preparation where I gave him
15 a rather lengthy document by Colonel David Burrell,
16 which I had had in my possession. So I think this was
17 a forerunner to discussions that we had and we used this
18 as a basis for further work.

19 Q. Thank you. In paragraph 17 of this same document, you
20 would have seen, would you, at the time, therefore, the
21 warning within S040's paper that:

22 "Current doctrine [in this area] dates from the end
23 of the 1940s. It is still relevant to..."

24 In context that must be a reference to NATO
25 Article 5 operations, is that right?

1 A. I'm not sure.

2 Q. "... where war has been declared, but becomes less
3 applicable as the level of conflict decreases and the
4 complexity of political, legal and PR requirements
5 increases."

6 Pausing there, that was a warning, wasn't it, that
7 the doctrine was outdated generally and it is still
8 relevant for full warfare, but once one gets into more
9 complicated types of operation than full warfare, it was
10 not really fit for purpose.

11 A. That would be a correct summary.

12 Q. If we just follow it through very briefly, 2 May 2000,
13 MOD028345.

14 Do we see that your predecessor, if we look at the
15 second page -- forgive me, take it from me for the
16 moment that it is signed by your predecessor as
17 lieutenant colonel and CO -- was then sending this
18 report up from S040, reference A, to promote discussion.
19 Do you see that in paragraph 1:

20 "... on a largely neglected HUMINT skill."

21 A. Yes.

22 Q. Do you see that? To the chief of staff, is that, at
23 DISC that we see at the top?

24 A. Yes.

25 Q. Were you aware when you came to be CO that S040's paper

1 had been staffed up to the headquarters level at DISC?

2 A. I don't think I was.

3 Q. Forgive me for having taken some time to look at matters
4 before you were on the scene. Can we turn, though, next
5 to 23 July 2002, MOD041725. Because one sees that by
6 this stage you were now yourself providing a paper on
7 the same topic, were you not, on UK defence policy for
8 tactical questioning and interrogation?

9 A. That's correct.

10 Q. So far as this is concerned, can you help the Inquiry
11 with what had happened in the interim between the paper
12 going up to headquarters DISC level on 2 May 2000 and 23
13 July 2002? Because on the face of it seems quite a gap?

14 A. I am not aware of any action having been taken.

15 Q. When you had your handover from your predecessor, did
16 you learn anything about what had happened about the
17 paper going up to HQ level at DISC?

18 A. I don't recall anything specific.

19 Q. Or what the delay or hold-up may have been or been
20 caused by?

21 A. No.

22 Q. You refer, if we can look in the third paragraph of the
23 second -- the second and third paragraphs of this -- to
24 there was going to be a defence HUMINT working group
25 some time in September. In the first paragraph you had

1 said:

2 "At the last defence HUMINT working group... [you
3 had] promised to produce a paper arguing for a coherent
4 TQ and interrogation capability."

5 And so on.

6 I don't want you for obvious reasons to use names,
7 but can you give the Inquiry the flavour of the
8 postholders who sat on the defence HUMINT working group?

9 A. There would -- certainly it was chaired by ADI HUMINT
10 from the defence intelligence staff and his sole staff
11 officer, who would have been major grade, being the
12 secretary. And then it would either have been
13 commanding officers or their second in commands of the
14 various military intelligence battalions and a couple of
15 the specialist units.

16 Q. Would PJHQ have been represented on it? I don't know if
17 the distribution list helps?

18 A. Probably. I can't remember in detail, but probably.

19 Q. The distribution list might help with PJHQ J2 being the
20 third numbered recipient of this.

21 A. Yes, but I think the thing to remember is that these
22 were fairly ad hoc meetings and not all organisations
23 were represented every time.

24 Q. I follow. Should the Inquiry understand, however, that
25 by this stage, this issue of the policy for tactical

1 questioning interrogation and the capability relating
2 to it had ceased to be an internal DISC issue and was
3 now being dealt with at the level of MoD's HUMINT
4 working group?

5 A. That was my intent.

6 Q. Is that something which you had engineered yourself or
7 was that the position when you took over?

8 A. I think it was something that I certainly endeavoured to
9 push as hard as I could. Whether it had started in
10 people's minds by my predecessor, I can't be clear.

11 Q. The drafting of this, I think S040 told us that he would
12 have had an involvement in producing a draft of this for
13 you. Does that sound likely to be right?

14 A. Absolutely, yes.

15 Q. If we just look briefly at the paper, please, we see in
16 the introduction section -- over the page,
17 paragraph 1 -- that reference A, JWP 1-10 set out the
18 current principles and processes for PW handling. B and
19 C are the STANAGs which underpin it:

20 "Currently, there is no coherent operational
21 capability for tactical questioning... and interrogation
22 that enables MoD UK to comply with any of these
23 references. History and recent operational experience
24 suggests that ignoring this capability... results in the
25 denial of valuable intelligence."

1 You say in brackets "mainly because of political
2 sensitivities".

3 That, as it were, was the headline of this paper,
4 would that be right?

5 A. That's correct.

6 Q. Focusing on the capability aspects and the shortfall in
7 capability; would that be right?

8 A. That's right.

9 Q. I think under assumptions, one should note perhaps that
10 in fairness you were stating explicitly that certain
11 assumptions were made, one of which was that the
12 Geneva Conventions at 3(c) would be complied with in
13 their entirety, is that right?

14 A. That's correct.

15 Q. And that MoD would comply with the requirements in
16 references A to C including the STANAGs and so on?

17 A. Yes.

18 Q. Just a couple of aspects, then, within this report. At
19 paragraph 9 on MOD041730, do we see that part of your
20 report at this stage was saying in the fourth line that:

21 "Only the [Royal Navy] has regularly based personal
22 on the TQ course and [Royal Navy] TQ-trained personnel
23 are present in every ship and submarine and some [Royal
24 Marine] units."

25 Is that right?

1 A. That's correct.

2 Q. There was a recent development where HQ Land had decreed
3 that all major units going on to the high readiness
4 roster were to send two personnel to a TQ course, is
5 that correct?

6 A. That's correct.

7 Q. In paragraph 10 you did refer, did you not, to the lack
8 of an MoD-endorsed doctrine for interrogation?

9 A. Yes.

10 Q. In the first line.

11 In paragraph 11, you said:

12 "The latest calls for operational support..."

13 And so on. There is a footnote down --

14 paragraph 13, my mistake -- to:

15 "Legal Considerations. Specific political and legal
16 implications will need to be considered and authority to
17 conduct interrogation given."

18 There was a footnote which said:

19 "It cannot be stressed highly enough that all
20 current UK interrogator-qualified armed forces personnel
21 are trained to operate within the terms of the
22 [Geneva Conventions]."

23 What was your source of stating that in those
24 confident terms?

25 A. I don't recollect exactly what was in my mind at the

1 time.

2 Q. The summary and recommendations, if we can further than
3 to that, please, in your paper, 2002, paragraphs 18
4 through to 24, I am not going to read it all out but
5 I wonder if you could just glance through 18 to 24
6 taking a moment now?

7 A. Yes.

8 Q. Now, would it be fair to suggest that by this stage,
9 certainly by reference to the summary and the
10 recommendations, that the focus had very much turned on
11 the capability shortfall rather than the doctrinal
12 shortcomings?

13 A. Yes, I would agree with that.

14 Q. So that the emphasis that you were now giving was
15 perhaps an understandable desire on your part for more
16 resources and concentration to be given to an urgent
17 need for a greater capability in this area for which you
18 were responsible?

19 A. Yes.

20 Q. Do you think that there is risk, however, that within
21 focusing on the capability shortfall and the need for
22 greater resources, that the doctrinal shortcomings were,
23 as it were, being given less priority and less
24 attention?

25 A. I think that's a fair comment, but the point that

1 I think was in my mind at the time is that without
2 a serious capability there's no point in addressing the
3 policies, because I was focused in on the
4 interrogation -- the sort of ultimate part of the
5 process. I wasn't focused in on the stuff at the battle
6 front because that was the responsibility of other
7 people.

8 Q. The responsibility of the battle front, you mean the
9 prisoner of war handling at the point of capture, that
10 sort of thing?

11 A. Prisoner handling, the prisoner of war handling
12 organisation and that capability was a J3 ops function,
13 not a J2 intelligence function.

14 Q. But the spectrum started so far as your interests were
15 concerned with TQ'ing, didn't it?

16 A. It does, yes.

17 Q. Whereas capability and resources was not within your
18 gift, was it? That was not something you could control?
19 The resources that you were given?

20 A. That's correct.

21 Q. So far as doctrine was concerned, the drafting of
22 doctrinal -- up to date doctrinal guidance -- on
23 tactical questioning and interrogation may have required
24 endorsement by MoD and by those higher up in the
25 intelligence chain of command, but the starting point of

1 that would have been the JSIO, wouldn't it, as the
2 subject experts?

3 A. No. We would certainly expect to influence doctrinal
4 writing, but the actual decision to produce new doctrine
5 would fall within the army to the directorate general of
6 doctrine and development at Upavon.

7 Q. If that is right, had anything actually been done to
8 start that process off? If one goes through the
9 documents I have taken you through, Colonel, it might be
10 thought that for several years the shortfall in doctrine
11 had been recognised and yet one is not seeing, it might
12 be said, come 2002 or 2003, "Well, this is in hand
13 because the doctrine that is so lacking is currently
14 being drafted"?

15 A. I think that is fair comment. It was the theme that we
16 felt in JSIO that we were one part of a much bigger
17 spectrum. We have responsibility for a very small but
18 important part at the end of that spectrum. In trying
19 to focus minds on a capability, we were hoping that that
20 would focus minds on the rest of the spectrum as well.
21 Because clearly the operations staff are responsible for
22 the provision of prisoner handling, tactical questioning
23 capability, and I was only responsible for delivering an
24 interrogation capability. And what I was trying to do
25 was focus minds on the fact that unless you have the end

1 of the spectrum, there is no point in bothering with the
2 other parts of the spectrum. So I was hoping to
3 influence through the capability argument.

4 Q. In essence, what, that the doctrinal guidance would
5 follow once the capability was put into place?

6 A. Yes, because we weren't convinced that interrogation as
7 a subject was being taken seriously at all. What we are
8 trying to do was to press for a bit more of a definitive
9 response from the Ministry of Defence as to whether they
10 really took this subject seriously. Because on the one
11 hand, they are asking for a joint forward interrogation
12 team to deploy, but they don't give you the capabilities
13 to do it.

14 Q. Looking back on the matter now, do you think that that
15 could have been addressed differently and that the
16 doctrinal guidance could have been taken forwards more
17 independently of the capability issues?

18 A. With the luxury of hindsight, yes, of course.

19 Q. Because it would have been apparent to you, would it
20 not, in 2002 -- even prior to Op Telic planning -- that
21 there were operational deployments -- Afghanistan and
22 the like -- involving HUMINT and soldiers being put on
23 the ground -- int corps soldiers being put on the ground
24 with no doctrinal guidance on TQ&I that was fit for
25 purpose?

1 A. I am not sure I would agree with that. I think that
2 those intelligence corps personnel who had deployed in
3 very small numbers on those smaller operations as part
4 of the field HUMINT teams were well capable of
5 understanding that it was a different type -- it was
6 tactical interrogation as opposed to tactical
7 questioning. It was a different style of interview, if
8 you like, that doesn't equate to the sort of issues that
9 we have found in Iraq.

10 Q. Moving on to Iraq, it might be said from the evidence
11 that we have heard from the instructors who were under
12 your command at this time, that in fact the up-to-date
13 doctrinal guidance such as it was effectively lived at
14 Chicksands, because the place where you would find it
15 was in the handouts from the course and the PowerPoint
16 presentations --

17 A. If you take doctrine as being that which is taught --
18 the meaning of doctrine is that which is taught, then
19 yes, I would have to accept that.

20 Q. Nowhere else would one have found, for example, guidance
21 on the approaches that were legitimate or on the
22 prohibition of the five techniques?

23 A. That's correct, because those were related to
24 interrogation as opposed to the prisoner handling
25 aspect.

1 Q. Responsibility for ensuring that there was doctrinal
2 guidance on those matters -- approaches that could be
3 used and the prohibition on the five techniques which
4 doesn't appear in the list of doctrine that you gave in
5 paragraph 16 of your statement -- where did
6 responsibility for that lie? Amongst whom was it
7 shared?

8 A. I have to accept that the responsibility lay with me as
9 the unit commander. My comfort was that those who were
10 delivering training were competent. They knew their
11 subject matter in detail. I am confident even with all
12 that I have read so far in preparation for this Inquiry
13 that what was being taught was correct and therefore
14 I had no worries that they were capable of doing those
15 tasks, within the Geneva Convention, when deployed.

16 Q. I follow. But that does relate more to the training
17 that was given on the courses --

18 A. That's correct.

19 Q. -- as opposed to the doctrinal guidance which would be
20 available --

21 A. That's correct.

22 Q. -- to those who were doing the operations on the ground
23 once they had left the training facilities. Do you
24 follow?

25 A. That's correct.

1 Q. Responsibility for that matter, what happened beyond the
2 training facility, what doctrinal guidance was
3 available, where does responsibility for that provision
4 of doctrine lie, or amongst whom?

5 A. The provision of doctrine, the publishing of doctrine,
6 the writing of doctrine, fell in my area to the DGDD&D
7 at Upavon.

8 Q. Calling for it and ensuring and pressing through that it
9 was done in the area, was that part of your
10 responsibility?

11 A. I didn't feel that that was a major concern for me
12 whilst I was serving, no.

13 Q. You say that, do you, despite the various warnings that
14 one sees from S040's concerns being raised, in amongst
15 the capability concerns of course, about the lack of any
16 doctrine on interrogation?

17 A. Yes, but I think we might be getting methods of
18 operating slightly confused. S040 was concerned with
19 interrogation in a larger scale conflict, with
20 the deployment of a joint forward interrogation team and
21 the whole of the prisoner of war handling organisation
22 that would support that.

23 I think the operations that you are referring to
24 now, the smaller ones, we are talking about the use of
25 field HUMINT teams who are very much more at the

1 tactical level, the immediate questioning of people that
2 they find in the area. But there would have been no
3 formal hand-on to a higher interrogation centre. They
4 would have dealt with them there and then and they would
5 have let them go.

6 Q. Does it follow that until Op Telic, that sort of much
7 larger-scale operation, that it wasn't high on the
8 priorities list because of that?

9 A. I would accept that, yes.

10 Q. Do you think that you could, yourself, have done more to
11 press forward the production of wider and fuller
12 doctrine in this area, interrogation and tactical
13 questioning? At an earlier stage?

14 A. In the context of the work that I was doing at the time
15 and my other responsibilities. No, it wasn't raised as
16 such a significant issue. I felt that what we were
17 trying to do was the best that we could do in the
18 circumstances.

19 Q. Thank you. May we just look briefly to complete the
20 chronology, as it were, pre Op Telic, could we look,
21 please, at MOD042051.

22 I think you will be familiar to some extent with
23 this document which was a response -- wasn't it, as we
24 see from the second page -- on behalf of the director of
25 military operations, the DMO.

1 A. Yes.

2 Q. And paragraph 2:

3 "Given the advanced state of staffing to identify
4 what capabilities [military intelligence] is to fulfil
5 and how best to do so, it is suggested that the further
6 staffing of a separate paper dedicated to [TQ] and
7 interrogation may complicate matters."

8 Does that appear to be -- perhaps we should look at
9 the conclusions as well, paragraph 5 over the page:

10 "JSIO's paper is a welcome addition to the
11 wide-ranging staffwork, currently being conducted in the
12 field of [military intelligence] capability. It is
13 believed that the issues raised would now best be taken
14 up by incorporating them into papers already circulating
15 at 2 and 3 star levels."

16 If we just pause there, can you help us to
17 understand the context of this? Does this appear to be
18 suggesting that the paper that you had sent up ought to
19 be incorporated into a wider review that was already
20 ongoing?

21 A. Yes, it does.

22 Q. Was that part of the reason why matters became delayed,
23 as you remember it?

24 A. Having seen that now, yes, that would be what they were
25 doing. I think -- I think my frustration would be that

1 they were devaluing the importance of what we were
2 trying to say, personally.

3 Q. If we go on, please, to 11 December 2002 and MOD042058,
4 one sees a memorandum from an officer whose name we can
5 use, Colonel Hedley(?), if you take it from me for the
6 moment who it is from, who was the successor, I think,
7 as ADI HUMINT.

8 In paragraph 1 he was saying that:

9 "The need to examine interrogation policy, develop
10 a joint doctrine for interrogation and capability
11 requirements were recognised in early 2002. DI HUMINT
12 has sponsored a study of the subject to be carried out
13 by CO JSIO."

14 That is you, isn't it?

15 A. I think he might be referring to my predecessor.

16 Q. That is the initial sponsoring of the original study to
17 your predecessor?

18 A. Yes.

19 Q. Thank you.

20 "Although to be completed by the end of 2002 it is
21 unlikely that the draft paper will be ready before
22 February 2003. This was due to the author being
23 deployed to Afghanistan."

24 Do you understand what that is a reference to?

25 A. No, I don't.

1 Q. If we go on to paragraph 3, in relation to policy:

2 "Doctrine for the handling and questioning of
3 prisoners of war... is given in reference B [JWP 1-10].
4 It is clear that TQ is conducted by capturing unit
5 personnel and that TQ is acceptable from both
6 a doctrinal and legal position. Further work is
7 required in developing the [concept of operations] and
8 tactical doctrine notes."

9 Do you know what that was a reference to?

10 A. No, I don't.

11 Q. "This will occur following the JSIO study."

12 Does that appear to be suggesting that some more
13 detailed guidance on TQ policy would follow from the
14 final completion of your paper? Is that the thrust of
15 it, as you --

16 A. That's what it implies, yes.

17 Q. Paragraph 5, over the page, thank you:

18 "Despite the outstanding work to be done to develop
19 doctrine for TQ, plans are well advanced for any Gulf
20 deployment in the near to medium term. Provision has
21 been made for a JFIT, largely from the reserves, and
22 a [field HUMINT] team to support the UK land component,
23 subject to confirmation of [the concept of operations].
24 Land command has made provision for a [certain number,
25 it is redacted] personnel from 1 UK Armd Div to be

1 trained in TQ... In addition DISC is to conduct a TQ
2 course for 1 Military Intelligence Brigade personnel
3 during [certain dates] although TQ will not be a primary
4 task for [those personnel]."

5 Did that chime with your understanding of the
6 position as of September 2002 or not?

7 A. No, it did not.

8 Q. Why not?

9 A. Because I do not think it reflects -- to say that the
10 provision has been made for a JFIT would be wholly
11 inaccurate. They had asked for one, but they had been
12 told quite clearly by me that unless they called out the
13 reserves -- and we have to put this in the context of
14 the political situation at the time, which I am not sure
15 we want to go into in too much detail here. But
16 certainly planning was fairly constrained and there was
17 no desire to sign Queen's Order 2 to call out reserves
18 for an act of war, and therefore I could not see how
19 a JFIT could be formed.

20 Q. Thank you. If we just turn then, please, to BMI07330.

21 You tell us, Colonel, in your witness statement that
22 this was, you think, the final paper that was produced
23 in relation to the study, is that right?

24 A. I think it is the final draft that I produced. Whether
25 it was amended after this by others, I'm not sure.

1 Q. Thank you. One sees again that the focus is on
2 capability -- paragraph 1 -- and the issue being
3 described, is that right?

4 A. That's correct.

5 Q. I just wanted to ask you about paragraph 6, over the
6 page. By this stage what was being said is:

7 "There is a great deal of ignorance surrounding the
8 subject area. Most commanders do not understand that
9 the JFIT is not the 'complete capability' but
10 a relatively small group of specialist individuals who
11 are one small part of a much large PWHO which must be
12 provided from elsewhere. There is adequate doctrine
13 (JWP 1-10) but the UK has not invested in the means to
14 deliver it."

15 Now that reference to there being adequate doctrine,
16 what did you have in mind there?

17 A. I think that in the light of everything else that we
18 have discussed today, probably an inappropriate
19 qualification of doctrine. I think what was in my mind
20 at the time was doctrine at least of some sort existed
21 in 1-10, and we weren't even capable of producing that,
22 let alone anything that was up to date or appropriate.
23 In other words, we did not see any desire to properly
24 form or provide training in the prisoner of war handling
25 organisation as a whole within the operations world.

1 Q. Looking at that paragraph 6, may that be a further
2 indication that the doctrinal shortcomings were getting
3 lost in the clamour -- perhaps understandable clamour --
4 for greater capability and resources?

5 A. I think I would accept that, absolutely.

6 Q. Thank you. Can we turn then to a completely different
7 matter which is your own involvement and knowledge at
8 the time of Telic itself. Taking it briefly, you tell
9 us in your witness statement that you had an involvement
10 in the run-up to Telic but that it was largely
11 administrative arrangements within DISC and discussions
12 about the constrained planning, is that right?

13 A. That's correct.

14 Q. You didn't deploy on Op Telic 1 or Op Telic 2 yourself,
15 is that right?

16 A. I did not.

17 Q. When personnel from within the JSIO deployed on Op Telic
18 1 and Op Telic 2, were they detached from your command?

19 A. They were.

20 Q. And under command of the higher formations in theatre?

21 A. That's correct.

22 Q. Just this: the Inquiry has heard some evidence that two
23 captains at the JFIT on Op Telic 1, when asked about
24 issues which were occurring at the JFIT, said that they
25 did not report to 1 (UK) Div but reported to their own

1 chain of command relating to DISC or their own chain of
2 command in London.

3 First of all, does that make any sense to you.

4 A. That makes no sense at all.

5 Q. You can't help us as to why captains in theatre on the
6 interrogation course -- on the intelligence corps side
7 may have been saying to others that there was a separate
8 chain of command through to London?

9 A. No. I have no reason to understand that at all.

10 Q. Were you in fact contacted other than on routine
11 administrative matters by those in theatre in any formal
12 sense, seeking guidance or anything like that?

13 A. I had no contact once my JFIT and field HUMINT teams
14 deployed. I had no contact with them at all until they
15 returned.

16 Q. The Inquiry has heard, as you will probably know, quite
17 a lot of evidence about a difference of view and
18 concerns being raised about hooding in Op Telic 1 at the
19 JFIT and about the Red Cross raising concerns about that
20 in theatre. You know the aspects about which I am
21 speaking?

22 A. I am aware of it, yes.

23 Q. Can I ask you about that: can you remember that being
24 reported to you contemporaneously -- that is about the
25 time of very late March/early April 2003 --

1 A. No, I can't remember it at all.

2 Q. When S040 returned from theatre, and perhaps S012 as
3 well, if you look at your cipher list, who was deployed
4 on Op Telic 1?

5 A. Yes.

6 Q. Did either of them -- or any of the other staff, raise
7 with you the concerns about hooding that had arisen in
8 theatre?

9 A. No, I don't recall them speaking to me about it at all.

10 Q. When did you first learn about that matter?

11 A. There is a document which I have from the sergeant major
12 who deployed with the JFIT, who produced his own sort of
13 immediate post op report.

14 Q. Yes.

15 A. Which I have since read as part of the preparations
16 here. My feeling is that had I seen that report, I am
17 confident in my own mind that had I seen that particular
18 reference, I would have said something about it.
19 I would have remembered it because clearly it's
20 a criticism.

21 What I can't say with absolute certainty is that
22 I did not see his document.

23 Q. All right. But prior to that, that full report is --

24 A. That is all I can possibly have seen, and then the next
25 time would be in preparations for this Inquiry.

1 Q. Thank you. Could we look then, please, at that series
2 of tour reports, albeit briefly. I think the first of
3 them, addressed to you, came from S040 himself.
4 MOD042060, please. It is dated 1 March. I think you
5 have had a chance to look through this in recent days
6 and weeks?

7 A. I have.

8 Q. In fairness to you, it is right, isn't it, that the vast
9 majority of this document relates to difficulties in
10 relation to mobilisation, getting reservists on board,
11 difficulties in preparations, difficulties in equipment,
12 that sort of thing. Would that be right?

13 A. That would be right.

14 Q. If we look, though, at paragraph 12 in S040's
15 conclusion sections, we see that he was referring -- and
16 this of course is before the war fighting broke out and
17 it's the lessons learnt from the pre-deployment phase,
18 as it were -- paragraph 12:

19 "The JFIT has formed from a diverse set of
20 differently trained personnel... some of whom met for
21 the first time the day before deployment. It is
22 untrained and unexercised in its war role and has no
23 recourse to previous questions learned from Op Granby or
24 indeed any interrogation doctrine on which to build its
25 function."

1 So one sees there again -- now into Op Telic, the
2 lack of interrogation doctrine being raised as a concern
3 once again by S040. Would that be fair?

4 A. That's fair.

5 Q. Over the page at paragraph 20, his recommendation at
6 paragraph 20:

7 "Interrogation doctrine must be promulgated without
8 delay."

9 Presumably, Colonel, you would have seen that in
10 early March 2003?

11 A. Yes.

12 Q. Was anything done as a result?

13 A. I don't recall doing anything specific as a result of
14 that document, no.

15 Q. Do you think that that should perhaps have led to action
16 by you or by others now that you were being pointed
17 again in the direction of the lack of interrogation
18 doctrine?

19 A. I think in the context at the time, when at that stage
20 we appear -- certainly I was concerned about deploying
21 a unit which was ad hoc, most of whom I had never met
22 before, who went in the rather poor situation reflected
23 by S040, that my major focus was on ensuring that they
24 were going to survive and come back and look at the
25 welfare for their families. Indeed, finding out who

1 some of the families were so I could contact them. So
2 my focus would have been on the deployment and the safe
3 return rather than dealing with any adjustments to
4 doctrine, because in reality there would have been very
5 little chance of any action in changing doctrine would
6 have happened within a very short timeframe.

7 Q. Putting that bluntly, therefore, was it the position
8 that although you were not deployed to theatre, because
9 of the stage that Op Telic was at, it was a very busy
10 time for you?

11 A. Absolutely, because there was other training continuing,
12 there were other operational matters in other sensitive
13 theatres which I was responsible for providing
14 capability for. And it was a question of priorities.

15 Q. I follow. Again, being blunt about it, was the reality
16 that by now Op Telic being the warfare phase about to
17 start, it was too late for the process of doctrinal
18 drafting to get to the people in theatre?

19 A. Absolutely, I had to rely entirely on the competence and
20 experience of the individuals that were deployed.

21 Q. The next tour report, I think, you would have
22 received -- at least according to our paper trail -- is
23 21 May 2003, MOD042844.

24 In relation to this document, I just wanted to seek
25 your assistance on annex B, please, which we have at

1 42854. One sees here from S012, I think it is, concerns
2 being raised, do you see in paragraph 1, about:

3 "A major part of the tasks undertaken by the [field
4 HUMINT teams] was the conduct of TQ and interrogation
5 against captured Iraqi military and detained civilian
6 personnel..."

7 He goes on within this document to say in his
8 summary at paragraph 6 of annex B:

9 "The [prisoner of war] system as envisaged by
10 JWP 1-10 does not work..."

11 "7. There is a significant and fundamental lack of
12 understanding about all elements of PW handling, from
13 the staff level down to capturing troops.

14 "8. TQ'ing and debriefing of [prisoners of war] and
15 detained civilians provided a significant amount of
16 usable information... an important tool..."

17 Recommendations that JWP 1-10 needed a complete
18 rewrite. I think S012, his evidence was that this got
19 a sympathetic hearing from you; would that be right?

20 A. Yes, I hope I achieved that.

21 Q. But again, in relation to the doctrinal shortcomings
22 that he was referring to, in the short term would it be
23 right that nothing by this stage could be done?

24 A. Nothing at this stage could be done.

25 Q. Then finally, for my purposes, please, the warrant

1 officer's reports to which you were referring a moment
2 ago, MOD041849. I think within that, Colonel, it was
3 paragraph 21 I think that perhaps you had in mind. If
4 we look at that, please, at MOD041855.

5 "After approximately two weeks into the operation
6 the [ICRC] requested that the PW's hoods be removed."

7 Then he goes on to detail concerns that had arisen
8 and how they were addressed. Is it that matter that you
9 say you have no recollection first of all of actually
10 seeing?

11 A. That is correct.

12 Q. We know that this is a draft. Are you saying that you
13 can't recall seeing the final version of this report?

14 A. I don't recall seeing the final version.

15 Q. If you had seen the reference to Red Cross concerns
16 about hooding, what do you think you would have done?

17 A. Had I seen that reference, I would have certainly wanted
18 to speak to the individuals who were there at the time,
19 particularly S040, to get the details. And I suppose
20 that what I would have done would have raised it within
21 the Defence Intelligence Security Centre senior staff --
22 the chief of staff and brigadier -- and I may well have
23 raised it with ADI HUMINT. The fact that I didn't is
24 why I think I didn't see this document.

25 Q. You tell us in your witness statement -- can we look at

1 paragraph 27, please -- and over the page -- you tell us
2 that you are disappointed -- about ten lines up from the
3 bottom:

4 "I am disappointed that this is my first exposure to
5 these allegations since it refers to places where I now
6 understand elements of my peace-time command were
7 serving."

8 When you were saying that you were disappointed that
9 it was your first exposure to the allegations, first of
10 all, were you saying that you would have expected S040
11 and others to have brought these matters to your
12 attention?

13 A. Not so much S040. I would have expected the chain of
14 command to have raised the issue. If the chain of
15 command feels that we were the focal point for
16 interrogation policy, as some appear to have claimed,
17 and if they felt that we were the centre of excellence
18 and the people who taught this subject, not to come to
19 me and question me contemporaneously is
20 a disappointment, yes.

21 Q. Just so that we have it and we are clear, the
22 disappointment about these allegations that you were
23 saying you were first exposed to in looking at the
24 evidence to this Inquiry, is that a reference to the
25 hooding issue at the JFIT or the wider Red Cross

1 concerns and complaints in the leaked report or both?

2 A. No, it is specifically the hooding within the JFIT that
3 would have been a major concern for me. Because that's
4 my units' responsibility.

5 Q. Thank you.

6 That can be taken from the screen, thank you.

7 I think the final series of questions that I would
8 like to raise with you, Colonel, relate to the training
9 that was actually given by 3 Training Company and by the
10 conduct after capture training. First of all, this: you
11 tell us in your witness statement that you would not
12 have known about the source material that was actually
13 being used by the different branches within
14 3 Training Company; is that right?

15 A. That's correct.

16 Q. And the handouts that you were asked to comment on in
17 your witness statement, would you have been familiar
18 with that level of detail at the time?

19 A. I may have seen them in the course of my duties but
20 there was no requirement for me to see them.

21 Q. Who had the most direct responsibility for ensuring the
22 course content was lawful and in line with current
23 policy?

24 A. Ultimately, me.

25 Q. How does that work if you are not -- perhaps

1 understandably, because of the breadth of your
2 responsibilities -- familiar with the detail of the
3 courses?

4 A. I think what I am saying is that it would be entirely
5 unfair of me to say that the individual branch OCs are
6 responsible for whether each individual part of their
7 courses are lawful or not. If they had a concern about
8 the legality of what they were teaching, they certainly
9 didn't raise it with me. Which is why it isn't
10 something that I particularly focused on.

11 But ultimately what is taught within JSIO at that
12 time is my responsibility.

13 Q. Thank you. In terms of your direct involvement, you say
14 that you would have had a number of visits partly to
15 discuss matters with the instructors and with the branch
16 commanders. Would that be right?

17 A. Yes.

18 Q. But you also did take place in some of the role-playing?

19 A. Yes.

20 Q. Within that level of experience, had you seen sight
21 deprivation going on within 3 Training Company on the
22 tactical questioning and interrogation course?

23 A. I had seen sight deprivation, yes.

24 Q. Had you seen hooding being used?

25 A. No.

1 Q. Had you seen hoods used in the sense of hessian sandbags
2 rolled up and taped or kept above the nose?

3 A. No.

4 Q. Did you know what was actually taught on the tactical
5 questioning and interrogation courses about sight
6 deprivation?

7 A. No.

8 Q. You said in answer to me earlier on today that you made
9 sure that within JSIO that was the practice that we
10 covered, when you were saying that you were referring
11 back to your own experience and understanding that the
12 nose and the mouth should not be covered.

13 Did you in fact make sure that that was the case?

14 A. On reflection, that's probably too strong a statement.
15 I didn't physically -- I don't recall physically saying
16 to anybody, "This is what you are to teach", or, "This
17 is not what you are not to teach". I think I am
18 confident that in my discussions with them that I am
19 comfortable with what was taught because of their
20 experience and the general nature of the discussions
21 that we had. I think it's in hindsight probably
22 incorrect to say "I ensured that".

23 THE CHAIRMAN: Mr Moss, at some stage very shortly, I am
24 going to break off for our afternoon break. Bearing in
25 mind, of course, we have to finish at 4.00.

1 MR MOSS: I understand. Would now be a convenient moment?

2 THE CHAIRMAN: Yes, it would. We have another short break
3 now. Please make it as close as we can to 3.20.

4 (3.13 pm)

5 (A short break)

6 (3.18 pm)

7 THE CHAIRMAN: Yes, you are still under oath, S046.

8 MR MOSS: Sir, I will try to confine myself to a further ten
9 minutes. S046, the Inquiry has heard some evidence,
10 with more to come from instructors in 3 Training Company
11 which may tend to suggest that there was, at the very
12 least, a difference of emphasis from them as to whether
13 hoods were actually prohibited or just whether they
14 weren't the preferred approach, as well as evidence from
15 a number, a significant number of students, whose
16 evidence was either that they weren't taught one way or
17 the other whether hooding was prohibited for security
18 purposes, or in some cases, they thought that hoods were
19 actually used on the course; do you follow?

20 (Pause due to technical problem)

21 Did you hear my question?

22 A. I did hear your question, yes.

23 Q. I am very grateful.

24 If that is right, were you aware of it at the time?

25 A. No, I wasn't.

1 Q. Is that something which you think if it was happening
2 ought to have come to your attention?

3 A. In hindsight, yes.

4 Q. By what mechanism or means do you think you should
5 become aware of that?

6 A. I would have expected it either to have been raised in
7 informal discussions during my visits or from OC
8 F Branch through OC3 Training Company to me.

9 Q. If it were suggested that you may have been alerted to
10 that had you been more hands-on with F Branch, what
11 would you say about that?

12 A. Although it sounds wrong, I actually think that it was
13 such a common issue of confusion that -- around the
14 whole subject of interrogation -- that I may have found
15 it difficult to have worked out how to tackle the
16 problem, because I think it reflected the fundamental
17 issue of having a convention which says what you can and
18 cannot do and yet a government which requires you to
19 have a capability.

20 Q. Stress positions, did you ever see those being used or
21 taught within 3 Training Company?

22 A. No.

23 Q. What about short of stress positions? Control positions
24 being made to kneel or be kept sitting, but for such
25 a period of time that they might become uncomfortable

1 and being used in part to keep pressure on prisoners.
2 Is that sort of concept familiar from 3 Training Company
3 training?

4 A. I wouldn't have regarded sitting on a chair for
5 a significant length of time as a stress position,
6 certainly. That would not have worried me had I seen
7 that. I think I would take stress positions as being
8 positions deliberately designed for discomfort. So
9 somebody sitting on a chair for a long time would not
10 have concerned me particularly.

11 Q. Sat on the floor, hands on heads, that sort of thing,
12 for a lengthy period of time, would you have queried
13 that if you had been aware of it?

14 A. It depends on the context. Had I seen them using it
15 within an interrogation room, I would have questioned it
16 as unnecessary. Had I seen it as a method of
17 controlling a person during movement, between one place
18 and another whilst they had sight deprivation for
19 a short period of time, it probably wouldn't have
20 concerned me either.

21 Q. Did you in fact see those sorts of positions perhaps
22 short of full stress positions being used or taught?

23 A. I suppose I need to clarify. Sitting on the floor with
24 your hand on the head, I would not have worried about.
25 Any other stress positions would have caused me some

1 concern, yes.

2 Q. Were you aware that amongst the approaches and
3 techniques taught by F Branch to TQers and interrogators
4 was something called the harsh technique?

5 A. Yes, I was aware of that.

6 Q. The Inquiry has seen training videos which we think date
7 from 2005, although there may be an issue about that,
8 but which others have said are commensurate with what
9 was current in 2002 and 2003. They include the trainee
10 shouting close to the face of a prisoner, including
11 insults such as "unit fucking rent boy" and words to the
12 effect that, "If you don't answer my questions, the
13 Albans are outside. I don't know what they will do
14 to you, but I think that you do".

15 That sort of thing. Were you aware that those sort
16 of techniques and approaches were being used and taught
17 as part of the harsh technique?

18 A. There is a difference between what is being taught and
19 what is being learnt, I think is an important point.
20 There were certainly occasions where students would use
21 inappropriate methods and all of our training was
22 recorded and that would then have been used to inform
23 them where they had gone wrong and why it doesn't work.
24 But I wouldn't say that is what is taught to be used.

25 Q. May I deal with it in this way: the example that I am

1 citing to you is exhibited to a 2005 statement, saying
2 that it was an example of the perfect way to carry out
3 a harsh and was used for that purpose of showing how to
4 do the job well.

5 A. Are we talking about throwing furniture around?

6 Q. Not throwing furniture around. That's the example of
7 how not to do it?

8 A. Correct.

9 Q. The example of how to do it perfectly includes the use
10 of the insults such as "unit fucking rent boy" and the
11 quote about the Albans being outside and so on that
12 I referred you to?

13 A. I don't think I would have objected to that, had I seen
14 it.

15 Q. Were you aware at the time of Article 17 of the third
16 Geneva Convention which says that prisoners who refused
17 to answer questions may not be threatened or insulted or
18 exposed to any unpleasant or disadvantageous treatment
19 of any kind?

20 A. I am afraid to inform you that I wasn't aware of those
21 exact words.

22 Q. If it be said that "unit fucking rent boy" is a clear
23 insult and that reference to the Albans being outside
24 are threats, that that may be a breach of the
25 Geneva Conventions, were you aware that there was a risk

1 that the harsh technique being taught might contravene
2 the Geneva Conventions?

3 A. Until my research for this Inquiry, no, I wasn't aware.

4 Q. Would you accept some responsibility for that in the
5 post that you held?

6 A. In hindsight, I have to, yes.

7 Q. That leads us to processes in this sense: prior to
8 September 2003 and the arrival of SO1 legal Colonel
9 Yates, was there any process by which the content of the
10 courses for 3 Training Company was subject to legal
11 scrutiny?

12 A. No.

13 Q. Is that a process which you think ought to have taken
14 place?

15 A. Yes, and indeed I was the one who asked for the legal
16 adviser to be established within my unit. But when he
17 was established, he was taken away by the headquarters
18 DISC for their own purposes. So was it Colonel Yates
19 that you mentioned, I think that was the name of the
20 individual?

21 Q. Yes.

22 A. When he appeared he went to be the legal adviser for the
23 whole of DISC, not specifically for my unit. So any
24 attempts that I had to look at the legality of my own
25 training -- which would have included 4 Conduct after

1 Capture Company and the other specialist training I was
2 doing -- I am afraid I did not have dedicated legal
3 advice.

4 Q. How soon within your tenure had you pressed for legal
5 advice to be made available to JSIO?

6 A. I can't recall. But -- this is a guess, but it would
7 have been about halfway through. It would not have been
8 very early.

9 Q. Another processes issue which the Inquiry is looking at
10 is the fact that in 2002/2003, there doesn't seem to
11 have been in place any requirement for refresher
12 training for TQers or interrogators and their
13 qualifications just lasted on and on without expiring.
14 First of all, were you aware that that was the case in
15 2002/2003?

16 A. That's right.

17 Q. Would you accept that having a finite period of the
18 qualification to last would have been an appropriate
19 measure to introduce?

20 A. To be honest, the consideration of refresher training
21 for TQers never entered my mind. Refresher training for
22 interrogators had been an issue that I had contemplated
23 before. But certainly the biggest issue with tactical
24 questioners was getting people to train in the first
25 place. So refresher training for people who had not

1 been trained in the first place just was not something
2 that crossed my mind.

3 Q. That leads on to that issue about those attending the
4 course. Could we look at paragraph 41 of your
5 statement, BMI07324, where you refer to the fact that:

6 "... the situation in 2002 was not healthy.
7 Interrogation courses were attended almost exclusively
8 by reservists... inadequate replacement by the Army and
9 RAF. The dire situation was recognised during the
10 preparations for Op Telic..."

11 Had you yourself issued warnings about the fact that
12 the army were not sending enough people on to the TQ
13 courses?

14 A. I would have done -- I don't recollect a specific
15 occasion. If I had raised it, it would have been
16 through the annual statement of training requirement
17 process.

18 Q. I think we saw some reference to it in your report --

19 A. Yes, I would have reflected the fact that we were being
20 asked to run courses that weren't being properly
21 subscribed to.

22 Q. Is it with HQ Land that the responsibility for that
23 would lie?

24 A. For the army element, yes.

25 Q. On conduct after capture training, then, you tell us

1 that you were a proponent of permitting those who were
2 qualified in interrogation from 3 Training Company
3 courses to practise on conduct after capture exercises.
4 But I have understood from your witness statement you
5 say that because the practical realities were that that
6 was the only place for them to keep up skills and do the
7 work, is that right?

8 A. That's one reason. The other reason was that the number
9 of conduct after capture courses were -- we were being
10 asked to increase significantly. It was an extremely
11 intensive course for instructors to be part of, and
12 I was concerned that -- of burnout within the 4 Conduct
13 after Capture instructors. So I felt duty bound for
14 a welfare reason, if nothing else, to give them every
15 support I could.

16 Q. So if the 3 Training Company trained interrogators
17 didn't do it, it would fall to the conduct after capture
18 staff to do it themselves?

19 A. Correct.

20 Q. They would be doing difficult interrogations on top of
21 all their other duties?

22 A. Correct, or indeed they would be having to use different
23 ploys against the same student under instruction, which
24 is not the right way to go about it.

25 Q. Did you, however, recognise at the time that there was

1 a risk arising out of this that those qualified in TQ
2 and interrogation might go literally at the end of the
3 very course that had taught them on to conduct after
4 capture exercises where they would see
5 non-Geneva Convention compliant techniques and might, as
6 it were, be contaminated in their understanding about
7 what was proper techniques?

8 A. I have to say that I wasn't aware of the immediacy of
9 the conduct after capture phase after the interrogation
10 course, no.

11 Q. So that risk was certainly not one recognised by you at
12 the time?

13 A. Correct, correct.

14 Q. Would you accept that that is something that perhaps
15 ought to have been identified and addressed as an issue
16 at the time?

17 A. Yes, in an ideal world, but in the circumstances of the
18 amount of training we were being asked to do, even
19 though I found out about it so far after the date, it
20 doesn't surprise me that they would have used qualified
21 people in that way.

22 MR MOSS: Colonel, thank you, those are my questions.

23 A. Thank you.

24 THE CHAIRMAN: Now there will be one or two other questions
25 for you Colonel.

1 Yes, Mr Friedman.

2 Questions by MR FRIEDMAN

3 MR FRIEDMAN: Colonel, could we start with the text of
4 article --

5 A. Please speak up. I am slightly deaf.

6 THE CHAIRMAN: You are not alone.

7 Normally you make yourself easily heard, if I may
8 say so, Mr Friedman.

9 MR FRIEDMAN: The text of Article 17 of the
10 Geneva Conventions, please, it is MOD015464. You
11 candidly tell us that you were not aware of this until
12 your research for this case. If we do focus upon that
13 last sentence in the text:

14 "PW who refuse to answer may not be threatened,
15 insulted, or exposed to unpleasant or disadvantageous
16 treatment of any kind."

17 Now that you do focus on it, presumably it must be
18 pretty paradigm-shifting for you in terms of your
19 knowledge of what was being trained.

20 A. Yes, because without being able to move at least close
21 to some of those activities, interrogation just could
22 not happen.

23 Q. Just one example. These people on the courses are
24 taught to stand in a physically intimidating and
25 threatening close proximity to the subject but without

1 touching him.

2 A. Which course are we talking about?

3 Q. Both the interrogation course and the TQ course?

4 A. Okay.

5 Q. You agree?

6 A. Yes.

7 Q. You knew that?

8 A. Yes.

9 Q. The Inquiry has heard about the harsh technique as
10 a particular term, and we have seen a transcript of
11 a video which shows the right way to do it?

12 A. That's one ploy, yes.

13 Q. Just looking at sight deprivation. You described an
14 understanding that it was acceptable to deprive sight
15 for the purposes of security which would continue up and
16 to the entry into the questioning room, wherever that
17 would be?

18 A. That's correct.

19 Q. And just before the start of the questioning.

20 Can I just ask you -- knowing that you say you
21 weren't involved in the detail of the content of the
22 courses -- to look at MOD015498. It is describing
23 assessment during the questioning process. Just the
24 last sentence in paragraph 2:

25 "This process also assists in keeping the subject

1 under pressure and will also condition them to respond
2 to commands."

3 This is at the end of a description about the
4 blindfolds staying on.

5 Then, just in the various headline points beneath
6 that, the fourth one:

7 "Questioner conducts a visual scrutiny of the
8 subject (subject still blindfolded). The questioner can
9 increase the pressure by moving around the subject --
10 this will also give the questioner a better opportunity
11 to observe the subject's body language."

12 Now, does that accord with the training that you had
13 in 1985 and how you understood the process up to 2003?

14 A. Yes, it does.

15 Q. Do you see in that training, perhaps with the benefit of
16 hindsight, that that is not merely a passive use of the
17 blindfold and it is describing something that is not
18 merely about security?

19 A. I would accept that, in hindsight, yes.

20 Q. Just the evidence that the Chairman has heard quite
21 rightly -- widely recognised -- that a by-product of
22 depriving sight for the purposes of security was the
23 maintenance of shock of capture, and disorientation.

24 A. Yes, it was a feature but not the purpose of.

25 Q. A feature but not the purpose of.

1 Did you know that to be taught in the classroom?

2 A. Um, I can't say I know it to be taught in the classroom

3 but it doesn't surprise me if it was.

4 Q. Was there ever a discussion that there needed to be

5 great care not to capitalise on something that was not

6 supposed to be done on purpose?

7 A. I am afraid I can't answer that.

8 Q. The language, "maintaining shock of capture", and

9 "conditioning", I think that you have been looking at

10 conduct after capture over many years and you talk about

11 a paper you wrote in 1991 to 1994 in your period on

12 policy work?

13 A. Yes.

14 Q. To your knowledge, has this language come from conduct

15 after capture manuals, writings and thinking?

16 A. No. I think -- I think it was a terminology that was

17 used on my 1985 interrogation course.

18 Q. Yes?

19 A. So I have always accepted it as being part of

20 interrogation terminology.

21 Q. But without going into the details of conduct after

22 capture manuals, does it also appear for the different

23 purpose in conduct after capture manuals?

24 A. I can't recall.

25 Q. No. Just turning to the 1972 Directive, and if we can

1 take it up at CAB001024, I think your evidence is you
2 can't recall whether you saw this directive when in
3 post, but your position is that you are familiar with
4 the principles in it?

5 A. That's correct.

6 Q. Just looking at paragraph 6, under the heading "Domestic
7 Law", in the last sentence there is a reference to the
8 fact that:

9 "The Director of Operations should, whenever
10 possible, have the services of a legal adviser to ensure
11 the methods adopted are in strict conformity with the
12 requirements of international and domestic law."

13 Now you helped us about the fact that you wanted
14 a legal adviser, but did you know in your capacity as
15 the CO that you should have one and you should have
16 access to one?

17 A. No, because I would not come under the gambit of being
18 a director of operations.

19 Q. So in that sense you differentiate that principle?

20 A. Yes. The director of operations to me would be somebody
21 within the Ministry of Defence or the Permanent Joint
22 Headquarters.

23 Q. Can you be more specific than that, or that is how you
24 see that reference?

25 A. In 1972 I am not sure of the structure of the Ministry

1 of Defence, but I would read that to be whoever the
2 director of -- the equivalent of the director of
3 military operations was at the time.

4 Q. So you don't see that as you. But can we look at
5 Article 82 of the Additional Protocols to the
6 Geneva Convention, MOD022597. There should be the text
7 of Article 82.

8 This is a principle in the Additional Protocol,
9 which came into force when Britain ratified it in 1998,
10 requiring parties to make sure and ensure:

11 "... that legal advisers are available, when
12 necessary, to advise military commanders at the
13 appropriate level ... and on the appropriate instruction
14 to be given to the armed forces ..."

15 Were you aware of this principle?

16 A. No, I wasn't.

17 Q. Going back to the paper that S040 supplied the text on
18 that you put into your own name, MOD041730, just to go
19 back to that footnote at the bottom -- footnote 12 that
20 Mr Moss took you to, right at the bottom, footnote 12 --
21 you said you weren't aware of the source:

22 "It cannot be stressed highly enough that all
23 current UK interrogator-qualified armed forces personnel
24 ..."

25 A. No, I think I said at the time this morning that I could

1 not recollect exactly what was in my mind when that
2 footnote was put in.

3 Q. And you are correct and I am sorry if I summarise it too
4 much. But to just press on that, certainly in your
5 tenure you know of no legal source to confirm that;
6 isn't that correct?

7 A. I'm sorry, I am not sure I understand the question.
8 I know of no legal source?

9 Q. You know of no legal advice, whether written or oral or
10 any type of opinion from a lawyer, to confirm what is
11 said at footnote 12?

12 A. No, I am -- I suppose I have to say that that was
13 an assumption in my mind.

14 Q. The advice from Lieutenant Colonel Ridge at MOD028354,
15 that I understand you did not see, but just briefly some
16 matters on it, first of all, at paragraph 9 --
17 MOD028355 -- there is a reference to the Ireland v UK
18 case and the five techniques. Did you know about the
19 actual case, the litigation, Ireland v UK before the
20 European Court of Human Rights --

21 A. No, I didn't.

22 Q. Then to paragraph 12 that you were taken to, the first
23 question is this: if you had been told of advice from an
24 SO1 international law that all you can do is ask them
25 questions, presumably that would start to have rung

1 alarm bells for you?

2 A. I certainly would have said "Well, why are we being
3 asked to form a JFIT. Why is it part of the order of
4 battle?"

5 Q. I am going to come to that in a minute. But first of
6 all the alarm bells would have been "We are doing
7 something a little bit more than that downstairs when we
8 are doing the teaching"?

9 A. Yes, absolutely.

10 Q. The second part of paragraph 12 I want to ask you about
11 is what then goes on in it. "You", that is Lieutenant
12 Colonel Ridge effectively saying to S040:

13 "You intimated to me that the value of interrogation
14 may be such that that from a political viewpoint it
15 outweighs the legal considerations. However you should
16 be aware that it is Government policy to comply with its
17 obligations under international law and organisations
18 such as the ICRC and Amnesty International will keep
19 a careful watch on proceedings. In a GCIII scenario the
20 political fallout from not complying with legal
21 obligations may be considerable. As regards the
22 provision of human rights this is an expanding area with
23 much potential for litigation."

24 It may be presented as a conflict between Government
25 asking for capability and what the law demands, but did

1 you have discussions with S040 and others along the
2 lines of "we are going to have to go beyond what the law
3 demands in order to provide the capability that our
4 political masters are requiring"?

5 A. No, I don't recall having specific conversations on that
6 matter.

7 Q. You have used the phrase this afternoon that the
8 fundamental issue was one of having a convention which
9 says what you can and cannot do and yet a government
10 which requires capability.

11 Was that a fundamental issue that was being talked
12 about by you and people working under you in 2003?

13 A. Yes.

14 THE CHAIRMAN: Now we are getting close to the end of your
15 time, and mine.

16 MR FRIEDMAN: Yes, and I am nearly finished, Sir.

17 Just with regard to the JFIT in Telic 1, you were
18 then asked a question about captains apparently at the
19 JFIT telling a senior officer that they were reporting
20 to London. Presumably that is wrong and you also
21 criticise it if it was said that way?

22 A. Yes.

23 Q. I just want to put to you what the General Officer
24 Commanding has said in a statement to this Inquiry,
25 which is at BMI07403 at paragraph 74. I will read it

1 out:

2 "The Intelligence Community had its own specialist
3 chain of command as well as the 1 Div chain of command."

4 Effectively:

5 "... my understanding is that the TQers were not
6 managed by myself or those under me in my chain of
7 command, but by the intelligence chain of command."

8 Colonel, does that make sense to you?

9 A. It makes sense to me, but it is a complete
10 misunderstanding on behalf of the General and is
11 a common misunderstanding.

12 Q. When you say "common", you have seen that amongst
13 division command --

14 A. It's the common -- it's a common conflict that when
15 people don't understand the realities they tend to blame
16 another part of the empire, to put it crudely.

17 There was a specialist chain of command within
18 theatre but that command would sit under his command as
19 part of his command.

20 Q. Now just taking the post op documents from S040 that we
21 have seen and S012 that we have seen --

22 A. Yes.

23 Q. -- can I just add one other in which is an email from
24 someone we know as S011. It is at MOD038657. It is
25 an email -- I don't know whether you saw it in preparing

1 for evidence --

2 A. I saw it this morning.

3 Q. Have you ever seen it before or heard discussion along

4 those lines from him or someone else?

5 A. No, I haven't seen the email and I am not aware of

6 discussions along those specific lines.

7 Q. No. But presumably from those other two documents we

8 saw, you have encountered a recognition that it had been

9 quite an uphill struggle to try to integrate the

10 interrogation experts into the normal army in theatre?

11 A. Absolutely, yes.

12 Q. What you have said today in evidence is you were

13 effectively -- let me put it this way, you said:

14 "I had to rely entirely on the competence and

15 experience of those I deployed ..." when you were

16 referring to Telic 1.

17 A. That's correct.

18 Q. Were you aware that for Telic 2 there had been a rush to

19 train people in the army in tactical questioning because

20 of the need for that capability and these were

21 effectively going to be freshly trained babies sent into

22 Telic 2?

23 A. I was aware towards the end of my tenure, yes.

24 THE CHAIRMAN: Mr Friedman?

25 MR FRIEDMAN: I am finishing now.

1 THE CHAIRMAN: Last question.

2 MR FRIEDMAN: Yes.

3 Being aware of that, presumably you can see the
4 tension between relying on the likes of S011, S012 and
5 S040 in Telic 1, and sending in the untrained into
6 a position where we are going to be an occupying power
7 trying to get an intelligence system up and running from
8 scratch; you can see that, can't you?

9 A. I can see the tension and it was all of our fears coming
10 to roost.

11 THE CHAIRMAN: That was your last question.

12 MR FRIEDMAN: Thank you.

13 THE CHAIRMAN: Thank you very much.

14 Ms Dobbin?

15 MS DOBBIN: Sir, I have no questions, thank you.

16 THE CHAIRMAN: Yes, Mr Garnham.

17 Questions by MR GARNHAM

18 MR GARNHAM: Just two very short questions, please.

19 How much of your time in percentage terms was
20 devoted in the period, let's say the year 2003, to
21 F Branch?

22 A. About ten to 15 per cent, I would think.

23 Q. Second, you are aware, aren't you, of what
24 non-Geneva Convention compliant techniques were used in
25 CAC?

1 A. Yes.

2 Q. Were any of the techniques used by the interrogators
3 during CAC non-Geneva Convention compliant?

4 A. So you are differentiating between the CAC instructors
5 and the interrogators who were supporting the training.
6 I can't be certain.

7 MR GARNHAM: Thank you.

8 Thank you, Sir.

9 THE CHAIRMAN: Mr Moss?

10 MR MOSS: Sir, I have no questions arising out of those
11 matters, thank you.

12 Questions by THE CHAIRMAN

13 THE CHAIRMAN: You were asked by Mr Friedman about the
14 conflict between what the Government required, namely
15 capability, and what the lawyers might describe as being
16 contrary to the Geneva Conventions and the like.

17 You very frankly said that there were discussions
18 about that. Can you tell me when were those discussions
19 or were there discussions throughout the time that you
20 were in your position?

21 A. I would have to say they were discussions throughout the
22 time.

23 THE CHAIRMAN: You would have to?

24 A. I would have had discussions around the concerns that we
25 had over the apparent conflict because that would have

1 been supporting argument for why we needed a permanent
2 capability.

3 THE CHAIRMAN: So was there a tension in the sense that the
4 JSIO would try to get away with as much as they could or
5 not?

6 A. No. No, I think we were very clear in our own minds --
7 and I am very confident on this point -- that all of
8 those who served in the Intelligence Corps who came up
9 against these sorts of subjects were very aware of the
10 tensions and were very concerned that we did everything
11 we could to stay as close to if not within the
12 Geneva Conventions as we possibly could. But we
13 recognised that some of the techniques were challenging
14 to the Geneva Conventions.

15 THE CHAIRMAN: What do you mean "as close to"? Do you mean
16 you went over the top?

17 A. The example of the harsh treatment: The fact that
18 discomfort is sometimes regarded as torture when that is
19 not the intent, but the circumstances. You know that
20 you are on the edge of what some view as unacceptable.

21 But on the other hand we had to fulfil the
22 requirement so, yes, we were very conscious that we are
23 at the edges of what some people would view as
24 acceptable.

25 THE CHAIRMAN: All the more reason, perhaps, to have

1 a lawyer who was permanently on your staff?

2 A. Absolutely. It would have been nice, Sir.

3 THE CHAIRMAN: Which is what you asked for?

4 A. Correct.

5 THE CHAIRMAN: I wonder whether that tension may be

6 responsible for something that I heard from a soldier

7 known to us as S014 --

8 A. Yes.

9 Q. You obviously have him there, but he was the second in

10 command of the JFIT, Op Telic 1. When the General's

11 order came out banning hooding, do you remember that or

12 not?

13 A. I wasn't there, so I wasn't aware of the ban.

14 THE CHAIRMAN: It never filtered back to you --

15 A. I wasn't aware.

16 THE CHAIRMAN: -- that he had banned it?

17 A. No, nothing came back to me.

18 THE CHAIRMAN: Well, hooding was banned on 6 April, so we

19 are told.

20 He said that hooding in certain circumstances

21 continued where there was a security need. When asked

22 how he managed to square that with the absolute ban by

23 the General, he said "Oh, well, it was an interpretation

24 of the General's order". Is that something which you

25 could condone?

1 A. No.

2 THE CHAIRMAN: I mean, I wonder how anyone could describe it
3 in that way.

4 A. No.

5 THE CHAIRMAN: You don't think that could be an example of
6 pushing it to the limits, as it were?

7 A. As described, I -- I would find it hard to conclude
8 otherwise, Sir.

9 THE CHAIRMAN: All right. Well, there we are.

10 Anybody want to ask any questions?

11 Further questions by MR GARNHAM

12 MR GARNHAM: Only what he meant by -- perhaps I should ask
13 the question.

14 You say "I would find it hard to conclude
15 otherwise".

16 Are you there agreeing with the Chairman or are you
17 not?

18 A. No, I am agreeing with the Chairman that when a General
19 gives an order that is specific to something happening
20 in a theatre that there is to be no hooding, providing
21 it is clear what "hooding" meant and it is not any sight
22 deprivation, but if he says "hooding" -- full facial
23 hooding -- is banned, I would expect that order to be
24 followed.

25 MR GARNHAM: Thank you.

1 THE CHAIRMAN: All right.

2 MR FRIEDMAN: Sir, can I ask one question arising out of
3 that as well?

4 THE CHAIRMAN: You are pressing your luck but I invited them
5 and you may.
6 One, Mr Friedman.

7 Further questions by MR FRIEDMAN

8 MR FRIEDMAN: When you said that you were confident that
9 staff working under you were working on the right side
10 of the line, would you include S040 who was the OC of 2
11 Reserve Company?

12 A. The OC of?

13 Q. The OC of 2 Reserve Company.

14 A. S014 wasn't.

15 Q. S040.

16 A. 40?

17 Q. Yes.

18 A. I can only account for what soldiers and personnel under
19 my command were doing while they were at Chicksands.
20 What was in their minds or why they took actions whilst
21 they were deployed, I can't be accountable for that.

22 MR FRIEDMAN: Thank you.

23 THE CHAIRMAN: Yes. Well, there we are.
24 You have nothing more to ask?

25 MR MOSS: I don't, Sir, thank you.

1 THE CHAIRMAN: S046, Colonel, thank you very much for coming
2 to the Inquiry. That completes the questions that the
3 Inquiry has for you. I am extremely grateful for your
4 evidence and you are now free to go.

5 A. Thank you very much.

6 THE CHAIRMAN: I think the practice that we normally adopt
7 is if you would be kind enough to go first and be out of
8 the way then that would be the sensible way of dealing
9 with it. You may take with you your legal advisers.

10 MR MOSS: Sir, I have, please, one request and one matter of
11 housekeeping.

12 THE CHAIRMAN: Yes.

13 MR MOSS: The request: may we please take the read evidence
14 that was due this afternoon tomorrow?

15 THE CHAIRMAN: Yes.

16 MR MOSS: Thank you.

17 THE CHAIRMAN: Nobody is not going to be here who will be
18 interested in that tomorrow? You will always get it on
19 the website.

20 MR MOSS: Secondly, just to notify that at the request of
21 the Treasury Solicitor, which we are happy to
22 accommodate, there has been a change of order for
23 tomorrow. The order will now be S049, followed by
24 Mr Johnson, followed by Colonel Yates, followed by
25 Jonathan Thomas.

1 THE CHAIRMAN: All right. That suits me.

2 Very well. 10 o'clock tomorrow morning, please.

3 Thank you.

4 (3.54 pm)

5 (The Inquiry adjourned until 10.00 am, Thursday, 6 May 2010)

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