

Thursday, 6 May 2010

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(10.00 am)

THE CHAIRMAN: Good morning, ladies and gentlemen. Yes, Mr Moss?

MR MOSS: Good morning, Sir. I call S049. He is already in the witness box.

THE CHAIRMAN: Would you be kind enough to stand up, please. I will ask that you are sworn.

S049 (sworn)

THE CHAIRMAN: Thank you very much. Do sit down. Can I ask you, please, to get as close as you can to the microphone and speak into it.

A. Okay, thank you.

Questions by MR MOSS

MR MOSS: S049, I think you will know that there is a restriction notice in place from the Inquiry relating to certain personal details including your name. So I'm going to refer to you, I hope without rudeness, as S049 throughout your evidence and you know to be careful about certain other names which are contained in a cipher list which is in front of you.

A. Yes, I do, thank you.

Q. Could I ask you, please, to have a look at a hard copy of your witness statement to this Inquiry, which should be in the folder in front of you. If you turn to the

1 last page, please, which we have at our BMI08084.

2 A. Yes.

3 Q. Do we see that that is a statement which you provided to  
4 this Inquiry quite recently on 21 April of this year?

5 A. That's correct.

6 Q. Thank you. When you signed that statement, were you  
7 telling the Inquiry that the contents of the statement  
8 were true to the best of your knowledge and belief?

9 A. They are. I think there is a small omission, which is  
10 my fault. At paragraph 21 there is a word missing. The  
11 last word of that paragraph should be "training".

12 Q. Thank you. That was just that sentence that was  
13 incomplete. Can we look at it briefly. Page 6 of the  
14 statement, BMI08076. That should be:

15 "... as blindfolds during training."

16 Should it?

17 A. That's correct.

18 Q. Thank you. S049, everyone has had a chance to read your  
19 statement and documents connected to it. I'm going to  
20 take you simply to some issues that arise out of it.

21 May we start very briefly with your career background.

22 You tell us that you joined the army in 1980 as  
23 a private soldier, did your basic training and that  
24 initially you were attached to 101 RA(V) regiment. Is  
25 that right?

1 A. That's correct.

2 Q. Was that a TA regiment of the Royal Artillery?

3 A. It is a TA regiment, yes. I was a reservist.

4 Q. Thank you. You say that you were commissioned in 1982,  
5 but so far as this Inquiry is concerned with matters  
6 relating to the JSIO, it wasn't until quite later on,  
7 1998, that you joined F branch of JSIO at Chicksands.  
8 Is that right?

9 A. That's correct.

10 Q. In outline you tell us that in December of 2000,  
11 following training, you became an instructor at  
12 F branch. Is that right?

13 A. That's correct.

14 Q. Were you by that stage, December 2000 and following,  
15 working full time there, or was it a part-time post?

16 A. It was full time. I had been mobilised back in 1998  
17 when I did training and then full time from 2000.

18 Q. Thank you. I think that was a post that you held until  
19 2004. Is that right?

20 A. That's correct.

21 Q. Thank you. Just in terms of the structure, on  
22 a day-to-day basis, was it to S012, the OC of F branch,  
23 that you would have reported?

24 A. That's correct. It was -- the first OC was in fact --

25 Q. That would be S050 on your list?

1 A. That's correct.

2 Q. Thank you. I think at that stage your substantive rank  
3 was major, is that right?

4 A. That's correct.

5 Q. Because you, formally speaking, outranked the OC of the  
6 branch, was your first reporting officer, strictly  
7 speaking, the CO of JSIO rather than S012?

8 A. That's correct.

9 Q. But in normal day-to-day functional matters, S050  
10 initially and then S012 would have been the person you  
11 worked to; is that right?

12 A. Absolutely correct.

13 Q. Thank you. From the list of instructors of which we are  
14 aware, it may seem that you were the most senior in rank  
15 terms of the instructors within F branch. Is that  
16 right?

17 A. That is correct.

18 Q. Did that make any difference in terms of day-to-day work  
19 and your responsibilities? Did you have additional  
20 responsibilities because of your rank?

21 A. No, not at all. We were -- in fact, rank really didn't  
22 come into it. We were just members of the team.

23 Q. So there would have been senior NCOs instructing,  
24 yourself as a major instructing and your day-to-day  
25 responsibilities in work would have been much the same.

1           Would that be fair?

2    A.   That's correct.

3    Q.   Thank you.  I do not ask you anything about your current  
4           occupation or your current post but are you still in the  
5           armed forces?

6    A.   No, I'm not.

7    Q.   And your rank when you left the forces?

8    A.   Major.

9    Q.   Thank you.  May I ask you some questions then, please,  
10           about your own training, the training that you received.  
11           Can I make clear that I'm going to come on a little bit  
12           later to the training that you were involved in giving  
13           as part of 3 Training Company and I want to concentrate  
14           for the moment on that training with which you yourself  
15           received as a student on various courses and earlier on  
16           in your career.  Can we start, please, with your earlier  
17           military career when you were in the artillery.  Would  
18           you have received LOAC training as part of the  
19           annual ITDs?

20   A.   Later on in sort of my time with the artillery, yes, we  
21           did; we did receive LOAC training as part of MATTs and  
22           ITDs annual training.

23   Q.   Thank you.  Can you remember now, please -- and do say  
24           if you can't -- whether prisoner of war handling was  
25           covered during such LOAC training as you had in those

1 early years?

2 A. Not in the early days. As a reserve unit then, really  
3 the -- we wouldn't have had contact with prisoners. It  
4 wasn't that part of training.

5 Q. The Inquiry has heard evidence, for example, about  
6 perhaps slightly outdated Cold War scenario LOAC video,  
7 with which the Inquiry is familiar. There is some  
8 scenes in it such as not taking property and molesting  
9 women. That sort of thing. Do you remember that video?

10 A. I do, yes.

11 Q. Would you have been shown that video annually?

12 A. I certainly saw it more than once. I don't know if it  
13 was annually.

14 Q. Thank you. Before your involvement at Chicksands, had  
15 any of the training that you had received on LOAC or on  
16 exercises dealt one way or the other with whether  
17 prisoners could be deprived of their sight?

18 A. No.

19 Q. Had you seen, again, prior to your work at Chicksands,  
20 had you seen prisoners blindfolded or hooded on  
21 exercises that you may have been involved with?

22 A. Not at all.

23 Q. So, prior to your own training, which you received in  
24 2000 at Chicksands, would you have an understanding  
25 yourself as to whether or not prisoners could be

1           blindfolded or hooded and in what circumstances?

2    A.   I had an understanding that it shouldn't happen, but

3           I don't know where that came from, if you understand.

4           It was just -- it was something which I understood did

5           not happen, shouldn't be done.

6    Q.   When you say something that shouldn't happen, do you

7           mean sight deprivation or hooding in particular?

8    A.   Hooding in particular.

9    Q.   Did you understand there to be anything wrong, for

10           example, with blindfolding at the point of capture?

11   A.   Not at that time, no.

12   Q.   Thank you.  Can we have a look, please, at paragraph 20

13           of your statement.  May I just check that I have

14           understood this correctly so we have your evidence on

15           it.  Is your case that in early 2000 you did the

16           interrogation course for the first time at F branch as

17           student?

18   A.   Yes, it is, but I had done earlier training with JSIO

19           back in 1998 as a handler.

20   Q.   We won't deal with those aspects.  I want to concentrate

21           on tactical questioning and prisoner handling matters if

22           we may.

23   A.   I suppose the point I'm making is that there is

24           a tactical questioning element in my earlier training.

25   Q.   Thank you, that's useful.  If we can deal then with any

1 tactical questioning that you may have had earlier, but  
2 only the tactical questioning aspect of any earlier  
3 courses that you did, and then tactical questioning and  
4 prisoner handling in 2000 when you did the course.

5 I just want to ask you about what you understood from  
6 that training?

7 A. Okay.

8 Q. If we look at paragraph 21 of your statement, you say  
9 there:

10 "I do not remember... any specific training on sight  
11 deprivation."

12 It is obviously dealing with the Chicksands training  
13 that you had. What did you mean by that?

14 A. What I meant by that was that there was no specific  
15 training that sight deprivation other than for security  
16 reasons was to be used at any time. There was nothing  
17 told or sort of -- there was no lessons on the use of  
18 sight deprivation.

19 Q. I follow. Because you did go on to say that you do  
20 remember that during your training, it was made clear  
21 that sight deprivation -- over the page, thank you --  
22 through the use of blindfolds:

23 "... was only to be used during the transfer of  
24 prisoners to and from the prisoner handling facility for  
25 security reasons."

1           Is that right?

2   A.   That's correct.

3   Q.   Can I understand what you are telling the Inquiry about  
4       that.  Your own training that you received in tactical  
5       questioning and interrogation, it specifically covered,  
6       did it, moving the prisoner into the holding facility?

7   A.   It had an element of that, yes, it did.

8   Q.   In covering that, were you specifically told that sight  
9       deprivation for security during that movement was  
10      legitimate?

11  A.   Yes, I was.

12  Q.   Again, concentrate, please, on the training that you  
13      yourself received, and if you can put out of your mind  
14      training which you gave later on; in the training that  
15      you received, was anything said specifically about the  
16      means by which prisoners being moved should have their  
17      sight deprived, whether it should be goggles,  
18      blindfolds, other material?

19  A.   Okay.  There are two elements to this.  One is because  
20      it was a training course, there were materials that were  
21      given for limiting or restricting sight.  These were  
22      goggles or blindfolds in fact that were given with  
23      velcro and that they were to be used.  The second point  
24      was in -- really to deal with how for real one could --  
25      materials one could use to deprive the sight with

1 a blindfold, an improvised blindfold.

2 Q. Just breaking that down, you say blindfolds or goggles;

3 do you remember now clearly whether it was blindfolds?

4 A. It was blindfolds.

5 Q. So blindfolds were actually used on the courses; is that

6 right?

7 A. Absolutely.

8 Q. That training about what to do in the real world, again,

9 the training that you actually received, what did that

10 say?

11 A. It talked about units should have prepared sort of

12 blindfolds before they go away, or blacked-out goggles,

13 and in extreme circumstances then they could use shemags

14 or sort of cloths to restrict the eyes.

15 Q. So the use of shemags or cloths for the eyes. Was

16 anything said about the use of hessian sandbags?

17 A. No, I do not recall any reference to that.

18 Q. So in terms of the training that you were given, you

19 received, is it right that you did -- you were not told:

20 you mustn't use a sandbag to cover the prisoner's head

21 when they were being moved for security purposes.

22 A. Categorically told we do not hood prisoners. I do not

23 believe the word "hessian sandbag" was used but not --

24 categorically told we do not hood prisoners.

25 Q. So you think a prohibition on the use of hoods was

1 specifically mentioned in the training that you  
2 received?

3 A. Yes, it was.

4 Q. Is that right?

5 A. That's correct.

6 Q. If that is right, was it a prohibition on the use of  
7 hoods in any circumstances or was it a prohibition on  
8 the use of hoods during the interrogation itself or  
9 something else? Can you help us with that?

10 A. I took that to apply at any point at any time during the  
11 detention process with the prisoner.

12 Q. So when you said in paragraph 21 at the beginning, if we  
13 go back to that:

14 "I do not remember receiving any specific training  
15 on sight deprivation."

16 I don't want to be pedantic and picky about the  
17 statement, but that wasn't quite right, was it, because  
18 you did receive a specific instruction, that it  
19 shouldn't be used?

20 A. We received information that it should not be used, but  
21 as I said before, that specific training on sight  
22 deprivation -- and I suppose that sentence is slightly  
23 incomplete -- was about the use of sight deprivation as  
24 a means -- you know, in interrogation.

25 Q. If we can just go back over the page, you say:

1            "I never heard of, or personally made reference to  
2            the possible use of hoods or sandbags as blindfolds  
3            during training."

4            Again, is in fact that what you are now saying that  
5            you did hear reference to the use of hoods and sandbags  
6            and the reference was they mustn't be used in any  
7            circumstances?

8            A. That is as blindfolds during training.

9            Q. I follow, thank you. You go on to say in your statement  
10            that you believe that stress positions and deprivation  
11            of food and sleep and the use of white noise were  
12            covered in the training you received in the sense that  
13            you were told that they must not be used. Is that  
14            right?

15            A. That's correct.

16            Q. How confident are you that they were specifically  
17            covered in the training that you were given when you  
18            were going through the course as a student?

19            A. Fairly confident.

20            Q. Can you remember now whether the shock of capture was  
21            covered in the training that you received, what the  
22            shock of capture meant?

23            A. Yes, I can.

24            Q. The suggestion in your statement is that the shock of  
25            capture would have been explained as the combination of

1 self-induced pressures on capture felt by prisoners  
2 together with some inevitable system-imposed pressures.  
3 Is that right?  
4 A. That's correct.  
5 Q. Was any training given to you on the course you went  
6 through as a student, in terms of the limit of what  
7 could be done to prolong or maintain the shock of  
8 capture? Was that explained?  
9 A. I think it was a specific training element, as a sort of  
10 set lesson, but I believe it was referred to in general  
11 terms.  
12 Q. What was the general guidance on that then, as to how --  
13 what the limits might be about maintaining or prolonging  
14 the shock of capture?  
15 A. I think it was more along the lines of the self-induced  
16 pressures which the detainee would be undergoing. And  
17 about -- and it was about timeliness of the  
18 interrogation or the questioning, about doing it as  
19 quickly as possible from the point of capture, when the  
20 self-induced pressures were greatest on the individual.  
21 Q. So question as quickly as possible because the shock of  
22 capture is likely to dwindle over time?  
23 A. It will dwindle over time.  
24 Q. Were you taught anything about a prohibition on  
25 artificially maintaining the shock of capture, doing

1 things to deliberately increase it?

2 A. Most certainly told, you know, not -- could not,  
3 explicitly could not sort of use white noise, sight  
4 deprivation, I think isolation, other than for necessary  
5 isolation at the point of questioning for screening  
6 purposes.

7 Q. When there were security issues, such as isolation that  
8 you mentioned there, necessary isolation, and the sight  
9 deprivation that you refer to when prisoners are being  
10 moved to the holding facility, did the instruction that  
11 you received include the fact that although those  
12 matters might be for security, they would have  
13 a beneficial side effect of maintaining, prolonging the  
14 shock of capture?

15 A. I think it was referred to more as a spin-off from the  
16 security perspective, that it would in itself sort of  
17 maintain the shock of capture, but as a necessary point  
18 of -- from a security perspective.

19 Q. What about conditioning? Was "conditioning" a phrase  
20 and a concept that was covered in the training that you  
21 received?

22 A. To some extent it was, yes.

23 Q. Just look at paragraph 22 of your statement. I think  
24 that this was in reference to a particular document,  
25 which is not necessary -- perhaps necessary to go to but

1           you do say in paragraph 22, the middle of the paragraph:

2           "I have not seen any teaching material relating to  
3           conditioning for use in PH&TQ training as referenced in  
4           the draft course assessment plan dated August 2003..."

5           I don't particularly want to go to that document but  
6           conditioning would have been, wouldn't it, something  
7           which was covered in the training that you yourself  
8           received?

9    A.   I believe it was probably verbally covered.  As I say,  
10       I don't remember seeing any materials and I have got no  
11       materials to sort of go back and refer to on that.

12   Q.   May we just look for these purposes at part of the  
13       training materials that have survived, one of the  
14       handouts?  We have a reference to it at MOD015498.  So  
15       this is tab 51 of volume 2 of your JSIO core bundle.

16       S049, just so that you get the context, if we go  
17       back to page MOD015495, you will see that this is part  
18       of training materials exhibited by your OC, S012, and it  
19       is the section of the handouts that is dealing with  
20       assessment of prisoners and detainees.  Do you see that  
21       at the top?

22   A.   I can see that, yes.

23   Q.   Within that there was an annex A with a chart,  
24       MOD015497, setting out personality types.

25   A.   I have never seen that chart before it was presented to

1 me the other day.

2 Q. All right. Over the page -- and this, we are told, is  
3 part of the January 2004 training materials, I think it  
4 is. Dealing with the assessment during the questioning  
5 process, an aide-memoire. If one sees under  
6 paragraph 2, "Assessment", and we will come back to this  
7 perhaps later for other reasons. For present purposes,  
8 if I can take it up about four lines from the bottom of  
9 paragraph 2:

10 "The questioner should carry out a visual scrutiny  
11 of the subject; this visual scrutiny need only last  
12 a short time. The questioner should look at the  
13 subject's body language/posture et cetera, so as to  
14 assess how the subject is reacting to the conditioning  
15 process."

16 Do you see that?

17 A. I can see it, yes.

18 Q. Does that not suggest that "conditioning process" would  
19 have been a concept that was common currency in the  
20 teaching that was being given --

21 A. Again, I have never seen this document. This was  
22 written after the -- our time in Iraq and I have not  
23 seen that document before it was presented.

24 Q. So just so that we are clear on that, do you think that  
25 if that is a 2004 document, that that was a new document

1 in 2004, not the sort of handout that was being used  
2 earlier on in 2001/2002?

3 A. I would say it looks like a new document.

4 Q. Just briefly this, then, please: still with the training  
5 you received, please, S049, in terms of your  
6 responsibilities as a TQer or an interrogator for how  
7 the prisoner is treated, what did the teaching cover on  
8 that. Did you have a responsibility for the welfare of  
9 the prisoner at any stage?

10 A. Absolutely, and there were presentations on  
11 Geneva Conventions and advice that prisoners should at  
12 all times be treated humanely.

13 Q. The specific duties of the TQer or the interrogator to  
14 ensure that the prisoner was humanely treated, for what  
15 parts of the prisoner handling process did the TQer or  
16 the interrogator have that responsibility?

17 A. Sorry, could you just clarify that question?

18 Q. Yes. Did you as a TQer or interrogator have a general  
19 responsibility for the prisoner's welfare, or were you  
20 only directly responsible for some of the time?

21 A. For some of the time during the interview process.

22 Q. So as the TQer when the prisoner is directly in front of  
23 you being questioned?

24 A. Correct.

25 Q. And as an interrogator when the prisoner is in the

1           interrogation room?

2    A.   Correct.

3    Q.   What about briefing the guards?  Were you taught on the

4           course about anything a TQer or an interrogator should

5           do to brief the guards?

6    A.   What we were taught was that the guard should act in an

7           impartial but sort of civilised, humane way and deal

8           with the prisoners swiftly and not talk to them and not

9           get involved with them.

10   Q.   So that's what you were taught as to how the guards

11           should act.

12   A.   Hm-mm.

13   Q.   The emotionless way to treat prisoners?

14   A.   Correct.

15   Q.   Firm but efficient, that sort of thing?

16   A.   Yes, yes.

17   Q.   But were you taught anything about the duty of a TQer or

18           an interrogator to brief the guards that that was their

19           responsibility?

20   A.   It was certainly part of the training, yes, because the

21           students acted as the guard force.  So there was

22           a briefing on how the guards should behave and react,

23           yes.

24   Q.   Well, that's one thing, but concentrate on this for the

25           moment: once a TQer or an interrogator was going off on

1 operations, doing the work for real, did the teaching  
2 suggest that they had a duty to brief the guard force  
3 about any aspects of how the prisoners should be  
4 handled, or was that a matter that was left to the PWHO  
5 or the guard force for them to deal with completely?

6 A. The TQer or the interrogator, would give direction --  
7 some direction to the guard force, particularly if the  
8 prisoner/detainee was to remain in segregation for  
9 a period, if they were to go back and be segregated from  
10 the rest of the prisoners. So there is that level of  
11 direction.

12 Q. How far did that extend? What issues would you expect  
13 the TQer or the interrogator to brief the guard force  
14 about?

15 A. Purely on segregation, if they were to remain segregated  
16 because, you know, the process of questioning was  
17 incomplete.

18 Q. Thank you. Now, turning away from the training you  
19 received, I would just like to ask you just in outline,  
20 please, about doctrine for tactical questioning and  
21 interrogation. Can we start by looking at your  
22 paragraph 15, please, BMI08074. You say there:

23 "Orders, instructions and doctrine for  
24 interrogation, tactical questioning and prisoner  
25 handling were laid down through the chain of command

1 from the JSIO [CO] and through the OC of F branch in the  
2 course teaching materials, tutors notes and reference  
3 materials."

4 Do you see that there?

5 A. Yes, I can.

6 Q. Can you help us on that? If you, as an instructor at  
7 F branch on interrogation and tactical questioning,  
8 wanted to go to the bible, as it were, that laid out  
9 what approaches were legitimate, what the procedures  
10 were, those sort of matters of detail, if you wanted to  
11 check a point of detail, what written doctrine would you  
12 actually go to?

13 A. There were sort of training materials which were -- we  
14 are talking here as an instructor?

15 Q. Yes.

16 A. The materials were held -- computerised. So you would  
17 go into the prisoner handling, tactical questioning or  
18 the interrogation folders and you could look at the  
19 training objectives and training outcomes for that  
20 course.

21 Q. Right. So is it the case -- I want you to correct me if  
22 I'm wrong about this -- but is it the case that there  
23 wasn't any published army-wide or intelligence  
24 corps-wide doctrine, things like JWP 1-10 that really  
25 dealt with those sort of matters of detail, about TQ and

1           interrogation methods and approaches; it was all in the  
2           teaching materials that were held at F branch at  
3           Chicksands?

4    A.   As far as I am aware.

5    Q.   Thank you.  The 1972 directive -- if we can just have  
6           that on the screen briefly, CAB001020 -- I think you  
7           tell us in your witness statement that this is not  
8           a document that you had seen or were familiar with as  
9           a directive?

10   A.   Hm-mm.

11   Q.   Is that right?

12   A.   That's correct.

13   Q.   But you say that the guidance given within it was  
14           generally familiar to you.  Would be that right now that  
15           you have had an opportunity to consider it?

16   A.   Yes, I can't remember the detail in it now but, yes,  
17           I think when I wrote the statement, that was the case.

18   Q.   I think probably for our purposes, the guidance that is  
19           most relevant is in paragraph 7, CAB001024:

20                 "Searching and sustained interrogation should be  
21                 carried out in a disciplined atmosphere, and it may in  
22                 some circumstances be necessary for interrogation to be  
23                 carried out by night.  But no form of coercion is to be  
24                 inflicted on persons being interrogated."

25                 Just pausing there, was that familiar to you?

1 A. It is certainly in line with the teaching that I gave,  
2 yes.

3 Q. "Persons who refuse to answer questions are not to be  
4 threatened, insulted, or exposed to other forms of  
5 ill-treatment."

6 Again, would that have been familiar to you as  
7 a general concept?

8 A. Yes.

9 Q. "Techniques such as the following are prohibited..."

10 Then (b) through to (e), I think you have indicated  
11 you well understood. (a), however, said:

12 "Any form of blindfold or hood."

13 You say hm-mm. What's your reaction to that?

14 A. That's not what I had been taught and it wasn't in the  
15 training and materials that we used, that we could  
16 use -- we always -- I was taught and always did teach  
17 that a blindfold could be used for security purposes.

18 Q. The precise meaning of that paragraph is perhaps  
19 a matter that the Inquiry will have to think about in  
20 due course, but certainly this directive wasn't in the  
21 physical or electronic filing cabinets --

22 A. No.

23 Q. -- at F branch at the time when you were an instructor?

24 A. Not that I ever found, no.

25 Q. Apart from this directive, were you aware of what is

1 sometimes referred to as the Heath ruling, the  
2 indications that Prime Minister Heath gave in Parliament  
3 in the early part of 1972 about the five techniques?  
4 A. No, I was not.  
5 Q. Or the case of Ireland v UK?  
6 A. No, I was not.  
7 Q. You don't remember a slide in which a reference was made  
8 to a case of Ireland v UK or the Attorney General's  
9 undertaking given in the course of that case about the  
10 five techniques not being used?  
11 A. No.  
12 Q. Can we turn then, please, S049, to the training that you  
13 actually gave once you were qualified as an instructor.  
14 Can we start, please, with sight deprivation. When you  
15 were giving teaching yourself, what did you tell your  
16 students on the tactical questioning and the  
17 interrogation part of the courses, about whether  
18 prisoners could be deprived of their sight?  
19 A. That a use of a blindfold, and certainly in the point of  
20 training the provided blindfolds would be used, and it  
21 was for the transfer of detainees from the holding cell  
22 to the questioning room.  
23 Q. So you say, do you, that the training you gave  
24 specifically covered that it was blindfolds that should  
25 be used for that purpose?

1 A. That's correct.

2 Q. Did you go further in the instruction that you gave and  
3 say anything about the use of hoods?

4 A. The use of hoods were not permitted. Whether I actually  
5 said it, other sort of staff would have said it in the  
6 lessons they delivered, I don't -- I know there are  
7 occasions when students would ask me, "Can I use  
8 a hood?" and as individuals I would say to them, "No,  
9 you cannot", and I always would say, "You would not use  
10 a hood, you would use a blindfold or an improvised  
11 blindfold".

12 Q. But if that didn't come up as a question asked by  
13 a particular student, is the position that you would  
14 have positively taught that blindfolds are what is to be  
15 used, but you may not have given a specific instruction:  
16 "There is a prohibition on the use of hoods, you must  
17 not use hoods".

18 A. It was given, it was part of the course, it was given  
19 that you do not use hoods to deprive sight. What I'm  
20 saying is because we taught -- there are a number of  
21 instructors and we all taught bits and pieces of the  
22 course -- I do not recall if that was a particular  
23 lesson that I gave and said that.

24 Q. I follow. So in the parts of the course that you  
25 yourself gave, would this be fair: you don't recall

1 giving a specific prohibition on the use of hoods unless  
2 a student asked a question about it.

3 A. I suppose that's correct, yes.

4 Q. In that case can I ask you this: did you ever give the  
5 legal briefing or the part of the briefing to students  
6 that dealt with the law of armed conflict and the  
7 standards that had to be applied and how prisoners  
8 should be treated.

9 A. No, no.

10 Q. You say that the prohibition on the use of hoods would  
11 have been covered in the course?

12 A. Yes.

13 Q. Sorry, just wait for the question, if you would, forgive  
14 me: if it wasn't part of the instruction that you  
15 personally gave, unless a student raised it, how do you  
16 know that that was actually covered on the course.

17 A. I can recall it being said, hearing other instructors  
18 saying it when they were delivering that, and it was  
19 repeated a number of times throughout the training, at  
20 almost any opportunity; whenever we are going through  
21 these exercises it was always, you know, "Get the  
22 blindfold and remember you would never use a hood". It  
23 was always being reinforced.

24 Q. Now, from the training materials that have survived,  
25 that have been made available to the Inquiry, if you

1 take it from me for the moment that one does see  
2 blindfolds referred to and we saw that, didn't we, in  
3 the document that I took you to a moment ago. Do you  
4 remember?

5 A. Yes.

6 Q. Removing the blindfold and so on. But there is no  
7 reference in the training handouts to a prohibition on  
8 the use of hoods. Do you follow?

9 A. Yes, I do.

10 Q. Can you ever recall seeing the prohibition on the use of  
11 hoods written in training materials, Powerpoint  
12 presentations or the like, or did you ever come across  
13 it in general talk between the instructors?

14 A. It was certainly general talk. It was certainly talked  
15 about during the training. I have to be honest and say  
16 I do not recall seeing a specific slide or presentation  
17 prohibiting the use of hoods.

18 Q. Would you have been familiar with all of the  
19 presentations that were given, the notes and the  
20 Powerpoint presentations? Would you at some stage have  
21 read through those that dealt with other parts of the  
22 course that you weren't involved in teaching?

23 A. Yes, I would. And I would have probably read most of,  
24 if not all of.

25 Q. Obviously it is a long time ago, but doing the best that

1           you can, you can't recall seeing a prohibition on  
2           hooding mentioned in any of the written training  
3           materials or the slides or the notes or the handouts.  
4           Is that right?

5    A.   Yes, that's right, that's correct.

6    Q.   There is some evidence that has been given to the  
7           Inquiry from certainly a number of students on the  
8           course, and to an extent at least from some of those who  
9           were at Chicksands, that hoods may have been actually  
10          used at Chicksands during the courses?

11   A.   Hm-mm.

12   Q.   Did you ever see hoods being used at any stage in  
13          Chicksands?

14   A.   At no stage, never, over three and a half years, four  
15          years, never.

16   Q.   And other evidence from students suggesting that even if  
17          hoods weren't actually used at Chicksands, they say that  
18          either hooding wasn't covered and the prohibition on  
19          hooding wasn't mentioned, or that they were positively  
20          told that hooding is one means by which prisoners could  
21          be blindfolded? Do you follow? There is some evidence  
22          to that effect that has been given to the Inquiry. If  
23          that evidence is correct, do you know why it was that  
24          students may have been getting mixed messages about  
25          hoods from the F branch courses?

1 A. No, I mean, I know I never ever sort of talked of the  
2 use of hoods in the sense of saying that hoods could be  
3 used, but I cannot say what other instructors may have  
4 said.

5 Q. Thank you.

6 THE CHAIRMAN: You say they wouldn't have got a mixed  
7 message from you?

8 A. They wouldn't have got a mixed message from me. I was  
9 fairly categorical in what I said, sir.

10 MR MOSS: In terms of the other five techniques, leaving  
11 hooding to one side, stress positions and that sort of  
12 thing, you tell us in your witness statement that there  
13 would have been express training on the courses that  
14 stress positions, deprivation of food and sleep and so  
15 on, were not to be used. Is that right?

16 A. Correct.

17 Q. Were you involved in giving that training yourself or  
18 again was that part of the other parts of the courses?

19 A. That was other parts of the courses, yes.

20 Q. How confident are you that those were matters that were  
21 covered by your colleague instructors on other parts of  
22 the courses?

23 A. Quite confident, yes.

24 Q. Can I just ask this: short of full stress positions,  
25 fingers against the wall, the ski position, that sort of

1 thing, what might be understood to be an obviously  
2 painful stress position, did you come across within  
3 tactical questioning, interrogation training, lesser  
4 stress positions, positions that might be uncomfortable  
5 over a period of time, for example being made to sit  
6 with hands on heads. Is that something that was  
7 addressed?

8 A. No, it wasn't.

9 Q. Or the use of that as a means partly to control  
10 prisoners but also to keep them unsettled?

11 A. Yes, it may be -- I think there would be occasions when  
12 that would be used to control a prisoner who was being  
13 difficult, yes.

14 Q. Do you know whether that use of that sort of position,  
15 as a control method, was covered in the teaching?

16 A. Not as a specific teaching but I have seen it used.

17 Q. Thank you. So far as sleep deprivation is concerned,  
18 and whether prisoners would be allowed to sleep, in  
19 particular prior to their first tactical questioning or  
20 their first interrogation, is that something that --  
21 that area something that you were involved in teaching?

22 A. Specifically sleep deprivation?

23 Q. Well, can we deal with sleep deprivation first. Did you  
24 yourself teach that there was a prohibition on  
25 deliberately depriving prisoners of their sleep?

1 A. Correct.

2 Q. You were involved in that yourself, were you?

3 A. Correct, I would have said that.

4 Q. The issue that has perhaps arisen, arising out of

5 Op Telic 1, is keeping prisoners awake for a relatively

6 short period, by which I mean during the first 24 hours,

7 shall we say, prior to being questioned or interrogated

8 for the first time, so that they weren't arriving at the

9 interrogation refreshed after having taken sleep,

10 whether in those circumstances prisoners could be nudged

11 to be kept awake prior to initial questioning. What

12 would your understanding have been? Would that have

13 been legitimate, nudging prisoners gently to keep them

14 awake prior to first interrogation?

15 A. I think that would be inappropriate.

16 Q. Were you responsible for giving any teaching on what the

17 TQer or interrogator's responsibilities were in terms of

18 briefing the guard force, that same issue that I asked

19 you about in terms of your own training? Did you cover

20 that in the teaching you gave?

21 A. Only in the general terms as I talked of before.

22 Q. So that would be, if you covered it in your teaching,

23 that they should, what, tell the guard force to use the

24 firm and efficient approach?

25 A. To be impartial, not to get involved, not to chat with,

1 purely to keep it sort of very, you know, sort of simple  
2 and detached and the only instruction that would have  
3 been given would be where the detainee was to be taken  
4 back to.

5 Q. Thank you. I wonder if you might help us next with just  
6 one passage in your statement at paragraph 37, please,  
7 which we have at BMI08080. You say there that:

8 "The guard force were also instructed to report any  
9 prisoners who requested to speak with the HUMINT team.  
10 It was taught that reassurance, confidence building and  
11 persistent logical questioning were usually met with  
12 compliant answers."

13 Now, I just wanted to break that down. The guard  
14 force were instructed to report any prisoners who  
15 requested to speak with the HUMINT team. Would that be  
16 the natural point that if a prisoner looked like they  
17 were willing to talk, the guard should make sure that  
18 they got to the TQers or interrogators quickly?

19 A. Yes, I apologise, I should have referred to that. If  
20 the prisoner did request to speak back with the  
21 questioner, then the guard force should let the  
22 questioners know immediately.

23 Q. Then you go on to say, this passage about:

24 "... taught that reassurance, confidence building  
25 and persistent logical questioning were usually met with

1 compliant answers."

2 That might be thought to contrast with the training  
3 about guards treating prisoners in a firm --

4 A. I'm sorry, that's not referring back to the guards.

5 That was referring back to the HUMINT team.

6 Q. I follow.

7 A. To enable them to respond quickly to the detainee.

8 Q. So in terms, as it were, of approaches by the tactical  
9 questioner or interrogator, you are saying that the  
10 interrogator, using reassurance and confidence building  
11 and persistent logical questioning, would usually get  
12 results?

13 A. Correct.

14 Q. Thank you. That perhaps leads me on to this issue,  
15 which is the use of what's called the harsh technique.  
16 You presumably know what I mean by the harsh technique?

17 A. Yes, I do.

18 Q. Was that something that you were involved in teaching,  
19 what harsh involved, how to do it?

20 A. It was never a lesson that I gave but I was aware of the  
21 instruction that was given.

22 Q. The Inquiry has seen evidence in the form of a training  
23 video, which at least according to MOD, dates from 2005,  
24 but which shows one example of the bad way to do it and  
25 one example of a good way to do a harsh. The good way

1 to do a harsh includes insults being used such as "unit  
2 fucking rent boy", shouted obviously at close quarters.  
3 Just dealing with insults like that, were you aware that  
4 that sort of language and that sort of insult was taught  
5 as part of the harsh technique?

6 A. Not so much the language and that sort of insult, but  
7 more the capability for someone to demonstrate  
8 a capacity to get angry and to demonstrate that they  
9 were angry and dissatisfied with the way that things  
10 were going.

11 Q. In the course of being able to demonstrate that anger,  
12 though, and demonstrate their anger and dissatisfied  
13 with the way things were going, were you aware that it  
14 was being taught on the TQ and interrogation course that  
15 TQers and interrogators could be pretty free in the  
16 insults that they used to the person being questioned?

17 A. That's correct, it was at that time.

18 Q. What about threats of any form? Did you understand  
19 whether threats would be permitted?

20 A. No, threats should not be permitted. There was no point  
21 to making a threat, no point at all.

22 Q. If one takes that at the high end of the spectrum,  
23 a direct threat of, "Answer the questions that I have  
24 just posed to you, or I'll get the guards to beat you  
25 up", what would your understanding of that be?

1 A. The understanding was that unless you then immediately  
2 followed that through and got the guards to beat the  
3 person up, it was a pointless threat and the next time  
4 you spoke to the detainee, they would know your threats  
5 were baseless and pointless.

6 Q. Inefficient as a questioning technique?

7 A. Absolutely redundant.

8 Q. Because you show weakness by making a threat you don't  
9 carry through on?

10 A. It is a redundancy in the questioning technique.

11 Q. Would the understanding have been at the time that that  
12 sort of threat would also be unlawful?

13 A. Correct.

14 Q. What about threats of a different kind, because on that  
15 same video, if I can paraphrase it, the questioner in  
16 the approved harsh technique demonstration, the one  
17 that's the right way to do a harsh, says words to the  
18 effect of -- he gives the three questions that he wants  
19 answers to and then says that, "If you don't answer  
20 those questions, the Albans", which you may remember as  
21 the theoretical enemy, "are outside, I don't know what  
22 they might do to you but I think you probably do".

23 All right? That being used. That sort of threat,  
24 was that something that you came across and were aware  
25 was being taught?

1 A. Not being taught. I would have heard that on a number  
2 of occasions, that type of challenge being made but it  
3 is not a credible sort of challenge. Because one is you  
4 didn't have the Albans waiting outside and it is really  
5 suggesting that there were going to be things happening  
6 to these people which wouldn't be happening.

7 Q. If we might just look for a moment at MOD015487, I bring  
8 this up only because at the top of the page, it is  
9 a convenient place to have the excerpt from Article 17  
10 of the third Geneva Convention:

11 "Prisoners of war who refuse to answer may not be  
12 threatened, insulted, or exposed to unpleasant or  
13 disadvantageous treatment of any kind."

14 Would you have been familiar with that article from  
15 the third Geneva Convention?

16 A. Yes, I would.

17 Q. What did you understand "may not be threatened,  
18 insulted, or exposed to unpleasant or disadvantageous  
19 treatment of any kind" to mean in the real world?

20 A. Threats of physical harm against themselves or implied  
21 against their families, their friends and really  
22 anything which was going to make the situation for that  
23 detainee worse than it actually was.

24 Q. And the "insulted":

25 "Prisoners... may not be threatened [or]

1           insulted..."

2    A.   Again, yes -- expletives are used during these  
3           activities.  People get carried away but you know, using  
4           a expletive is, I would say, very different to then  
5           using the reference you gave, sort of gay rent boy,  
6           whatever, that's inappropriate.

7    Q.   Is that really the case?  Is it not the case that that  
8           sort of insult was in fact commonly used and actually  
9           being taught on the course as being the appropriate way  
10          to do a harsh?

11   A.   I don't think it was being taught that they are the  
12          words you would use.  I think it was down to the  
13          individuals on the training.  They were told what  
14          a harsh would consist of and it could include expletives  
15          definitely.  But the difficulty was then it was the  
16          individuals, the students themselves, it is how they  
17          delivered the harsh and they would, I suppose default  
18          into their own prejudices and their own, you know --

19   Q.   I follow that, but was there any teaching given by you  
20          or your colleagues to say you mustn't default into  
21          inappropriate insults because the Inquiry has heard some  
22          evidence that may suggest that so far as insults were  
23          concerned, anything went?

24   A.   I think initially in the training, that was the case,  
25          yes, there was that sort of approach, that you could say

1           whatever you wanted and in the early parts of the  
2           training, these insults are not even towards an  
3           individual, they are towards an inanimate object and it  
4           is really to get the individual to open up and to sort  
5           of express freely, but in the feedback that students  
6           would then get after exercises, the feedback, if it was  
7           given correctly by the instructor, would say, "Well, how  
8           effective was that harsh? How effective was what you  
9           have just done? What do you think the detainee took  
10          away from it?"

11                 So I would sort of go through, you know, with  
12          students and point out to them that, you know, threats  
13          or insults may not be the most effective way of gaining  
14          anything out of the interview.

15    Q.    When you say that these threats are not even towards an  
16          individual, they may be towards an inanimate object,  
17          what do you really mean?

18    A.    What I'm saying at the beginning of the training, one of  
19          the first exercises is -- it is about seeing really  
20          whether the students have got the diversity of character  
21          to be able to cope with different situations and  
22          different people who they may be confronted with and the  
23          exercise -- one of the exercises was they would be told  
24          to go into a room and they would have a minute or two  
25          minutes and they were to be as angry as they possibly

1           could with a thing in the room. They didn't know -- it  
2           wasn't a person but it was an inanimate object, a teddy  
3           bear or something, to see whether they had that capacity  
4           to sort of be angry but in a controlled way.

5   Q.   But the purpose of that, if that was towards the  
6           inanimate teddy bear, was to see if they had the ability  
7           to do it towards prisoners as part of the harsh  
8           technique, wasn't it?

9   A.   At a later stage.

10  THE CHAIRMAN: Does it come down to this, the harsh  
11           technique, that as far as insults and the like are  
12           concerned, that much was left to the student as to how  
13           he interpreted what could and could not be done?

14  A.   I think you are right, Sir. I mean, the students were  
15           given guidelines, a degree of what they could do and  
16           really there was a blank card: go in there and be as  
17           angry as you possibly can, just let it go. And some  
18           students couldn't do it. Some students could not get  
19           angry but others would --

20  THE CHAIRMAN: I understand that, but those who had that  
21           capacity, to feign anger, maybe not even feign anger.  
22           They weren't told that there was any limit to how they  
23           could and should -- or could insult people?

24  A.   No, they weren't, Sir.

25  THE CHAIRMAN: So it was left up to them.

1 A. It was left up to them.

2 MR MOSS: Just finally on the harsh technique, if we look at  
3 MOD022477, it is right, isn't it, that in terms of the  
4 harsh technique, appreciating of course that there were  
5 other techniques that were taught, one looks at "cynical  
6 derision", one sees that mockery, for example, sneering,  
7 fault finding; and "harsh", "malicious humiliation":

8 "Active ill will... Tease and lower dignity... taunt  
9 and goad."

10 "... lower dignity and self-respect of detainee."

11 And so on. This was the approved harsh approach,  
12 wasn't it, to take that sort of an attitude towards --

13 A. This is a very old -- and I hadn't seen this until it  
14 was presented to me. It is a very old document. It  
15 pre-dates any of my time at Chicksands and my training  
16 and I don't agree with that at all.

17 Q. I raise for your comment that I think that the way that  
18 this document has come to the Inquiry is by means of  
19 having been a document within use in January 2003 as  
20 a handout that was given to one of those students, who  
21 was taking the PH&TQ course prior to Op Telic?

22 A. Then, I don't know where it has come from. It pre-dates  
23 my time at Chicksands. It may be an old document, an  
24 old training material that an instructor or someone else  
25 has hired and has decided to issue it off their own

1 back, I have not seen that.

2 THE CHAIRMAN: Again, if I may ask you about it, does it  
3 come to this, that you were no fan of the harsh  
4 technique?

5 A. I think that is a fair thing to say, sir. I believe  
6 once one had achieved the harsh sort of level, the  
7 questioner or the interrogator had lost that detainee --

8 THE CHAIRMAN: It is not something that you thought was  
9 effective, as I understand it.

10 A. No, that's correct.

11 THE CHAIRMAN: But you can't rule out, indeed you probably  
12 know, that other instructors did regard it as of some  
13 use?

14 A. I think that will be correct, sir.

15 THE CHAIRMAN: That's right, is it?

16 A. That's correct.

17 MR MOSS: Thank you.

18 THE CHAIRMAN: And would no doubt have told their students  
19 that?

20 A. They may have done, sir.

21 MR MOSS: Thank you. Just one final point, then, if we may,  
22 on the training that you were involved in giving. Can  
23 we look at paragraph 39 of your statement. You say:  
24 "The guidance on use of approaches was that laid out  
25 in teaching materials with reference to the

1 Geneva Conventions. Courses contained a detailed brief  
2 on GC and students had access to a publication on  
3 [Geneva Conventions]."

4 Then this:

5 "Powerpoint presentations on [the  
6 Geneva Conventions] were made by most members of F  
7 branch in keeping with the document..."

8 You refer there to the training materials that  
9 I have taken you to:

10 "I taught students that during all elicitation  
11 activity prisoners were to be treated humanely."

12 So far as the Powerpoint presentations were  
13 concerned, how did it work? Were there central  
14 Powerpoint presentations that were used by the whole of  
15 the branch, or did different instructors use and adopt  
16 and create their own?

17 A. The theory was there were central Powerpoint  
18 presentations that the whole branch should use.

19 Q. And the reality?

20 A. Perhaps on occasions individuals would sort of not use  
21 the presentation and do it off the top of their head.

22 Q. Thank you. That can be removed from the screen. I just  
23 want to ask you a few questions now about your own  
24 deployment to Op Telic 1. I think it is right, isn't  
25 it, that you initially deployed in one capacity, but the

1 JSIO team that you were part of were fairly quickly  
2 reroled as part of a field HUMINT team in support of  
3 16 Air Assault Brigade. Is that right?

4 A. That's correct.

5 Q. That was a team led by S012?

6 A. Correct.

7 Q. However, you explain in your statement that he was  
8 largely at brigade headquarters, whereas you were  
9 forward with the 1 Royal Irish?

10 A. And with other units as well, 16 Air Assault.

11 Q. Thank you. In the course of that you say that there was  
12 one occasion when you witnessed hooding. Is that  
13 correct?

14 A. That's correct.

15 Q. It may have been one occasion but your statement would  
16 tend to suggest that it was a number of prisoners who  
17 were hooded. Is that right?

18 A. It was. It was a number of prisoners coming off the  
19 back of a 4-tonne truck, yes.

20 Q. So being offloaded off a wagon and being taken into  
21 a prisoner handling facility. Is that right?

22 A. Into -- yes, into the handling facility, the detention  
23 centre.

24 Q. One they had gone into the detention centre, if it  
25 matters, were the hoods removed -- once they were in the

1 facility itself?

2 A. Yes, they were. I'm sure it was for the transportation  
3 of the detainees, and it was -- yes.

4 Q. Did you yourself see the hoods actually being removed?

5 A. I saw the detainees inside the holding facility without  
6 the hoods, and so, from the point of getting off the  
7 vehicle to getting into the facility ...

8 Q. You know at some stage the hoods were removed because  
9 you saw them without the hoods?

10 A. Oh, yes, absolutely.

11 Q. Thank you. And you say that you gave advice -- is this  
12 right? -- to the warrant officer who was in a charge  
13 that prisoners should not really be hooded?

14 A. Yes. I do not know where those detainees had come from,  
15 which unit had brought them into the battlegroup holding  
16 facility. So it was a warrant officer who was looking  
17 after the facility. I told him.

18 Q. So that we have got the picture, was that more that the  
19 warrant officer should pass that on to the capturing  
20 soldiers?

21 A. Yes, back down his chain of command for the  
22 responsibility of handling the prisoners.

23 Q. And again if it matters and so we have the picture, was  
24 this the first group of prisoners that you had seen  
25 brought to this facility or had other prisoners already

1           been brought in?

2    A.   Others had been brought in and had been shipped out,  
3           yes.

4    Q.   And the others that had been brought in, were they  
5           hooded or blindfolded?

6    A.   I have no way of knowing that.

7    Q.   Was it the first group of prisoners that you yourself  
8           had seen arrive?

9    A.   It wasn't the first prisoners/detainees we had seen; it  
10           was the first time, probably after we'd been there two  
11           or three days, when we saw, just by chance, these  
12           detainees coming in.

13   Q.   You happened to see the arrival of prisoners for the  
14           first time --

15   A.   Correct.

16   Q.   -- as opposed to seeing the prisoners in the handling  
17           facility?

18   A.   Correct.

19   Q.   Is that right?

20   A.   That's correct.

21   Q.   Thank you. Do you know one way or the other -- and you  
22           must say if you don't -- whether that was pretty much  
23           a standard operating procedure at the time, that  
24           prisoners would arrive hooded? Did that emerge during  
25           any discussions that you had with the warrant officer?

1 A. Sorry, no, I don't know that.

2 Q. And your reasoning at the time as to why you would have  
3 said that hooding was wrong, where would you have got  
4 that from, if it is not an obvious question?

5 A. It was very, you know, "This is not what we've taught."  
6 I remember this one officer who had been on the training  
7 that we had done, at one of the training courses. He  
8 said, "Listen, this is not what we taught. You have got  
9 to get some blindfolds sorted out for these guys coming  
10 in."

11 Q. Had you at that stage heard that there was a specific  
12 order in theatre to the effect that prisoners should not  
13 be hooded?

14 A. No.

15 Q. That wasn't any part of your reasoning for questioning  
16 the use of hooding when you saw it?

17 A. No.

18 Q. Did you see prisoners hooded on any subsequent occasion?

19 A. Not at all.

20 Q. Thank you. After Operation Telic, you deal in your  
21 witness statement with the fact that there was  
22 suggestions from S012 for certain changes to the  
23 training materials. Can you help us with that? What  
24 was the impetus, the reasoning, for changing the  
25 training material after Telic 1?

1 A. Two reasons. One was the normal post-operation review  
2 of how things went and, you know, can we make things  
3 different, better, which was usual; and the second one,  
4 there was concurrently the special investigations branch  
5 investigation into activities of  
6 Lieutenant Colonel Collins going on, which we were all  
7 being questioned about.

8 Q. Because your team had been with Royal Irish?

9 A. Yes, with Colonel Collins, yes.

10 Q. Was there, in terms of the suggestions being made about  
11 changes -- was there any changes being mooted in  
12 relation to anything to do with the five techniques --  
13 hooding, stress positions -- anything like that?

14 A. No, nothing discussed, no.

15 Q. And so what sort of changes were being suggested? Can  
16 you remember?

17 A. They weren't discussed. I think this is part of  
18 Captain 012. He did this himself. He didn't sort of  
19 take in sort of any sort of real detail from the people  
20 who had been with him in theatre.

21 Q. Could we just look at paragraph 53 of your statement?

22 You say there:

23 "I do not know why Captain 012 decided to change  
24 training materials immediately before SIB interviews  
25 with those of us who worked alongside Colonel Collins."

1           What do you mean by that?

2   A.   Because I had said to captain S012, when we knew the  
3       investigation was taking place, wouldn't it be better to  
4       leave things just exactly as they are, but he decided he  
5       was going to go ahead and review the materials anyway as  
6       part of his normal review.

7   Q.   Can I just ask you in general terms -- you must help us  
8       if you can: was there in truth at that stage anything in  
9       the training materials that might have been embarrassing  
10      if it had seen the light of day?

11  A.   Absolutely not, and this is why I specifically spoke to  
12      Captain S012 and said, "Leave it alone, don't touch it.  
13      We have nothing to hide on this."

14  Q.   In any event, doing the best that you can, you don't  
15      remember this specifically relating to anything to do  
16      with blindfolding or hooding in the training materials?

17  A.   No, not at all.

18  Q.   Telic 2 training now, please.  The Inquiry knows that  
19      there were a number of prisoner handling attachment  
20      questioning forces run in December 2002  
21      and January 2003, prior to Op Telic 1.  But, other than  
22      those, you do deal with certain other aspects of  
23      Chicksands training in paragraph 45 of your statement,  
24      if we just look at that, please.  You say there that --  
25      you start off by referring to the PH&TQ courses that

1           were run and those who attended it. You go on to say  
2           that:

3                 "A number of students attending the emergency PH&TQ  
4           courses ..."

5                 Was that a reference to the additional courses?

6   A.   The additional courses. All other training was dropped  
7           and that was all we did for months.

8   Q.   So:

9                 "A number of students attending those PH&TQ courses  
10           expressed their desire to learn more about control and  
11           management of prisoners, and F branch provided a short  
12           additional practical input on how to set up a prisoner  
13           holding facility."

14                Can we just pause there? Were you involved in  
15           giving that sort of additional training on control and  
16           management of prisoners?

17   A.   No, I wasn't. That was captain S011.

18   Q.   So you don't know in fact what may have been included  
19           within that training that was given?

20   A.   I'm aware in general terms, oh, yes, of what he did,  
21           yes.

22   Q.   And was that to give a shortened, tactical questioning  
23           and prisoner handling course, but one that wouldn't have  
24           qualified people to do TQ-ing itself?

25   A.   No, it wasn't. The additional information was about

1           setting up a prisoner handling facility, a bit like the  
2           one that I referred to previously, where the hooding had  
3           taken place. In fact I had to physically set up  
4           a backroom holding area.

5    Q. And again I don't want you to guess, but from your own  
6           knowledge do you know whether that additional training  
7           covered blindfolding, hooding, the shock of capture --  
8           maintaining the shock of capture, those sort of aspects?

9    A. It didn't include detainees at all; it was the physical  
10           conditions, the physical space, you know, the search  
11           facilities. It was the physical material of setting up  
12           the holding area.

13   Q. If we just look at MOD035479, your yellow file, tab D3,  
14           sir, it may not mean anything to you, and it doesn't  
15           really matter, but it is the ops officer of 1QLR who is  
16           writing this, 15 May, indicating that:

17                 "1QLR [was to] host a team from Chicksands to teach  
18           a shortened TQPH Cadre on 10 June ... A detailed  
19           programme will follow ..."

20                 And the outline timings were from 8.30 to 5.30, so  
21           looking like a full day's training.

22                 First of all, I don't think, at least according to  
23           your statement, that you were involved in giving that  
24           training, were you?

25   A. No, I wasn't.

1 Q. So far as you know, was this the same sort of training  
2 that you had been talking but, the physical, and how to  
3 set up prisoner of war holding facilities, or was this  
4 something different?

5 A. I don't know. There were a number of things taking  
6 place at that time and some units were asking for sort  
7 of one-day questioning techniques courses -- you know,  
8 how to conduct questioning, very simply -- and others  
9 were asking for how to physically set up a holding area.  
10 So I don't know which one this was.

11 Q. But in any event you weren't involved in teaching this  
12 course or anything similar to it?

13 A. No, not at all.

14 Q. Thank you. Just finally this then, please, conduct  
15 after capture training. You tell us in your statement  
16 that you were not involved in teaching conduct after  
17 capture. Is that right?

18 A. That's correct.

19 Q. Were you aware, however, that even in 2002 and early  
20 2003 soldiers who had undergone the two-week TQPH course  
21 and had gone on to be qualified in interrogation might,  
22 immediately after completing the interrogation part of  
23 the course, go straight on to practise the skills at the  
24 weekend, at the end of the course on conduct after  
25 capture exercise?

1 A. I was aware that was the case, yes.

2 Q. Would some of your students in fact have done that?

3 A. I don't know any by name or by individuals but they may  
4 have done.

5 Q. They may have done, thank you. So far as you were  
6 concerned, if that was happening, did you give your  
7 students any warning to the effect that, "We have taught  
8 you about the Geneva Conventions and how prisoners are  
9 to be treated. Remember that, when you go off in  
10 practise there's some conduct after capture, you will  
11 see guard forces using techniques that are prohibited  
12 and which you mustn't use and which are prohibited for  
13 the British army to use." Was any warning like that  
14 given by you?

15 A. I certainly gave a warning at the beginning of each and  
16 every class of students that I met for every course and  
17 warned them that if any of them had been involved in  
18 conduct after capture-type courses or escape and evasion  
19 courses, then they were to put that all to one side  
20 because that was the opposite, the flipside, of what we  
21 were now going to be doing in prisoner handling and  
22 tactical interrogation.

23 Q. I follow. Was that a personal thing or was that  
24 F branch-wide?

25 A. I certainly heard other instructors saying it but I felt

1 very strongly about that.

2 Q. Was consideration given by you or, as far as you know,  
3 by others, at the time, that there might be a risk of  
4 infection or contamination for those that you had just  
5 taught, if they were going straight off to practise  
6 their interrogation skills, when at least the guard  
7 force might be involved in hooding, stress positions and  
8 the like?

9 A. Yes, it was certainly talked about between instructors,  
10 and I made a very conscious decision to place a firewall  
11 between what was going on in conduct after capture and  
12 with my own work within JSIO and F branch, and even  
13 though I lived at Chicksands for three and a half years  
14 and I was sought after the whole time to get involved in  
15 these courses, I never ever once got involved in any of  
16 the conduct after capture.

17 Q. Looking back, do you not think it would have been  
18 sensible to stop the practice whereby interrogators went  
19 straight off after their interrogation training to do  
20 conduct after capture where they would see prohibited  
21 techniques because of the risk of contamination?

22 A. With hindsight, yes, it would have been.

23 Q. Thank you. Those are my questions.

24 THE CHAIRMAN: Yes. You will be asked one or two other  
25 question, I expect. Mr Friedman?

1 Questions by MR FRIEDMAN

2 MR FRIEDMAN: You said that, as regards prisoner welfare and  
3 Geneva Conventions, it was absolutely important to you  
4 in the way in which you trained, and just moving beyond  
5 why that might be of personal importance to you, it is  
6 right, isn't it that, the system that you and your  
7 colleagues were teaching was one which was designed to  
8 exploit the shock of capture and, by definition, be on  
9 the edge of the Geneva Conventions, but the right side  
10 of the line, and that's why welfare would have been so  
11 important. Is that right?

12 A. Can you just say the last part? Welfare would or would  
13 not have been important?

14 Q. Would have been so, precisely because you were going to  
15 the edge but keeping on the right side of the line? Do  
16 you see my question?

17 A. I do. I agree with you.

18 Q. Yes, and for that reason it would follow that for both  
19 trainers and trainees legal and doctrinal certainty  
20 about what was the right side of the line would be  
21 absolutely essential. Do you agree with that?

22 A. I agree with you.

23 Q. Can we just have up again the document you were shown,  
24 MOD015498? Not go into the issue of when it may or may  
25 not have been used. I just want to ask you this -- you

1           have seen it today and presumably you saw it in  
2           preparing to give evidence: Does it unsettle you, that  
3           text?

4   A. Which reference in the text in particular?

5   Q. The lines you were taken to in paragraph 2 that refer to  
6           the conditioning process, that last sentence in  
7           paragraph 2:

8                   "The process also assists in keeping the subject  
9           under pressure and will also condition them to respond  
10           to commands."

11                   Perhaps, moving down the page, where it says:

12                   "The questioner conducts a visual scrutiny of the  
13           subject. Subject still blindfolded. The questioner can  
14           increase the pressure by moving around the subject."

15   A. Again, I think this either pre-dates or is post my time  
16           at Chicksands, and I would agree, I don't like the word  
17           "pressure".

18   Q. Forget the time; you don't like the word "pressure", and  
19           I think that text unsettles you, doesn't it?

20   A. The use of the word "pressure", yes.

21   THE CHAIRMAN: This is actually 2004, is it not?

22   MR FRIEDMAN: Sir, we believe so.

23   THE CHAIRMAN: So far as you know.

24   MR FRIEDMAN: So far as I know, 2004. Adduces an exhibit by

25           S012 --

1 THE CHAIRMAN: Yes.

2 MR FRIEDMAN: And I showed some text of a later --

3 THE CHAIRMAN: Yes. But, as I say, so far as one knows, it  
4 is 2004 but it may have been earlier. But that's as far  
5 as we know.

6 MR FRIEDMAN: Just in relation to the harsh technique -- and  
7 I think your own views about it have been made clear.  
8 But just on threats, it is right, isn't it, that one of  
9 the issues about threats is about losing credibility,  
10 for making threats which turn out to be idle? So the  
11 interrogator and the capturing force lose credibility  
12 because of that? Is that correct?

13 A. That's correct.

14 Q. There wasn't a limitation placed upon using innuendo in  
15 a frightening fashion -- and I remind you about the  
16 bridge/carrot/stick technique. To ask the question,  
17 "Who knows what will happen if you don't answer my  
18 questions?" is frightening, isn't it?

19 A. To ask the question.

20 Q. "Who knows what will happen if you don't answer my  
21 question?" is frightening, isn't it?

22 A. Yes, I suppose in a sense it is indecisive, it is  
23 unclear.

24 Q. The context of the Iraq theatre provided some pretty  
25 rich innuendo, in terms of the terrible dangers in

1 a broken-down Iraqi society; correct?

2 A. Hm-mm.

3 Q. There was also some innuendo in terms of, "You could  
4 have been captured by the Iraqi police"; yes?

5 A. Possibly.

6 Q. And obviously from what we all know from the media, "You  
7 could have been captured by the Americans"; correct?

8 A. I don't know. I have never heard that, but possibly.

9 Q. But if trainees had gone out to Iraq and used that type  
10 of innuendo, nothing in the course would have prevented  
11 that, would it?

12 A. Only in as much that the -- from the bridge, carrot and  
13 stick that you talk about, it was always told it had to  
14 be credible.

15 Q. Yes. But innuendo balanced in that way doesn't have  
16 that problem, does it, because "you could have been  
17 captured by the Americans" is a statement of fact?

18 A. Okay, I agree with you.

19 THE CHAIRMAN: I'm not sure whether he is agreeing, other  
20 than that that is a statement of fact. I don't actually  
21 think -- anyway we have been over this ground many  
22 times.

23 MR FRIEDMAN: Yes. Could I ask, just in terms of you  
24 leaving the branch in June 2004 -- we find that from  
25 your statement -- is that retirement or -- you say you

1 left F branch in 2004.

2 A. That's correct.

3 Q. That's retirement. S011, a cipher that we have --

4 A. Yes.

5 Q. -- I think he left at the same time or thereabouts. Do

6 you remember that?

7 A. Yes, probably around about the same time, yes.

8 Q. And you had served with S011 in F branch but also in

9 Operation Telic 1?

10 A. That's correct.

11 Q. He had enormous experience, didn't he, not only in

12 teaching but in deployment as well?

13 A. Yes, I mean, he is the only one who had actually

14 undertaken this work in the first Gulf War.

15 Q. We have heard there was discretion for the trainers to

16 tell anecdotes in order to make their teaching more

17 graphic and illustrate matters. Did you hear anecdotes

18 that S011 would tell of his experiences of deployment?

19 A. Gosh, I may have done, I don't recall at this point.

20 I may have done.

21 Q. Do you know what view he had on hooding?

22 A. No, I don't.

23 Q. Do you know what view he had on the potential with some

24 subjects for the harsh technique to be effective?

25 A. No, I didn't hear him say anything to the students, no.

1 Q. What about to colleagues?

2 A. I would have to sort of dig into my memory, but I think  
3 S011 would have a fairly robust line.

4 Q. We heard the words sometimes "fairly robust". What do  
5 you mean by "fairly robust"?

6 THE CHAIRMAN: I think I understand what he means by "fairly  
7 robust", and I'm looking forward to seeing S011.

8 MR FRIEDMAN: Just this on fairly robust then: were there  
9 discussions throughout the period that there was  
10 a problematic tension between the government and the  
11 political paymasters, asking you people to teach and  
12 deploy a capability in interrogation, and the  
13 Geneva Conventions, that would in effect limit what you  
14 could do.

15 A. Not that I'm aware of. There may be but not that I'm  
16 aware of and never came out in the teaching that was  
17 delivered.

18 Q. And in fairly -- attitudes of fairly robust nature  
19 expressed outside of the teaching, did it ever come up?

20 A. There was lots of things discussed outside of the  
21 teaching. I mean, can you be a bit more explicit?

22 Q. "The law is shackling us so we can't do our job  
23 properly."

24 A. No.

25 Q. Just on mixed messages and with a view to try and

1 improve things for the future, were trainers and  
2 trainees completely separated once the classroom  
3 sessions finished at Chicksands or could they mix during  
4 the social periods outside the classroom, when you were  
5 there?

6 A. During this course the -- sort of the emergency training  
7 period, it was completely separate and there was very  
8 little mixture. I mean, maybe some of the seniors would  
9 have gone into the mess and they might have met up with  
10 them then, I don't know. But the instructors by and  
11 large lived on the base, had their families, had their  
12 own lives, and at the end of the working day all you  
13 wanted to do was go home, you know.

14 Q. On sight deprivation, forgive me, but was there ever, to  
15 be clear, discussion inside the classroom that there  
16 could be a by-product of sight deprivation for security  
17 reasons, which was maintaining the shock of capture and  
18 disorientation?

19 A. I don't recall any discussions but I can understand how  
20 that would come out as -- you know, as an assumption.

21 Q. This language of conditioning and maintaining shock of  
22 capture, is it fair to say that you don't like it now?

23 A. No.

24 Q. You never -- you don't have problems with it now?

25 A. I would have problems if -- within some of the

1 statements that I have read -- if that's how people  
2 interpret it. I have got serious, serious concerns over  
3 that because that was not what was taught, was not what  
4 was meant by the training that was given.

5 Q. Just in relation to Operation Telic 1 --

6 THE CHAIRMAN: This must be the last question.

7 MR FRIEDMAN: Yes. Can I ask to you look at an email from  
8 S011, which is at MOD038657, and it is dated May 7th  
9 2003.

10 A. Yes.

11 Q. About the time you are coming back from Telic 1?

12 A. Yes, it is.

13 Q. And it is to F branch users.

14 A. Right.

15 Q. We have asked you to look at this in preparing your  
16 evidence. Do you recall it at the time, or discussion  
17 along these lines?

18 A. No, I don't. I saw just before I came in -- it is an  
19 interesting ...

20 Q. Yes. It doesn't help you to recollect views that were  
21 being expressed by either S011 or others, who'd gone  
22 through the experience of Telic 1?

23 A. Possibly. I mean, is there any point in particular you  
24 are referring to in the memo?

25 Q. Yes, certainly. First of all in paragraph 2:

1           "Bearing in mind that this was conventional war for  
2 the handling of PW was abysmal."

3           Oh, he says this could be unique to the brigade  
4 units referred:

5           "This was inexcusable, as all units should have been  
6 aware of the content of JWP1-10. Someone must grasp  
7 this nettle."

8           Then he goes to the course. He says:

9           "TQ is an outdated concept. It is not supported by  
10 units. It should be discontinued. The way ahead is  
11 tactical interrogation."

12          Then in 4:

13          "The F branch team had the opportunity to practise  
14 tactical interrogation carried out with brigade in their  
15 area of responsibility."

16          He says:

17          "This was outstandingly successful. There has got  
18 to be a way ahead in future developments which leads me  
19 to the make-up of the FHT."

20          The, after the redactions:

21          "Despite having no transport, the team achieved  
22 exceptional results."

23          And:

24          "It is important that we are able to carry out  
25 tactical interrogation."

1           He says in the last matter. Were these views that  
2           he had expressed at the time?

3   THE CHAIRMAN: Sorry, who had expressed?

4   MR FRIEDMAN: S011.

5   THE CHAIRMAN: Presumably, since he wrote it.

6   MR FRIEDMAN: Sorry, expressed to you.

7   A. Not as individual points. This is S011's personal email  
8           out to members of the branch who had deployed. It is  
9           his sort of, you know, hot and dirty comments on  
10           returning back into the country. I think from that it  
11           probably triggered, you know, individuals to make their  
12           own comments and sort of statements, factual. They are  
13           his personal -- I recognise a lot of that -- I recognise  
14           myself in a lot of that, but it is his email.

15   Q. Just the last question then is that you as a team were  
16           the experts and you had been deployed in Telic 1 and  
17           encountered some of these difficulties. Would that have  
18           given you cause for concern, given that for Telic 2 it  
19           was going to just be the recent graduates of the January  
20           emergency courses going into that type of cauldron?

21   A. I think, you know, there was a unique set of  
22           circumstances, where we had the instructors from the  
23           branch who had quite a wide sort of gambit and skill set  
24           going out to do this job. And so we did much more than  
25           prisoner handling, tactical questioning and





1 units?

2 A. Yes, each battlegroup should have its own integral  
3 tactical questioners.

4 Q. So those tactical questioners would have an opportunity,  
5 for instance, to give any briefing even before any  
6 operation, just by reason of being within the unit. But  
7 they would certainly have an opportunity at any pre-op  
8 briefing?

9 A. Yes, because they are integral to the unit, they would  
10 be able to plan and prepare and execute their work  
11 accordingly.

12 Q. So far as training was concerned, it is right that there  
13 was no specific training to tactical questioners in  
14 situations where they weren't part of the unit, they  
15 were effectively parachuted in after an operation had  
16 taken place and the detainees were already in custody.  
17 There was no specific guidance given to them in those  
18 circumstances, was there?

19 A. No.

20 Q. In a situation where a tactical questioner arrives, as  
21 it were, late in the day and there are a number -- or  
22 a large number -- of detainees and a good number of  
23 documents to exploit, it is right that the priority is  
24 to get on the with job of TQ'ing and examine the  
25 documents so that that task could be carried out

1 speedily, isn't it?

2 A. In general terms, yes.

3 Q. So far as the role of a BGIRO, were you ever aware of  
4 what the BGIRO was, the battlegroup internment review  
5 officer.

6 A. Can you say that again, a battlegroup --

7 Q. BGIRO, battlegroup internment review officer, were you  
8 ever aware -- I suspect not?

9 A. No.

10 THE CHAIRMAN: Have you ever heard of such a person?

11 A. No.

12 MR ASHLEY: So clearly that never formed any part of the  
13 training you gave?

14 THE CHAIRMAN: I think that would be a fair assumption, yes.

15 MR ASHLEY: So far as tactical questioning is concerned, it  
16 is fair to assume that if he was asked to carry out some  
17 tactical questioning, he could assume that that had been  
18 authorised by some higher authority, if that  
19 authorisation was required?

20 A. Yes.

21 MR ASHLEY: Thank you very much.

22 THE CHAIRMAN: Mr Garnham.

23 Questions by MR GARNHAM

24 MR GARNHAM: Just one matter: what is the point of a harsh?

25 A. The point of a harsh is really about -- I would always

1 express it as the point where the questioner is at the  
2 point of no return. They are about to hand over to  
3 someone else and they have got extremely thwarted or  
4 frustrated in their questioning. I always prefer to  
5 think of the harsh being more of a -- I said this  
6 before -- as an angry. You are really getting to the  
7 point where, "I can go no further with you, I know you  
8 have things you have to tell me, I know what you are  
9 saying is inconsistent and I really do want to get  
10 through this quickly, I want to help you", but you  
11 know -- so it is that sort of meaning in the harsh. But  
12 I know people may interpret it differently.

13 Q. So what is its purpose, just to convey frustration by  
14 the questioner?

15 A. That is an outcome. The purpose was, I think -- well, I  
16 don't think. The purpose was, along with other  
17 approaches, was to give this sort of range of different  
18 styles that the detainee, the prisoner, could be  
19 presented with to see which one they fit into best in  
20 terms of responding.

21 Q. So as to make the subsequent questioner appear easier to  
22 deal with?

23 A. Less harsh, yes, yes.

24 Q. Good cop/bad cop or rather bad cop/good cop?

25 A. I suppose so, yes.

1 Q. When those you were training were being shown how to do  
2 a harsh and when the quality of their performance was  
3 being judged, was it being judged for that purpose to  
4 ascertain whether they could sustain the anger for that  
5 purpose or was it being judged on its content?

6 A. The former, not the latter.

7 MR GARNHAM: Thank you very much.

8 THE CHAIRMAN: Mr Moss?

9 Further questions by MR MOSS

10 MR MOSS: In a situation where a TQer was parachuted in --  
11 so say he is from brigade or another higher formation,  
12 is not in the battlegroup concerned -- if he is  
13 parachuted in, would you expect the TQer in that  
14 situation to say anything by way of briefing towards the  
15 battlegroup guard force?

16 A. I would certainly expect -- yes, I would expect some  
17 degree of briefing either through the battlegroup  
18 intelligence officer or through the battlegroup sort of  
19 detention officer responsible for the holding facility,  
20 yes.

21 Q. To cover what?

22 A. To cover what they are planning to do. The detainees  
23 they are planning to see, the hours of work that they  
24 are going to be operating. Sort of setting out their  
25 schedule of work. And also to cover the things I talked

1 on before, trying to ensure the guard force remained  
2 impartial at all times.

3 MR MOSS: Yes, thank you.

4 Questions by THE CHAIRMAN

5 THE CHAIRMAN: Continuing the questions Mr Moss has just  
6 asked you, would you expect the TQer to go in to see  
7 where the detainees were being held?

8 A. I would hope a TQer would, yes. Yes. I don't think it  
9 is explicitly written down. I have not seen it  
10 explicitly written down, but it is part and parcel of  
11 the job, really. You would need to -- yes, to check  
12 out.

13 THE CHAIRMAN: If we take the circumstances that I am  
14 concerned with, one of the detainees was very young --  
15 or obviously younger than the other -- and the TQer  
16 selected him first to be tactically questioned for  
17 reasons which are -- which seem reasonably obvious. Is  
18 that the sort of thing, that if a TQer comes into  
19 a battlegroup where there are detainees present, he  
20 would want to know -- have a look at the -- if there is  
21 more than one detainee, want to have a look at them to  
22 see who he might take first?

23 A. Yes, yes. I think if the system was working efficiently  
24 and correctly, then the TQer would have the arrest  
25 documents to refer to, which would give all of the

1 information they should need of, you know, age, sex,  
2 when they were arrested, circumstances of arrest. And  
3 they should use that to prioritise. So I think  
4 physically getting an eyes on someone would not  
5 necessarily be essential, but I would hope the TQer  
6 would familiarise themselves with the facilities that  
7 were being used.

8 THE CHAIRMAN: Yes.

9 A. But I do take your point that seeing the individuals  
10 might help to identify if someone was, say, perhaps,  
11 overtly nervous or someone who you perhaps would --

12 THE CHAIRMAN: I take it that you would want to interview  
13 the man who you thought would give you the most success  
14 early on --

15 A. Absolutely right.

16 THE CHAIRMAN: You can no doubt, as the police normally do,  
17 use what he says, if he makes any admissions against the  
18 other ones?

19 A. That's correct, sir.

20 THE CHAIRMAN: All right. One or two other matters I wanted  
21 to ask you about.

22 You said earlier on in your evidence in answer to  
23 questions asked by Mr Moss that you taught that  
24 blindfolds should be used to take a person to the TQ  
25 room where they are going to be TQ'd. Is that right?

1 A. That's correct, sir.

2 THE CHAIRMAN: Would you expect them always to be  
3 blindfolded to take them to that room?

4 A. I would.

5 THE CHAIRMAN: Why?

6 A. Largely from the security perspective. Of course, each  
7 holding facility would be different and the layout would  
8 be different.

9 THE CHAIRMAN: Okay.

10 A. But I think it is partly about trying to ensure that  
11 detainees are not familiar with the physical layout of  
12 the room and exits and other entrances, in case they did  
13 try to facilitate an escape, or if they did get out of  
14 the cell, they would not know where they were going.

15 THE CHAIRMAN: It would not be because the disorientating  
16 effect of it might assist in the questioning that  
17 subsequently comes?

18 A. I think that's a by-product. It's not a sort of a top  
19 line sort of --

20 THE CHAIRMAN: I follow that. But I wondered whether your  
21 suggestion that they would be always taken in that way  
22 with blindfolds, whether that might be because it was  
23 a good idea to have -- to make them --

24 A. No, sir, that's not the case.

25 THE CHAIRMAN: Nothing to do with that?

1 A. No.

2 THE CHAIRMAN: Very well. I think that is all I want to ask  
3 you about.

4 There is one other thing. Do I understand from --  
5 this is quite a generalisation -- from the way in which  
6 you have been giving your evidence that those who were  
7 instructed in F Branch didn't always take the same line  
8 as each other? You have your common notes, no doubt, on  
9 what you are to teach, but was there a degree of  
10 difference between individual instructors as to what  
11 might take place or not? What might be done or not?

12 A. I think that's a fair comment, sir, yes. I agree with  
13 you.

14 THE CHAIRMAN: You say that's a fair comment. Is that right  
15 that there was a difference from time to time in  
16 emphasis between instructors?

17 A. Yes, I think playing on their different backgrounds and  
18 experiences, yes.

19 THE CHAIRMAN: Because there are quite a number of  
20 differences that I have heard between what was and was  
21 not taught. Might that be the explanation for how the  
22 differences arose?

23 A. No. I would hope that what was being taught was common.  
24 The core of what was being taught was common to all  
25 instructors. But perhaps what was being fed in

1 differently might be some of their own real life,  
2 realtime experiences of situations they found themselves  
3 in and how they coped and how they managed situations.

4 THE CHAIRMAN: All right.

5 Thank you very much. Those are all the questions  
6 that the Inquiry has for you. I am very grateful to you  
7 for coming along to give your evidence and you are now  
8 free to go.

9 A. Thank you very much, Sir.

10 THE CHAIRMAN: You look slightly surprised, but it is really  
11 the end.

12 A. That's good, thank you very much.

13 MR MOSS: Sir, I don't think we need a break, but if this  
14 witness could be allowed to leave, then we can have the  
15 screens taken away because the next witness is not  
16 screened.

17 THE CHAIRMAN: Yes, if you leave us, please, we have  
18 a different exercise for the moment.

19 MR ELIAS: Sir, may I then call David Johnson, please.

20 THE CHAIRMAN: Yes. If you could remain standing for  
21 a moment, please, Mr Johnson, I am going to ask that you  
22 be sworn. Are you being sworn on the Bible or did you  
23 wish to affirm?

24 A. To be sworn.

25

1 DAVID JOHNSON (sworn)

2 THE CHAIRMAN: Yes. Do sit down. Make yourself as  
3 comfortable as you can in that witness-box. If you  
4 would speak into the microphone, then we will all be  
5 able to hear you.

6 A. Okay, sir.

7 THE CHAIRMAN: Thank you.

8 Questions by MR ELIAS

9 MR ELIAS: Would you give the Inquiry your full name,  
10 please.

11 A. Yes, David Gordon Johnson.

12 Q. If you have a look in to a folder which should be to  
13 your right hand, do you find a copy of your statement  
14 within it? If you go to the last page of it, please, at  
15 our BMI07503, would you confirm that it is your  
16 signature above the date of 17 March of this year?

17 A. That's correct.

18 Q. When you signed that statement, Mr Johnson, were you  
19 attesting that the contents of it were true to the best  
20 of your knowledge and belief?

21 A. Yes, I was.

22 Q. Thank you very much. Would you like to put it aside  
23 then, please, and where there is reference to it or  
24 parts of it or documents, they will appear on the  
25 screen, I hope, for you.

1           We have all had the opportunity of reading that  
2           statement and I don't propose to take you to every part  
3           of it, but to go to certain aspects of your evidence.  
4           As I think you will understand, that statement forms  
5           part of the evidence that you give to this Inquiry.

6    A.   I do.

7    Q.   Thank you.  You are a civil servant, is that right?

8    A.   That's correct.

9    Q.   Are you currently working in Headquarters Land forces?

10   A.   I am.

11   Q.   When did you start in the Civil Service?

12   A.   1989.

13   Q.   Between 30 September 2002 and 9 July 2004, you tell us  
14           in your statement, you were a senior civil servant in  
15           a post originally called Head of Secretariat Iraq, later  
16           retitled Director Iraq.

17   A.   That's correct.

18   Q.   But from July 2004 you took up another post which had no  
19           responsibility, as it were, for Iraq matters, is that  
20           right?

21   A.   That is correct.

22   THE CHAIRMAN:  Thank you.  Can I just ask, have you always  
23           been in the MoD?

24   A.   Apart from a period of about three years on loan to the  
25           Cabinet Office.

1 THE CHAIRMAN: Thank you. I think I read that, yes, before.

2 MR ELIAS: You were asked to look at documents which the

3 chairman will find at his tab 1 and we find at

4 MOD044526, which demonstrates, does it, what is

5 described in the bottom left-hand box as the MoD chain

6 of command at the time of Telic 1.

7 A. That's correct.

8 Q. We can see your name to the right, appointed 30

9 September, secretary Iraq, Simon Cholerton as it were

10 below you and reporting to you?

11 A. Yes, that's right.

12 Q. You reporting to Ian Lee?

13 A. That's correct.

14 Q. And the chain going up through the policy director to

15 the Permanent Under-Secretary and ultimately to the

16 Secretary of State for Defence, then Mr Hoon?

17 A. That's correct, although Ian Lee was directly line

18 managed by the DCDS (Commitments), General Piggott, but

19 could also be tasked by the policy director, Simon Webb,

20 which is why that is shown as a dotted line

21 relationship.

22 Q. So he, as it were, had the two lines through which

23 matters may proceed.

24 A. That is correct.

25 Q. If we look, please, then at the document at MOD044527,

1 the top left hand box indicates this is eight weeks  
2 prior to conflict. What are we looking at here?

3 A. This is the top structure of what we described as the  
4 virtual secretariat which we formed for the purposes of  
5 fulfilling the secretariat function during war-fighting  
6 operations. So Simon Cholerton is there, and  
7 Jon Chorley who by then had joined us in the Iraq  
8 secretariat. Robin Riley, Ian Gibson and Roger Cornish  
9 were three band B civil servants who worked in other  
10 parts of the department but were co-located with my team  
11 for the war-fighting phase so that they could provide  
12 their particular area of expertise as required.

13 May I just say that the box in the top left says  
14 "eight weeks prior to conflict"; I think that is  
15 probably a bit early. I think it was probably not  
16 before March 2003.

17 Q. So from about March of 2003 on?

18 A. I think so.

19 Q. Is what would you say, is it?

20 A. Until about the end of May or early June 2003.

21 Q. Thank you. We just note in the middle of that graphic,  
22 Ian Gibson tasked with people's issues. He reported to  
23 you, is that right?

24 A. For the work he did on Iraq, yes. I mean, he had a day  
25 job in the service personnel policy area.

1 Q. I am asking you about Iraq responsibilities, you  
2 understand?

3 A. Of course.

4 Q. He reported to you in respect of those, did he?

5 A. He did. He did.

6 Q. Did his people issues, as it is set out in the box  
7 there, did that include, if you like, the first  
8 responsibility for prisoner handling issues?

9 A. Within the secretariat, yes.

10 Q. If we go on to look at the third document in  
11 this section of the bundle, Sir, at our MOD044527A,  
12 please, box left-hand bottom, MoD chain of command,  
13 March 2004, it looks a more simplified structure.  
14 Perhaps you will tell me that it in fact wasn't, but we  
15 see your name in the left-hand list, as it were?

16 A. Yes.

17 Q. The penultimate box to the bottom, director Iraq sec?

18 A. That's right.

19 Q. Responsible for ongoing theatre issues, March 2004 and  
20 on. And Andy Brittain and three or four desk officers  
21 reporting to you?

22 A. That's correct.

23 Q. And the chain going up as we can see through Chris  
24 Loader?

25 A. Well, primarily through Martin Howard.

1 Q. Or on operational policy, and as the thick line would  
2 demonstrate, through Martin Howard?

3 A. That's right.

4 Q. And again through the Permanent Secretary to the  
5 minister?

6 A. That's correct.

7 Q. You say in paragraph 14 of your statement to this  
8 Inquiry, and can we look at that, please, at BMI07490:

9 "The Iraq inquiries team was a separate small team  
10 set up towards the end of my time in post, I think  
11 around spring 2004."

12 You say you had little to do with its business and  
13 Dr Cholerton headed the team.

14 A. That's correct.

15 Q. Was that a team of which Stuart Kistruck was a part?

16 A. I believe that's right, yes.

17 Q. If we can just go back, please, to the first of those  
18 documents that we looked at at 44526, did Stuart  
19 Kistruck at any stage come into, as it were, this  
20 picture?

21 A. Yes. In autumn 2002 Stuart was one of the overseas  
22 secretariat desk officers working for Simon Cholerton,  
23 although at the beginning of my time he was not really  
24 involved in Iraq issues. He became, I think, wholly  
25 involved in Iraq issues by early 2004 and then -- sorry,

1           early 2003 -- and then at some point later that year  
2           I think he went off to another post elsewhere in the  
3           department.

4   Q.   So he would be in the box, as it were, with  
5           Simon Cholerton on this, would he?

6   A.   That's right, yes.

7   Q.   I follow. I ask that because I am going to come to  
8           a document that he authored in due course.

9           Can I then move, please, to consider with you  
10          prisoner handling issues? You say at paragraph 19 of  
11          your statement -- can we have that at 7492, please:

12                 "As far as the Iraq secretariat was concerned,  
13                 during phase 3 and initial phase 4 operations,  
14                 Ian Gibson, whose 'day job' was in the service personnel  
15                 policy areas of the MoD, was our focus point for what  
16                 were loosely described as 'personnel issues'. These  
17                 included prisoner handling issues, although in practice  
18                 Mr Gibson would have had to rely largely on other parts  
19                 of MoD, including PJHQ and the legal advisers for  
20                 information and advice..."

21   A.   That's correct.

22   Q.   Would prisoner handling issues have, as it were, crossed  
23          your desk wherever they had come into the department?

24   A.   They may well have done from time to time, yes.

25   Q.   You say at paragraph 16 -- can we look at that, please,

1 7491:

2 "I do not recall the issue of prisoner handling  
3 being an area of significant discussion in the chiefs of  
4 staff committee during the preparations for operations,  
5 except at a relatively late stage when developments in  
6 the US plan meant that the permanent joint  
7 headquarter... asked for additional personnel for the  
8 land force specifically to meet the anticipated  
9 requirement of guarding prisoners of war..."

10 A. That is correct. The only time I can recall it being  
11 discussed in the chief of staff's committee was at that  
12 point when there was a request for additional forces.

13 Q. Do you recall being aware of any other prisoner handling  
14 issues arising in the early stages of the war-fighting  
15 phase, or shortly thereafter?

16 A. Well, as I said in my statement, at some point  
17 I believed that we were told orally by PJHQ that the  
18 commanders in theatre had discovered that hooding had  
19 been used.

20 Q. I am going to come on to hooding.

21 A. All right.

22 Q. We will discuss how you became aware of that.

23 A. Other than that, no, I don't recall any prisoner  
24 handling issues.

25 Q. If there were prisoner handling issues being raised in

1 theatre -- and the time I am talking about is the  
2 war-fighting phase, the end of that and the early  
3 peace-keeping phase if you like -- who within the  
4 Civil Service had responsibility for dealing with those  
5 issues? Who ought to have been aware of them?

6 A. It would depend what the issue was. In the first  
7 instance, commanders in theatre were responsible for  
8 dealing with the issues on the ground. If they needed  
9 to refer them upwards they would have referred them to  
10 PJHQ, and if PJHQ had needed to refer them upwards, they  
11 would refer them to the MoD centrally.

12 Q. Who do you say within the Civil Service, if there were  
13 issues, for example, of hooding being referred, or  
14 questions about the lawfulness or otherwise of hooding  
15 being referred to the department, which civil servants  
16 would have been responsible for dealing with such  
17 issues?

18 A. If they had been referred to the department, then  
19 I suppose they would have come -- they might well have  
20 come to me and my team. I suppose that the department's  
21 legal advisers would have been involved and perhaps  
22 the -- I suppose the service personnel policy staffs as  
23 the, if you like, the guardians of policy on that sort  
24 of issue.

25 Q. Forgive me for pressing you on this, but it may be the

1 chairman would be helped if he knows. You say it might  
2 have been your department. If there were issues of  
3 hooding being raised, for example, or for example could  
4 conditioning techniques be used, wouldn't your  
5 department at this time have been the repository of  
6 those matters for one of your team, as it were, to take  
7 on board?

8 A. No. I think that the -- those are issues of what are  
9 the procedures that you are allowed to use. What is  
10 legal, what is proper, what is appropriate. And I think  
11 that those are matters -- well, in a sense they are  
12 professional military matters and insofar as they are  
13 legal matters, they would be matters for the legal  
14 advisers. That's not to say that if the issue came to  
15 me or a member of my team that we could not have sought  
16 advice from those experts but we were not in ourselves  
17 the authorities on any of those subjects.

18 Q. But where issues of a particularly sensitive kind might  
19 be raised, no doubt your team would be mindful of the  
20 fact that perhaps these were matters that ministers  
21 needed to know were in the air?

22 A. If an issue had been raised that -- as a live issue, as  
23 it were, yes. But on the issue of hooding, when we  
24 became aware of that, it was as something historical  
25 which had been -- which had happened, and had been

1 stopped and was not a live issue any more.

2 Q. I will come back to hooding in just a moment if I may,  
3 specifically.

4 Can we look at paragraph 26, please, of your  
5 statement, 7494. I think you will be familiar with it  
6 now, the 1972 Directive encapsulating what sometimes has  
7 been referred to as the Heath ruling?

8 A. Yes.

9 Q. You weren't aware of that at the time that all of this  
10 was going on and you were in your post in 2003, were  
11 you?

12 A. No, I wasn't.

13 Q. You knew nothing of that?

14 A. No.

15 Q. Never brought to your attention?

16 A. Not as far as I can recall.

17 Q. Can you help us about this: seeing, for example, that it  
18 has something to say about hooding, as you will have  
19 seen --

20 A. Yes.

21 Q. -- was there anyone within your department who ought to  
22 have known about the existence of that directive?

23 A. Nobody in the secretariat was an expert in either legal  
24 matters in general or prisoner handling in particular.

25 I think that the training system that dealt with

1 prisoner handling should certainly have been aware of  
2 that directive. But I don't think I could say that any  
3 of my staff should, by virtue of their background or  
4 training, have known about that at the time.

5 Q. So Chicksands should have been aware of it, putting it  
6 in shorthand?

7 A. I suppose so, yes.

8 Q. Is that what you meant?

9 A. Yes.

10 Q. Yes. But you can't think of anyone that in your team,  
11 as it were, ought to have been aware of that?

12 A. No.

13 Q. Certainly you weren't aware of it?

14 A. No.

15 Q. You say at paragraph 28:

16 "It does not surprise me that I was not aware of  
17 these documents as ... I would not normally have  
18 expected to see the detailed orders and directives from  
19 PJHQ..."

20 Looking at it now, knowing what it does contain, do  
21 you agree it would have been helpful come the time when  
22 you did have to brief the Secretary of State and others,  
23 it would have been helpful if you had known about it?

24 A. That paragraph it is referring, I think, to the document  
25 mentioned in paragraph 27 rather than to the Heath

1 directive.

2 Q. I took it as referring to both. But am I wrong about  
3 that? Can we just go back to 26 and 27, please, under  
4 the heading of "Orders and Guidance ...":

5 "I was not aware of [the 1972 directive]..."

6 I wasn't going to take you to it specifically but  
7 there it is:

8 "... I was not aware of the CJO directive relating  
9 to HUMINT operations..."

10 "28. It does not surprise me that I was not aware  
11 of these documents ..."

12 A. That is true, so far as both documents are concerned.

13 Q. It is true so far as both, is it?

14 A. Yes.

15 Q. Given that the briefings -- and we will come to some of  
16 those, I think -- that were made to ministers in due  
17 course, would it have been helpful if you had been made  
18 aware of those documents in order to prepare the  
19 briefings?

20 A. It may have been helpful, certainly as far as the Heath  
21 directive was concerned. Although in practice, as with  
22 many other issues, when we were providing briefing for  
23 ministers, we relied very much on advice from PJHQ as to  
24 what was happening in theatre, and indeed from the legal  
25 advisers on points of law.

1 Q. Paragraph 30 of your statement, please. BMI07495. You  
2 say this:

3 "I recall a number of issues in relation to  
4 prisoners."

5 Can we just understand how these issues would have  
6 been, as it were, brought to your attention and crossed  
7 your desk?

8 A. Well, I think they are, if I remember rightly in my  
9 statement, there are several paragraphs on different  
10 issues at different times. The first one in  
11 paragraph 30 -- as I have described in my statement --  
12 as far as I recollect, it was reported orally during  
13 a routine meeting, of which there were very many at that  
14 time.

15 Q. I was going to read on with you, but thank you, you have  
16 summarised really what paragraph 30 begins to say,  
17 anyway, haven't you?

18 "... 1 (UK) Armoured Division realised during  
19 Op Telic 1 [you say] that hooding had been used, and  
20 ordered it to stop (I do not know what mechanism was  
21 used to issue this order). My recollection of how this  
22 was reported is very uncertain and may be wrong, but  
23 I think it may have been reported to MoD orally by PJHQ  
24 during a routine meeting. This might have been  
25 a meeting of the operational chiefs of staff... or

1 perhaps one of the regular meetings chaired by the  
2 [deputy chief of the defence staff] in which PJHQ  
3 participated by video conferencing."

4 I appreciate you can't be clear about it and you  
5 don't have a clear recollection, is that right?

6 A. That's true.

7 Q. But it was brought to your attention by some means  
8 anyway that there had been or was a hooding issue?

9 A. That there had been one, yes.

10 Q. That hoods had been used. Were you alarmed to hear that  
11 hoods had been used?

12 A. I don't recall being alarmed particularly. I think what  
13 was reported was that hoods had been used, that  
14 1 Division had decided that that was not the best  
15 practice and had ordered it to stop. So from my point  
16 of view it was a -- it was a closed issue and not  
17 something that a decision was required about.

18 Q. Did you seek to investigate the circumstances in which  
19 hoods had been used?

20 A. No.

21 Q. Or the number of occasions on which they had been used?

22 A. No.

23 Q. Why not?

24 A. Because, as I say, it appeared to be a closed issue.

25 There was no reason to believe that any actual harm had

1           been done. The division appeared to have decided that  
2           this was not the best practice to adopt and had ordered  
3           people to cease using it.

4    Q. Did you know at that stage whether hooding was or was  
5           not lawful?

6    A. I don't believe I did. And I don't recall it being  
7           reported as something that was illegal. Rather as  
8           something that as a matter of policy was not the best  
9           approach.

10   Q. Did you have any view as to whether hooding might be  
11           inhumane?

12   A. I had no -- no particular expertise or view on that.  
13           I think my recollection is that the concern was more  
14           that it could be perceived as being inhumane.

15   Q. You remember that as being part of the discussion,  
16           however it arose, do you?

17   A. I'm not sure that I remember that distinctly, no. But  
18           I -- perhaps that's my interpretation retrospectively.

19   Q. Wasn't it part of your function, this having been  
20           raised, if you like at department level, wasn't it part  
21           of your function then to ascertain at least the bare  
22           bones of how this practice had been used?

23   A. At the time it simply didn't seem particularly  
24           significant. I mean, PJHQ were reporting copiously on  
25           all sorts of things that were taking place in theatre at

1 the time. And I don't recall this coming up as  
2 a particularly significant issue, not least in the sense  
3 that a decision had already been taken and there was  
4 nothing -- it was not as if PJHQ were asking the  
5 department for guidance.

6 Q. But in a sense, Mr Johnson, all the stranger, if you  
7 like, wasn't it? Here you were being told about  
8 something that apparently had been done on a relatively  
9 few number of occasions, as I understand what you tell  
10 us --

11 A. I -- I don't recall any information about the number of  
12 occasions.

13 Q. I follow. So it was something that had been done. It  
14 had now been stopped. Why was it being reported, as it  
15 were, to you at all?

16 A. I don't know. I suppose that PJHQ may have considered  
17 that it -- it could be sensitive, it might be perceived  
18 as a controversial issue. Perhaps by the media. But  
19 that's really speculation on my part.

20 Q. I suppose if you had stopped and thought about it for  
21 a moment at the time, you would have come to the same  
22 sort of conclusions, wouldn't you? This is obviously  
23 a very sensitive issue, it is obviously media sensitive,  
24 and if the media got hold of it, we know what would  
25 happen. Those sorts of thoughts must have come into

1 your mind at the time?

2 A. No, I don't think so. I think that given that PJHQ were  
3 reporting that the practice had been stopped, I think it  
4 would have seemed to me that the issue had been dealt  
5 with and there was nothing more to be done.

6 Q. You didn't even think, did you, that maybe it ought to  
7 be staffed up, perhaps to ministers, lest the issue did  
8 see the light of day?

9 A. Well, it's clear from other documents that ministers did  
10 have correspondence with members of Parliament.

11 Q. We are talking some time on, aren't we?

12 A. May, I think. Early May. But in general, I don't think  
13 we would have seen a need to report it to ministers if  
14 there was nothing for ministers to decide, if it had  
15 been dealt with. That is not to say that they were not  
16 necessarily made aware of it. I mean, I do not know for  
17 instance whether it came up in one of the many oral  
18 briefings that they had. I mean, at that time in the  
19 war-fighting phase, ministers were probably being  
20 briefed at least twice a day.

21 Q. We will look at what seems to have been going to  
22 ministers from other documents in a minute or two. At  
23 the moment, just staying with when you became aware of  
24 the hooding -- just dealing with one or two more aspects  
25 of it -- if it was sensitive, if it was potentially

1 media sensitive and something that might be embarrassing  
2 if it did emerge, weren't those good reasons alone for  
3 matters to be staffed up?

4 MR GARNHAM: Sir, with the greatest respect, my friend's  
5 line of questioning all proceeds on a premise which has  
6 not been established, namely that this was potentially  
7 sensitive or potentially embarrassing.

8 THE CHAIRMAN: I would not have thought that it could be  
9 said it was not potentially embarrassing.

10 MR GARNHAM: Even that, Sir, with respect, has not been  
11 established.

12 THE CHAIRMAN: Let's see where it goes, Mr Garnham.

13 MR ELIAS: Forgive me. I thought, Mr Johnson -- but you  
14 will correct me -- that you yourself had said that this  
15 was an issue which could be sensitive, which might be  
16 media sensitive, is that right?

17 A. I was speculating that that might be a reason why PJHQ  
18 felt it appropriate to report it. But I think my view  
19 would have been that it would have been sensitive if it  
20 had continued and had been misrepresented by the media,  
21 but if the practice had stopped, then the issue was not  
22 sensitive.

23 Q. How could you conceivably know that if you didn't have  
24 any idea of the circumstances in which it was used, the  
25 number of occasions on which it had been used, whether,

1 for example, photographs had ever been taken of it and  
2 matters of that kind, because you didn't investigate  
3 those things?

4 A. That's true, I didn't investigate those things.

5 Q. So how could you have known, that, as it were, the  
6 matter was now dead and buried, if I can put it  
7 straightforwardly?

8 A. I would not describe it as dead and buried. I think my  
9 understanding was that commanders in theatre had ordered  
10 the practice of hooding to stop, and frankly, I think we  
11 assumed that that was that.

12 Q. Did you gather from anything that was reported to you  
13 that hooding had been used at the JFIT?

14 A. I don't recall any reference to the JFIT.

15 Q. Did you gather from anything reported to you that there  
16 had been -- perhaps still was -- ongoing discussion  
17 about the legality or otherwise of hooding from those in  
18 theatre, lawyers and soldiers?

19 A. Not as far as I recalled. I think that when PJHQ  
20 reported it, the gist of that was very much that this  
21 had happened and that it -- an order had been issued for  
22 it to stop.

23 Q. Did you gather at any stage that there had been some  
24 matters referred to by the ICRC as being contrary to  
25 proper practice? In this area?

1 A. I don't recall that, no.

2 THE CHAIRMAN: Sorry, you don't recall any problem raised by  
3 the ICRC?

4 A. Not as far as I recall, no.

5 THE CHAIRMAN: All right.

6 MR ELIAS: Do you recall -- I am going to use the cipher --  
7 S034 communicating with the department in any shape or  
8 form about any dealings that she had had with ICRC.

9 A. No, I don't. In general, the policy advisers deployed  
10 with UK headquarters in the field would have reported  
11 back to PJHQ. It was extremely rare certainly for me to  
12 have any contact with a deployed policy adviser.

13 Q. So if S034 had contacted the department, you would have  
14 expected to have heard about it, would you?

15 A. I might have done. But in general I would have expected  
16 that -- any contact from the policy advisers -- to be  
17 routed through PJHQ and one would normally only hear  
18 about that if it was something that PJHQ needed to refer  
19 upwards, as it were.

20 Q. If S034 contacted the department's private office, would  
21 you expect to have heard about it?

22 A. Sorry, the department's --

23 Q. The minister's private office.

24 A. I suppose it would depend on what was being reported.

25 Q. About issues raised by ICRC of prisoners being hooded

1           and the like?

2    A.   Well, I suppose it would be a question for the private  
3           officers to -- who they needed to refer that to.

4    Q.   Of course it would. My question to you is whether you  
5           would expect to have heard of these things in the light  
6           of the job that you were then doing?

7    A.   Probably, yes.

8    Q.   But you didn't?

9    A.   Not as far as I recall, no.

10   Q.   Did you ever hear, Mr Johnson, of any concerns -- moving  
11          on from hooding -- about the use of stress positions in  
12          theatre?

13   A.   No.

14   Q.   You know what I mean by stress positions?

15   A.   Yes.

16   Q.   Or indeed any other so-called conditioning techniques?

17   A.   No. I don't recall any concerns about that.

18   Q.   Do you recall seeing on national television, the news on  
19          television, prisoners hooded in Iraq?

20   A.   No, I don't.

21   Q.   Nothing of that kind was ever brought to your attention  
22          anyway, was it, if such things were screened on  
23          television?

24   A.   If they were, I would be surprised if I didn't hear  
25          about it, but I have no recollection of that.

1 Q. Again, if that had happened, as it were, after you had  
2 been made aware of -- through whatever means it was and  
3 I appreciate time runs on and it may be difficult to  
4 remember the detail -- but if that had occurred, that is  
5 to say the screening on television news of prisoners  
6 being shown hooded, if that had been brought to your  
7 attention after this conversation or meeting where you  
8 learnt of the hooding and that the matter had been  
9 resolved, if I can put it in shorthand, what, if  
10 anything, would you have felt that you should do  
11 about it?

12 A. Well, if we had thought that there was evidence to  
13 suggest that an order to stop hooding had not been  
14 implemented, then I suppose the first thing we would do  
15 is go to PJHQ and ask them what was -- you know, what  
16 was going on.

17 Q. But that situation never arose for any reason?

18 A. I don't recall that arising at all, no.

19 Q. Can you help me, please -- moving on, looking with me at  
20 a number of what would seem to be draft answers perhaps  
21 for letters or for briefings. Can we look, please, at  
22 MOD053239. The Ian would seem to be Ian Gibson, is that  
23 right?

24 A. Yes, I believe so.

25 Q. As I think you tell us in your statement, the David is

1 not you?

2 A. No, I infer that that's the PJHQ address.

3 Q. Yes. There is reference here -- the Inquiry has seen  
4 something of this at an earlier stage -- to:

5 "... a draft paragraph to insert into an MC on a  
6 series of issues -- the MC sets the particular exam  
7 question 'to comment on the use of hoods and handcuffs  
8 on PWs'. I've interpreted this pretty narrowly to mean  
9 UK use (US use is a matter for them). This is based --  
10 as discussed on a conversation with S034 ..."

11 You know the name of S034.

12 A. I do.

13 Q. "... whom you'd asked to update me before briefing  
14 Min(DP) on [prisoner of war] issues."

15 If we go to the draft over the page, the text for  
16 the MC, we can see it is obviously in, as it were, draft  
17 form with parts of it being track changed, it would  
18 seem.

19 A. Yes.

20 Q. Halfway through:

21 "We would only restrain prisoners if we considered  
22 that it was necessary to do so (for example if we  
23 believed that they would seek to escape, or be violent  
24 towards the guards or other prisoners)."

25 Then this:

1           "There were a couple of occasions at the start of  
2           the conflict where prisoners were hooded for short  
3           periods -- this practice has now been stopped."

4   A.   Yes.

5   Q.   Now this was a paragraph, a text, for correspondence  
6           that the minister might use. Did you see this draft or  
7           anything like it at any stage?

8   A.   Well, I don't recall seeing this particular draft and  
9           there's nothing on the face of the document to indicate  
10          that it was copied to me. But I may have been passed  
11          it.

12  Q.   But these were the sort of documents that may be passed,  
13          as it were, across your desk before going on to whoever  
14          was to draft the ministerial correspondence?

15  A.   With ministerial correspondence it's more likely that  
16          I would have seen a completed draft for clearance.

17  Q.   Of the letter?

18  A.   Yes.

19  Q.   I follow.

20  A.   Although in general ministerial correspondence was  
21          cleared by band Bs rather than me.

22  Q.   We will come to ministerial correspondence and some  
23          examples of that in just a moment or two. But here:

24               "There were a couple of occasions at the start of  
25               the conflict where prisoners were hooded for short

1 periods..."

2 If you had seen that, you would not have been able  
3 to confirm it, would you, because you had made no  
4 investigation?

5 A. Well, I think I would have thought that that was  
6 consistent with what PJHQ had reported as far as I knew.

7 Q. The couple of occasions at the start of the conflict  
8 where prisoners were hooded for short periods; had all  
9 that information been given to you?

10 A. Well, as I said earlier, I am not sure that it was  
11 reported to me how many occasions there were. But as  
12 I see it, this draft from Ian Gibson was being shown to  
13 PJHQ as well as to the legal advisers and the point of  
14 that would have been to check the facts.

15 Q. Did you ever become aware that hooding in fact went on,  
16 and as the Inquiry has heard through evidence, it might  
17 be said quite extensively anyway, after the war-fighting  
18 phase had ended?

19 A. No. I think that has only become clear to me in the  
20 last -- I suppose in the context of this Inquiry.

21 Q. So if you had seen that draft paragraph, you would have  
22 approved it on the basis of what you say you have then  
23 been told? Would that be right?

24 A. I think provided that PJHQ and the legal advisers had  
25 been consulted and had agreed it, yes.

1 Q. So can we have a look, please, at some correspondence,  
2 MOD050331.

3 We can see that this is a letter sent from the Right  
4 Honourable Adam Ingram, Minister of State for the armed  
5 forces, dated 2 May 2003. We can see that the MP to  
6 whom it's sent at the foot of the page on the left, and  
7 I don't suppose we need to guess at this at all, do we,  
8 the content of the letter for the -- in this case for  
9 the minister of state -- would, as it were, have  
10 obviously been provided for him.

11 A. Yes.

12 Q. Through your department?

13 A. Yes.

14 Q. Can we just go to the last paragraph, please. There is  
15 reference there to only restraining prisoners:

16 "... if we felt... it was necessary to do..."

17 As we saw in the earlier paragraph.

18 "There were a small number of occasions at the start  
19 of the conflict where prisoners were hooded for short  
20 periods -- this practice has now been stopped."

21 So that would have been, would it, the information  
22 that was put forward to the minister for him to, as it  
23 were, sign off in this letter?

24 A. Yes. That would have been our understanding at the  
25 time.

1 Q. It follows:

2 "... I would like to reassure your constituent that  
3 in all this we have worked very closely with the ICRC  
4 who have expressed themselves content with the way we  
5 have treated prisoners and detainees throughout the  
6 conflict."

7 Again that is the information, is it, that would  
8 have been conveyed to, in this case, the minister of  
9 state from your department?

10 A. Yes. And that -- again, I suppose that must have been  
11 our understanding at the time, although I imagine we  
12 would have got that information from PJHQ, or from  
13 theatre via PJHQ in effect.

14 Q. Were you ever aware, Mr Johnson, that in fact the ICRC  
15 had made complaints about hooding, about keeping  
16 detainees out in the sun, and raised possible issues  
17 about the use of stress positions?

18 A. I don't believe I was, no.

19 Q. Never aware of that?

20 A. I do not think so.

21 Q. Because if in fact that had been the position with the  
22 ICRC -- and the Inquiry has heard evidence about it --  
23 the last sentence in this letter -- and it is not  
24 a matter that I can suggest Mr Ingram is responsible for  
25 in this sense of course -- but the last sentence in that

1 letter is very far from being the whole truth, isn't it?

2 A. That would appear to be the case, if the ICRC had  
3 complained, yes.

4 Q. If there had been an ICRC complaint, is that a matter  
5 about which your department, your team ought to have  
6 known? You ought to have known?

7 A. I think certainly if they had complained to MoD  
8 ministers, then we would have expected to know. If it  
9 had been a local complaint in theatre which had been  
10 addressed in theatre, then no, not necessarily.

11 Q. Can we look at perhaps two other briefing documents,  
12 please. Can we?

13 THE CHAIRMAN: Just before we leave that letter of 2 May,  
14 who would have drafted that, or who would be likely to  
15 draft that? Do you know?

16 A. Well, it would have been -- I can't say any one  
17 individual necessarily. It could have been any desk  
18 officer in Iraq secretariat.

19 THE CHAIRMAN: It would have been in your secretariat?

20 A. It would. Although it would have been done in  
21 consultation with the relevant experts such as PJHQ and  
22 the legal advisers --

23 THE CHAIRMAN: But essentially someone within your  
24 secretariat would have drafted that letter?

25 A. They would, yes.

1 THE CHAIRMAN: Yes, I see, thank you.

2 MR ELIAS: Forgive me, I didn't go back to it but from your  
3 earlier answer, I had taken it to be the case that you  
4 may very well have seen the final draft of that before  
5 it went out.

6 A. I may have done. In general Parliamentary questions  
7 would have been cleared by me. Ministerial  
8 correspondence would normally have been cleared at  
9 a lower level, but inevitably, given the pace of events,  
10 there were times when there was nobody else available  
11 and I would have cleared some. Whether I cleared this  
12 one, I can't say.

13 Q. So MOD052078 -- as we can see from the heading at the  
14 top, it's actually a support brief for Major General  
15 Robin Brims' appearance before the House of Commons  
16 defence committee on 25 June 2003. Can we go to the  
17 second page of it, please. Under the heading "Key  
18 Points to Make":

19 "The camps we set up were well run and managed.  
20 Prisoners were given the food, shelter and water that  
21 they required."

22 MR GARNHAM: I wonder if this could go on the screen,  
23 please. The witness doesn't have it.

24 A. Yes, I don't have this on my screen.

25 MR ELIAS: Yes, forgive me, please can we go over the page

1 to MOD052127. Thank you very much.

2 I am sorry, Mr Johnson, it is there now.

3 A. Yes.

4 Q. "Key Points to Make", under "Prisoners of War" and the  
5 second bullet point I was going to:

6 "Handling and the management of prisoners of war in  
7 theatre went smoothly and well, so far as we can judge.

8 "The camps we set up were well run and managed.  
9 Prisoners were given the food, shelter and water that  
10 they required."

11 There isn't in fact any briefing here about the  
12 problems that, for example, had been reported by the  
13 ICRC? Would that simply be because you didn't know  
14 about them?

15 A. No, although I think as far as hooding was concerned, if  
16 this was for General Brims appearing in June 2003,  
17 I think by then it would have been considered to be  
18 a closed issue and in any case General Brims probably  
19 knew more about it than we did.

20 Q. Were you made aware of deaths in custody and any  
21 potential or believed links between those and the use of  
22 hoods?

23 A. I don't recall -- until the time that the Iraq Inquiries  
24 Team was looking back at previous instances, I don't  
25 recall any connection being suggested between deaths in

1 custody and hooding, no.

2 Q. You were aware, were you, that there were deaths in  
3 custody?

4 A. I can't remember, but in general I think if something  
5 like that had been reported, there would then have been  
6 a -- a police investigation and, you know, the first  
7 report of an incident from theatre, obviously -- very  
8 often the facts are not very clear at all, but I can't  
9 recall hearing about a death in custody where a link to  
10 hooding was suggested. As I said earlier, we were under  
11 the impression that hooding had ceased completely.

12 Q. I follow. Can I ask you then just to look at the last  
13 paragraph on this same page, please:

14 "Reports of UK Maltreatment of Iraqi [prisoners of  
15 war]".

16 "Can confirm..."

17 This is part of the briefing, it seems, isn't it?

18 A. Yes.

19 Q. "... that an investigation is being conducted into  
20 allegations that a soldier took photographs depicting  
21 mistreatment of Iraqi [prisoners]. Cannot comment  
22 further because would not wish to prejudice or pre-empt  
23 it. However, if there is any truth in these allegations  
24 then I am appalled. We take our responsibilities...  
25 extremely seriously."

1           Do you recall being aware of such an investigation,  
2           such an allegation?

3   A.   I recall newspaper reports of photographs being found  
4           that had obviously been taken by a soldier, yes.  But  
5           once an investigation had started, then -- I mean, we  
6           would not have been directly involved in the  
7           investigation, that would have been a police matter.

8   Q.   I understand that.  But you think you might have been  
9           aware of the allegation itself, is that the position?

10  A.   Yes, I think so, yes.

11  Q.   Can we look at another document in the same category, as  
12           it were, MOD053224.  We can see it is dated 25 April  
13           2003.  And a list of recipients and those to whom it is  
14           copied.  It is headed, as we can see:

15           "Iraq: Oral Evidence to House of Commons Defence  
16           Committee -- Call for briefing".

17           Would you have seen this document at the time?

18  A.   I assume so, because I appear to be one of the  
19           addressees.

20  Q.   It would have been, would it, a document which your  
21           department would have had input into?

22  A.   Well, this particular document was evidently produced by  
23           one of my staff.  It was clear that we had been asked to  
24           coordinate briefing for that defence committee  
25           appearance.

1 Q. If we go over the page, we see "Edward Ferguson  
2 secretary Iraq"?

3 A. Yes, he worked for me.

4 Q. Can we have a look, please, at paragraph 3 in  
5 particular:

6 "In the first session with the Secretary of State,  
7 the focus is likely to be on the planning and execution  
8 of the major combat operations to remove the Saddam  
9 regime and the conduct of conditioning operations in  
10 Iraq. It will be important to try to avoid  
11 overanticipating in the 'lessons learned'. The aim  
12 should be to set a positive tone for the ensuing  
13 detailed inquiry. Clearly, we have a good story to  
14 tell; Mr Hoon will be looking for punchy facts and  
15 figures to underpin what is, in many quarters,  
16 a self-evidently strong case. Defensive material will  
17 also be required, where necessary, for those areas in  
18 which we have performed less strongly."

19 In relation to prisoner handling, did you have any  
20 knowledge of areas where we have performed less  
21 strongly?

22 A. I think -- whether by this time or maybe later, I am not  
23 sure -- we were certainly aware that there was a feeling  
24 in theatre that the number of troops they had had for  
25 prisoner handling duties had been stretched at least, if

1 not insufficient. Other than that, and the report of  
2 the hooding issue which I assume had happened by this  
3 time, no, I don't think -- I don't think I was aware of  
4 any other significant issues.

5 Q. Would you look with me, then, please, at a 2004  
6 document. Can we look --

7 THE CHAIRMAN: Just before you leave that, there is nothing  
8 about prisoner handling at all in the topics in annex A,  
9 that last document.

10 A. I'm sorry, I can't see annex A at the moment.

11 THE CHAIRMAN: Take it from me, there is nothing.

12 MR ELIAS: If we go over the page, please, and under  
13 "Personnel" --

14 THE CHAIRMAN: Arrangements for PWs. Yes. Sorry.

15 MR ELIAS: Can I move on then, please, to MOD019988. If we  
16 go to the last page of the document, at 19991, we see it  
17 is under the signature of Stuart Kistruck, a man about  
18 whom I asked you a little earlier.

19 A. Yes.

20 Q. If we go back to the first page, please, I think it is  
21 17 May 2004. Was this a document that you would have  
22 seen at the time?

23 A. Well, I think I would have seen the final version when  
24 it was produced. This appears to be a draft.

25 Q. Yes?

1 A. But I seem to be on the copy addressee list, yes.

2 Q. Do you recall actually seeing it?

3 A. I can't say that I do, no.

4 Q. Can I just take you to certain parts of it, please, just  
5 for some question and comment? Can we go over the page  
6 to paragraph 4, where it is said:

7 "The hooding of prisoners is not taught as part of  
8 the annual IDT(A)s, nor is it part of the PH&TQ course  
9 which teaches the hooding of detainee is unacceptable.  
10 However, blindfolding or obscuring of a detainee's  
11 vision for operational reasons is acceptable if there  
12 is clearly justifiable military reason..."

13 It goes on:

14 "It should be noted that there is no prescriptive  
15 direction with regard to hooding contained in any of the  
16 relevant manuals, doctrine or military law."

17 Would that have been known to you at this time?

18 A. At the time of this particular document?

19 Q. Yes.

20 A. Assuming that it was copied to me, yes. It would have  
21 been known to me at that point.

22 Q. You would have learnt it from the document?

23 A. Yes.

24 Q. But you would not yourself have been aware, would you,  
25 that there was what some witnesses have described as

1 a thinness or a defect in the written doctrine in these  
2 areas?

3 A. No. I mean, in general it was not our role to be  
4 experts in the doctrine or the detail of what was taught  
5 in training for this, any more than for driving a tank  
6 or firing a mortar.

7 Q. In paragraph 6 there is reference to a number of  
8 publications followed by this comment:

9 "These documents do not discuss hooding explicitly  
10 but do state that physical or mental torture or other  
11 forms of coercion must not be used in order to obtain  
12 information..."

13 Again, would you have been aware of those facts  
14 before you read this?

15 A. No.

16 Q. At 7:

17 "No advice was sought on hooding for arrest or  
18 transit and no direction given PJHQ were not aware of  
19 the Heath ruling until it was raised in the last two  
20 weeks."

21 Do you recall anything of that, Mr Johnson -- that  
22 is to say, perhaps something of a surprise to PJHQ that  
23 the Heath ruling existed?

24 A. No. I don't -- I don't recall hearing of the Heath  
25 ruling until I think the time of the Aitken Report in --

1 was it 2007 or 2008. But I may be wrong. If I was  
2 copied this document then I guess I would have heard of  
3 it then.

4 Q. Over the page, under the heading "Extent of Hooding",  
5 going to 10, please, what is said here by Mr Kistruck:

6 "Hooding during transit between the point of capture  
7 and the detention facility was widespread..."

8 Did you understand that to be the case, at any  
9 stage, prior to the receipt of this document?

10 A. No, I think our impression back in April or May 2003 --  
11 or whenever it was that the hooding was reported -- was  
12 that it had happened but not very extensively.

13 Q. He goes on to say, as though giving a reason, as it  
14 were, for it, or one of them anyway:

15 "... there were very few enclosed vehicles in which  
16 detainees could be transported."

17 Did you ever hear such an explanation put forward as  
18 to why hooding was employed?

19 A. I don't recall hearing that, no.

20 Q. Then, at paragraph 11 -- there is a section redacted  
21 which may be to do with the ICRC, I think it matters  
22 not:

23 "By May 2003 General Brims..."

24 I think we know that he had banned hooding.

25 A. That was my understanding, yes.

1 Q. It goes on to say this:

2 "When 1 Div handed over to 3 Div on 12 July... this  
3 direction was lost. 3 Div therefore reverted to normal  
4 procedure and the practice began again until CJD issued  
5 formal direction in late September 2003 that it should  
6 cease."

7 Did you become aware of what might be called that  
8 lost order, or the fact that it had been lost?

9 A. No, not at the time. I suppose I must have been aware  
10 of it on seeing this minute. But I don't recall that  
11 being reported earlier.

12 Q. Putting the matter the other way round, if you like: in  
13 2003 did you become aware after the first knowledge that  
14 you had about hooding that it was a matter that was  
15 resurfacing later that year.

16 A. I don't recall that, no.

17 Q. Not brought to your attention?

18 A. I can't say for sure that it wasn't, but I have no  
19 recollection of hearing that it had started again, no.

20 Q. Presumably, if it had been brought to your attention, as  
21 it were, on a second occasion that it had started again  
22 as you put it, that would have been a significantly  
23 serious matter about which you would have wanted to  
24 deal?

25 A. I would certainly have wanted to know that it had -- it

1 had been stopped again.

2 THE CHAIRMAN: I am sorry to ask this question but I need to  
3 know. This is a minute, you said, or perhaps it was  
4 Mr Elias who said, that this document is a minute dated  
5 17 May.

6 A. 2004, I think, yes.

7 THE CHAIRMAN: Right. Who does it -- it is just prepared as  
8 a minute. Does it go to the Secretary of State?

9 A. Well, the final version -- looking at the distribution  
10 list -- would have gone into one of the Secretary of  
11 State's private secretaries who I assume would then have  
12 passed it to the Secretary of State, yes.

13 THE CHAIRMAN: That is APS3 Secretary of State?

14 A. Yes.

15 THE CHAIRMAN: And then goes to the Secretary of State if he  
16 or she thinks it is the right thing to do?

17 A. Yes. I suppose one would have to ask the private  
18 secretaries but in general something like this would  
19 surely have been passed to them.

20 THE CHAIRMAN: What would have caused this to be generated?

21 A. Well, I think the -- I think the source of it must have  
22 been the -- in a sense the same reason that the Iraq  
23 Inquiries Team was set up in the first place because  
24 there were allegations around at the time that all had  
25 not been as it should have been. I assume this was part

1 of their investigations, as it were.

2 MR ELIAS: As we have established, Stuart Kistruck was part  
3 of that team.

4 A. Yes.

5 THE CHAIRMAN: Yes.

6 MR ELIAS: Of course in May 2004, we had the Daily Mirror  
7 photographs.

8 A. Right.

9 THE CHAIRMAN: Quite right, yes.

10 A. I am not sure whether there was a causal connection. I  
11 can't say when exactly the Iraq Inquiries Team was  
12 established.

13 THE CHAIRMAN: There might well have been, might there?

14 MR ELIAS: I think Mr Kistruck will tell us that it was on  
15 14 May. I think that is in the evidence that we shall  
16 hear from him.

17 It certainly would have been at about that time.

18 THE CHAIRMAN: Yes.

19 MR ELIAS: This document is 17 May 2004.

20 Mr Johnson, knowing what you now know, I imagine --  
21 that hooding was obviously still being used in September  
22 of 2003 in the very issue this Inquiry is centring upon,  
23 as it were -- do you think that with hindsight you  
24 should have made closer examination of the circumstances  
25 in which hooding was being used, when you heard

1 about it?

2 A. It depends what you mean by "with hindsight". I mean,  
3 in the sense of could I have made inquiries which might  
4 have prevented the death of Mr Mousa, if I could have  
5 done, then obviously with hindsight I wish I had.

6 However, as I said earlier, at the time it was  
7 reported to us as a closed issue and I think it would  
8 have been perverse and disproportionate to have launched  
9 a series of inquiries into it in those circumstances.

10 Q. Even to have found out the extent to which this  
11 practice, which plainly worried somebody in theatre, had  
12 been employed?

13 A. Well, in a sense, if the practice was of concern to  
14 commanders in theatre and they had stopped it, it was  
15 not strictly relevant to whether it had been used once  
16 or a hundred times. The fact was it was -- it was  
17 something which had been done but which had now been  
18 stopped. That was our understanding.

19 Q. Wasn't it something that in reality ought to have been  
20 staffed up to ministers? They needed to know about this  
21 practice if it were going on?

22 A. Well, it is quite clear that they did know for the  
23 purposes of dealing with ministerial correspondence in  
24 May, at least. Whether it was something that merited,  
25 as it were, a stand-alone piece of briefing at the time,

1 I think on the basis of what was reported to us and what  
2 we understood at the time, I don't think we would have  
3 thought that was necessary.

4 MR ELIAS: : Finally this: from what we have looked at this  
5 morning, and the briefings, the drafts, forgive me, that  
6 formed the basis of the letters that were sent out by  
7 Adam Ingram and no doubt others, would you agree that on  
8 the face of it a less than full picture was in fact  
9 being revealed, because you tell us your department  
10 didn't know the full picture.

11 A. Well, I think we certainly said what we believed to be  
12 the case at the time. I mean, we would not have  
13 fabricated or invented material for that purpose.

14 Clearly with hindsight and with what has emerged  
15 since, it could be said that those documents gave  
16 a rosier view of the situation than was in fact the  
17 case.

18 Q. There wasn't, was there, any deliberate intent, as it  
19 were, to give a rosier view and rather to bury what  
20 might be called the bad news?

21 A. No, absolutely not.

22 MR ELIAS: Thank you.

23 THE CHAIRMAN: Can we finish this witness if we go a little  
24 longer than 2 o'clock?

25 MS HETHERINGTON: I would hope so, sir.

1 THE CHAIRMAN: All right. Is that all right with everybody?

2 Yes, Ms Hetherington.

3 Questions by MS HETHERINGTON

4 MS HETHERINGTON: Mr Johnson, just dealing firstly with the  
5 same issue of hooding, but the meeting at which you  
6 think you may have heard about this issue. If you look  
7 at paragraph 30 of your statement, BMI07495.

8 You say you think:

9 "... it may have been reported to MoD orally by PJHQ  
10 during a routine meeting. This might have been  
11 a meeting of the operational chiefs of staff... or  
12 perhaps one of the regular meetings chaired by the  
13 [deputy chief of defence staff commitments]..."

14 Who at the time was Lieutenant General Piggott.

15 A. That's correct, yes.

16 Q. You say that the PJHQ representative would probably have  
17 been the deputy chief of joint operation -- ops -- which  
18 at the time was Major General Fry, is that right?

19 A. That would have been the case if it had been one of  
20 General Piggott's meetings, yes. Normally for the  
21 operational chiefs of staff committee, it would normally  
22 have been the chief of joint operations himself, General  
23 Reith.

24 Q. I understand, thank you. I appreciate that you preface  
25 this in your statement by saying that your memory is

1 very uncertain and it may not have been in one of these  
2 meetings. But on the assumption that it was, for the  
3 moment, who else would have been in attendance at those  
4 meetings, firstly from your team?

5 A. Sorry, I -- can you clarify: do you mean the chief of  
6 staff meeting or the General Piggott meeting?

7 Q. In either of those?

8 A. At the chief of staff meeting, if it was a full chiefs  
9 of staff meeting, then there would have been the chief  
10 of defence staff, the vice-chief, the three single  
11 service chiefs, possibly the Permanent Secretary,  
12 possibly the policy the director, deputy chief of  
13 defence staff commitments, General Piggott.

14 For a full chiefs of staff meeting there may also  
15 have been members of other departments, the Foreign  
16 Office, the Cabinet Office and the intelligence  
17 agencies. And Ian Lee and Clive(?) Loader would  
18 probably have been there as well. And then in the cheap  
19 seats, as it were, would have been people like me,  
20 probably the single service directors of operations who  
21 were at the same level as me, and probably some of the  
22 private secretaries to the chief of staffs or indeed to  
23 ministers.

24 Q. Could legal advisers attend those sorts of meetings?

25 A. Certainly sometimes, yes. But that's the chief of staff

1 meetings. The General Piggott meetings would have  
2 been -- I suppose General Piggott, Clive Loader,  
3 Ian Lee, me, my military counterparts within the  
4 building, the legal adviser certainly had a seat at that  
5 table, although whether they were always there, I can't  
6 say. And then PJHQ would have been, as I say, present  
7 by videolink, as it were.

8 Q. I understand, thank you. In terms of what you were told  
9 about hooding, you have explained that you didn't know  
10 that the hooding had taken place at the JFIT. You  
11 didn't know that the ICRC had been involved and you  
12 didn't know that there was any suggestion that the  
13 stress positions might also have been involved.

14 It is fair to say that equally you didn't know that  
15 those weren't the circumstances?

16 A. I certainly don't know with any certainty, no. As  
17 I said in my statement, my recollection is pretty vague,  
18 I am afraid.

19 Q. In terms of the sensitivity of the issue, you would  
20 agree, would you, that if, for example, a photo had  
21 appeared on Al Jazeera news channel of rows of Iraqi  
22 prisoners of war hooded in the sun kneeling at the JFIT,  
23 that would have been potentially a huge problem?

24 A. Well, it would have been -- it would certainly have been  
25 unfortunate for the operation in terms of undermining

1 the message we were trying to get across, that we  
2 were -- you know, we were not there to do harm to  
3 Iraqis, we were there to get rid of the old regime and  
4 deal with the WMD problem that we all believed existed  
5 at the time.

6 Q. Had that eventuality occurred, it would have been  
7 important for everyone to have had full -- in military  
8 terms -- situational awareness of the reasons behind the  
9 use of hooding and the precise circumstances in which it  
10 had been used?

11 A. I don't follow, I am afraid.

12 Q. Well, had there been a media furore over the photos such  
13 as that, there would have been calls for immediate  
14 clarification of what was going on at the JFIT. So it  
15 would have been important for the relevant personnel to  
16 be forearmed with the information to deal with that.

17 A. I think if we had had to explain publicly why hooding  
18 had been used, then, yes, of course, people would have  
19 had to know what the rationale was, as it were.

20 But I don't recall that as an issue, but as I say my  
21 recollection is simply that we were told that this had  
22 happened and that it had now been stopped.

23 Q. Thank you. Did you or anyone else that you know of ask  
24 why hooding had been stopped?

25 THE CHAIRMAN: Do you need to?

1 A. I don't recall that being asked.

2 MS HETHERINGTON: Did you have any understanding of why,  
3 given that it had been stopped, 1 division troops were  
4 hooding in the first place, for example whether they had  
5 been trained to do this or whether this was a product of  
6 circumstances?

7 A. I can't remember to what extent the background to it  
8 happening was explained at the time. I suppose my sort  
9 of layman's assumption was that it was -- it had been  
10 done as a way of preserving security whilst moving  
11 prisoners from A to B.

12 THE CHAIRMAN: The fact is that you thought it had all been  
13 shut down.

14 A. It had been stopped, yes, so it was irrelevant in  
15 a sense.

16 THE CHAIRMAN: Maybe you should, maybe you shouldn't, but  
17 you didn't go into why it had happened, and why it had  
18 been stopped.

19 A. That's correct, Sir.

20 MS HETHERINGTON: I understand that. But had it been the  
21 case that you had found out that troops were being  
22 trained to hood as part of their general training, then  
23 it might well have been the case that the issue wasn't  
24 closed because in due course there would be another  
25 (indistinct) of troops into Iraq and indeed troops

1 operating in other theatres who may have been conducting  
2 the same practice?

3 THE CHAIRMAN: If I may say so, certainly, but since he took  
4 the view that it didn't need to be, that is a comment  
5 you can make undoubtedly but I don't see that it carries  
6 it very much further to ask him that.

7 MS HETHERINGTON: Thank you sir, I will move on. If we can  
8 just look again at a document you have been shown  
9 earlier in your evidence, at MOD053239. This is the  
10 correspondence between Ian Gibson and David Lester(?)  
11 and Sean Martin, a legal adviser. We can see at the top  
12 of that email that Sean Martin, the legal adviser, had  
13 suggested some changes to Ian's text.

14 A. Yes.

15 Q. If we look over the page, in particular I am interested  
16 in the background notes, the second paragraph. We can  
17 see what those changes are.

18 What Ian Gibson had written was that:

19 "Handcuffs and hoods were used by UK forces at  
20 an early stage of the conflict to detain (and  
21 disorientate) Iraqi prisoners of war."

22 Mr Gibson in the statement has said that he  
23 understood that disorientation was as an aid to  
24 questioning. That's something you weren't aware of from  
25 any discussions with him?

1 A. I don't recall that. I think my understanding was that  
2 it was more about security by not allowing detainees to  
3 see where they were going when they were being moved.

4 But it may well be right that there is also a rationale  
5 to do with questioning. I don't know.

6 Q. Do you think that's something that Mr Gibson ought to  
7 have made you aware of?

8 A. Well, he may have done, for all I know. But as I said  
9 earlier, I think, the point for me is that he has quite  
10 properly shown his draft to PJHQ who would have been in  
11 possession of the facts on the ground, as it were, and  
12 to the legal advisers who would obviously have advised  
13 on the law. I don't think I would read too much into  
14 what was in the draft in the first place because this is  
15 a layman trying to draft something which the experts are  
16 then going to comment on.

17 Q. Had you been told that hooding was being used to  
18 disorientate prisoners in preparation for questioning,  
19 would that have caused you concern?

20 A. Well, I think I would have -- frankly, I don't think  
21 I would have known whether that was legal or not at the  
22 time. I suppose I would have needed to seek advice.

23 Q. Thank you. If we look at the amendment that Mr Martin,  
24 as the legal expert, made to the draft, we can see that  
25 he removed the reference to "disorientation" and

1 added -- inserted instead the word "control".

2 Obviously you weren't part of this email  
3 correspondence, but just as Ian Gibson's line manager  
4 and as a matter of best practice, if you had been given  
5 information by someone in theatre as to the purpose of  
6 a practice and facts on the ground, and a legal adviser  
7 then alters the draft to change the meaning of what has  
8 been going on on the ground, should the civil servant  
9 accept that change or should they query it?

10 A. Sorry, I was not clear whether that was a hypothetical  
11 question. But I -- I mean, I think that if -- if Ian  
12 Gibson showed a draft to the experts and they said, "No,  
13 you have got this and this wrong, and this is the right  
14 way to put it", then I would expect him to accept those  
15 changes.

16 Q. Even though the legal expert is in no way an expert  
17 about what the actual factual situation was?

18 A. Well, the draft had also evidently gone to PJHQ who  
19 would have been our natural source for information about  
20 the facts on the ground. So, I mean, between the two of  
21 them, one would have expected clarity about what the  
22 position was.

23 MS HETHERINGTON: I understand, thank you.

24 THE CHAIRMAN: Thank you. Mr Garnham?

25 Questions by MR GARNHAM

1 MR GARNHAM: Just two matters. Do you have any legal or  
2 military training or experience?  
3 A. No.  
4 Q. Second, the meeting at which it is likely reference was  
5 made to the past fact of hooding, you say there were two  
6 candidates for that, either the chiefs of staff meeting  
7 or General Piggott's meeting?  
8 A. Yes.  
9 Q. How many people would attend each of those?  
10 A. In the room I would guess anything from 10 to 20, and  
11 probably others at the PJHQ end of the link.  
12 Q. Because they are on a videolink?  
13 A. Yes.  
14 Q. Did you have a particular role to perform in that  
15 meeting, from your position in the cheap seats?  
16 A. In the chiefs of staff committee, if the chiefs had  
17 reached a position which they wanted to put  
18 a proposition to ministers, for instance in, you know,  
19 deciding what the size of the land force should be and  
20 that sort of thing, or indeed the additional 300 people  
21 for prisoner of war guarding, then my role would have  
22 been to turn that into a note to ministers.  
23 Q. Were you asked to do any such thing?  
24 A. Not as I recall, no. And if I had been, I would have  
25 done.

1 Q. Was the report of hooding that came out of that  
2 meeting -- or was made to that meeting -- presented as  
3 if it was something extraordinary or appalling that had  
4 happened?

5 A. Not as I recall, no.

6 MR GARNHAM: Thank you very much. Thank you sir.

7 Further questions by MR ELIAS

8 MR ELIAS: But you can't assist as to why it was reported,  
9 can you, if it wasn't extraordinary or something had  
10 happened that was wrong?

11 A. No, I can't, I am afraid. But then a great many things  
12 were reported on a daily basis and several times a day  
13 at times at that stage, and not all of them were very  
14 interesting or significant, frankly.

15 Q. This wasn't very interesting to you, was it?

16 A. I am not saying that it was not interesting, but it  
17 was -- it was a historical issue in the sense that it  
18 was presented as something that had happened and was now  
19 stopped.

20 Q. Should the Inquiry understand that neither you -- nor if  
21 you can speak for them, your team -- would have had any  
22 idea as to whether hooding -- to take one example -- or  
23 hooding for the purposes of preparation for questioning,  
24 you would have had no idea as to whether these things  
25 were lawful or proper procedures or not. Is that the

1 position?

2 A. Not without seeking advice from the experts, no. None  
3 of us were lawyers.

4 Q. Whether you were lawyers or not, you would not have had  
5 any idea whether they were procedures that could and  
6 should properly be used by soldiers on the ground?

7 A. No, I -- I mean none of us had any training or  
8 experience in those areas, no.

9 Q. That would apply to your team?

10 A. Yes.

11 MR ELIAS: Thank you. Thank you, Sir.

12 THE CHAIRMAN: Well, that is all the questions that the  
13 Inquiry has for you. Thank you for coming along and  
14 giving your evidence, Mr Johnson. You are now free to  
15 go.

16 A. Thank you sir.

17 THE CHAIRMAN: We will start again at 2.10.

18 (1.12 pm)

19 (The short adjournment)

20 (2.09 pm)

21 MR ELIAS: Sir, thank you. I call David Yates,  
22 Brigadier Yates, please.

23 THE CHAIRMAN: Brigadier, would you be kind enough to stand  
24 up, please, and I will ask that you take the oath.

25

1                                   DAVID NORMAN YATES (sworn)

2   THE CHAIRMAN:  Do sit down.

3   A.  Thank you.

4   THE CHAIRMAN:  If I may ask you, please, to get as close as  
5                   you can to the microphone.

6   A.  Yes.

7   THE CHAIRMAN:  Then we will all be able to hear you.

8                   Yes.

9                                   Questions by MR ELIAS

10  MR ELIAS:  Could you give the Inquiry your full name,  
11             please.

12  A.  David Norman Yates.

13  Q.  You are still in the Army Legal Service?

14  A.  Yes, I am.

15  Q.  Your rank is brigadier?

16  A.  Yes.

17  Q.  You made a statement to this Inquiry which I hope you  
18             will find in a folder to your right hand.  Would you  
19             confirm, please, that the last page in that statement,  
20             our BMI07997, do we find your signature above the date  
21             20 April of this year?

22  A.  That's correct, yes.

23  Q.  When you signed that statement just a couple of weeks  
24             ago, were you attesting that the contents of it were  
25             true to the best of your knowledge and belief?

1 A. Yes, I was.

2 Q. We have read that statement, Brigadier, and I do not by  
3 any means intend to take you to every aspect of it, but  
4 to home in on certain parts of the evidence where you  
5 may be able to help the Inquiry further.

6 A. Of course.

7 Q. May I begin, please, by just asking you a little about  
8 your career history, as it were. You tell us that you  
9 qualified as a solicitor in 1989?

10 A. That's correct.

11 Q. You were then, were you, directly commissioned into the  
12 Army Legal Service?

13 A. I was, yes.

14 Q. In 1997 you became the senior legal officer with the 1st  
15 Armoured Division based in Germany?

16 A. That's correct.

17 Q. At that time, you tell us, you were promoted to the rank  
18 of lieutenant colonel?

19 A. Yes.

20 Q. You then became commander legal in Cyprus?

21 A. That is correct.

22 Q. In early September 2003 -- you believe the date, you  
23 tell us, was 1 September -- you took up the position of  
24 legal adviser to director intelligence corps at  
25 Chicksands, a role which you held for two years until,

1           what, the end of August 2005?

2    A.   Yes, that is correct.

3    Q.   So 1 September 2003 to the end of August 2005?

4    A.   Yes.

5    Q.   You say you were promoted to full colonel in

6           September 2005?

7    A.   Yes.

8    Q.   You have been involved with the Army Prosecuting

9           Authority, I think in that period of time?

10   A.   First job I did on promotion was commander army legal

11           assistance, which is assisting soldiers with their

12           personal legal problems. I then moved I think after

13           about 18 months to prosecutions first in Germany, and

14           then I moved back to the United Kingdom to do

15           prosecutions.

16   Q.   I want to ask you, please, about your role in that two

17           years at Chicksands. That's the essence, as you know,

18           of where you may help this Inquiry, I think?

19   A.   Yes.

20   Q.   To whom did you report?

21   A.   My first reporting officer was the chief of staff of the

22           directorate intelligence corps, which would have been

23           Colonel Chris Terrington. And then my second reporting

24           officer was Brigadier Peter Everson.

25   Q.   You tell us in your statement that you were the first

1 officer to be posted as legal adviser at Chicksands in  
2 a newly created post?

3 A. That's correct, yes.

4 Q. So that means, does it, that you were, if you like, the  
5 first in house --

6 A. Yes.

7 Q. -- adviser for them?

8 A. Yes.

9 Q. It doesn't mean that they would not have had access to  
10 legal advice before?

11 A. No.

12 Q. But they would not have had anyone in house?

13 A. No, that's correct.

14 Q. Can we have a look, please, at paragraph 10 of your  
15 statement to this Inquiry, BMI07980, where you set out  
16 your duties there:

17 "Providing legal briefs to those taking courses at  
18 Chicksands."

19 Does that mean briefing the instructors?

20 A. It could be briefing the instructors or it could be  
21 briefing on courses themselves.

22 Q. I follow. You would be briefing as to legal aspects of  
23 courses that were being given at Chicksands?

24 A. Correct, yes.

25 Q. "(b) advising in relation to any legal issues relevant

1 to the work of the directorate intelligence corps and  
2 the DISC..."

3 A. Correct, yes.

4 Q. "(c) making suggested recommendations and improvements  
5 to the training delivered at Chicksands which included  
6 legal input to the training on prisoner handling and  
7 tactical questioning... and interrogation courses  
8 delivered by F Branch."

9 A. That's correct, yes. During my time at Chicksands,  
10 however, my roles and responsibilities extended and  
11 expanded beyond that. I also provided some advice to  
12 land forces based both in the United Kingdom and  
13 overseas, relating to certain covert operations, if  
14 I can put it that way -- sorry.

15 Q. No.

16 A. And I also provided advice to the defence intelligence  
17 staff as and when required because they didn't have  
18 their own in-house legal adviser. So although I started  
19 at Chicksands with this role, it expanded and I was  
20 misemployed doing various other duties as well.

21 Q. So what you are really wanting to tell us,  
22 understandably if I may say so, is that Chicksands and  
23 perhaps F Branch in particular, which you know this  
24 Inquiry is particularly concerned with, was not, as it  
25 were, your only focus by any means?

1 A. No, not at all.

2 Q. What you do say at paragraph 13, however, bearing in  
3 mind what you said, of course, is:

4 "I provided a briefing to all those undertaking the  
5 PH&TQ and interrogation courses. This briefing took the  
6 form of a lecture during which I explained the content  
7 of the relevant Geneva Conventions and additional  
8 protocols as well as the significance of the case  
9 Ireland v UK (my understanding of which was derived from  
10 courses I had attended as well as self-teaching [and  
11 so on, through the judgment of the court and other  
12 literature]...) and in particular its prohibition of the  
13 five techniques -- namely hooding, stress positions,  
14 white noise, sleep deprivation and food and water  
15 deprivation. I explained, as part of the briefing, the  
16 legal ramifications for breaching these rules, for  
17 example the criminal sanctions that could be imposed."

18 Just looking at that for a moment, does that mean  
19 that you gave a lecture to those who were present to  
20 take the courses at Chicksands in these areas?

21 A. That's correct, yes. I can't actually remember the  
22 first course that I presented on, but after my arrival  
23 I spoke to a number of the schools within Chicksands to  
24 see where I could contribute to their courses. And then  
25 they would have programmed a legal presentation into

1           those courses.

2   Q.   So this is something that you would have been doing post  
3       September, obviously, 2003?

4   A.   Yes, correct.

5   Q.   Can you remember when you started to do it? Was it in  
6       fact that year or was it later?

7   A.   I am unable to say, I am sorry. It would have been  
8       after I started but it would have been when the first  
9       relevant course took place.

10  Q.   Certainly, insofar as you were dealing with -- as you  
11       tell us you were -- the Geneva Conventions and  
12       additional protocols, Ireland v UK --

13  A.   Yes.

14  Q.   -- and the prohibition of the five techniques --

15  A.   Yes.

16  Q.   -- did you understand that this was a legal input that  
17       was novel: that you were introducing it for the first  
18       time.

19  A.   No, I didn't understand that. My understanding was that  
20       there had been legal presentations on the course but not  
21       necessarily delivered by a lawyer. And therefore  
22       I created a bespoke presentation of my own volition, if  
23       you like, in conjunction with the training staff to try  
24       and improve the level of training and education we were  
25       giving to soldiers who were attending a variety of

1 courses at Chicksands.

2 Q. May I ask you, please, about certain specific techniques  
3 in handling prisoners.

4 A. Yes.

5 Q. And your understanding of them in 2003 when you took  
6 over this post.

7 A. Yes.

8 Q. And what your advice may have been in respect of them.

9 Can we begin, please, with sight deprivation. What was  
10 your understanding in September 2003 as to whether sight  
11 deprivation could appropriately be used?

12 A. It should not be used in order to make a detainee more  
13 susceptible to answering questions. But sight  
14 deprivation could be used for security purposes.

15 Q. So encapsulating it, if I may say so, nicely in that  
16 way, that is what you would have taught, is it?

17 A. That is definitely what I taught, yes.

18 Q. And that would have been your advice to other  
19 instructors or anyone else who wanted to know?

20 A. Yes. I did speak to the instructors about the content  
21 of my course and also placed the course materials -- in  
22 other words the PowerPoint presentation -- on to their  
23 electronic database so it would have been available to  
24 the instructors at all times.

25 Q. So hooding, as any part of conditioning a prisoner for

1 the purposes of questioning, was simply not permitted?

2 A. Correct, yes.

3 Q. That is what you would have taught?

4 A. That is what I taught, yes.

5 Q. I follow. Did you regard sight deprivation as being --  
6 other than for security purposes -- as being unlawful?

7 A. Yes, I would.

8 Q. You say, if we can have it on the screen, please, at  
9 paragraph 19 of your statement to the Inquiry, BMI07983,  
10 we will look at the email in just a moment:

11 "Lieutenant Colonel Clapham's email also stated that  
12 hoods should not be used for blindfolding, even for  
13 security. If sight deprivation was necessary for  
14 security purposes, darkened goggles should be used  
15 instead."

16 That means instead of hoods, doesn't it?

17 A. Yes.

18 Q. You go on to say:

19 "This policy change was emphasised in my  
20 presentations to those individuals attending the PH&TQ  
21 and interrogation courses."

22 Did you mean to imply or state, as that seems to in  
23 paragraph 9, that this was indeed a policy change and  
24 hitherto hooding would, as it were, have been taught as  
25 being something that was permissible?

1 A. I am unable to say, really, as to whether it was  
2 a change in policy as such. I think if you look at the  
3 dates of the emails, it is fairly soon after I arrived  
4 in post and I am not therefore sure whether I had  
5 actually carried out any presentation at that point and  
6 I certainly don't know the training that was delivered  
7 prior to those dates.

8 Q. You never became aware, did you, either through  
9 questioning or in any other way --

10 A. I was aware that following that email trail that you are  
11 referring to, that the CO at the unit -- CO of JSIO who  
12 I think is cipher S045 -- confirmed that hooding had  
13 never been taught as a technique for interrogation, for  
14 example, for PH&TQ and interrogation, I think you put  
15 it.

16 Q. That was your understanding, was it?

17 A. Yes.

18 Q. That hooding had never been taught, what, for any  
19 purpose?

20 A. Well, I derived that from his email. I am afraid  
21 I haven't got it in front of me. But it --

22 Q. Can we have a look --

23 A. I seem to recall the email saying we have never taught  
24 PH&TQ and interro as a technique.

25 Q. Can we have a look, please, at MOD053857. It is the

1 second page in of the emails. If we go to the bottom  
2 email. This, I think, is an email from you, is that  
3 right? If we go over the page at the end, perhaps?

4 A. Yes. Yes it is.

5 Q. In which, if we go back to the first, to S045 you say:

6 "I attach a quote from legal advice given by the  
7 PJHQ legal cell in relation to hooding, with which  
8 I concur..."

9 A. Yes, with which I concurred in relation to the sight  
10 deprivation piece, in terms of the use of goggles for  
11 security purposes.

12 Q. So you are quoting, aren't you, Lieutenant Colonel  
13 Clapham?

14 A. Yes. In essence what I have done is cut and pasted his  
15 email into my email that I then forwarded.

16 Q. Yes. You say that you concur with what he says and you  
17 set out the body of it:

18 "As I understand it hoods are used as a means of  
19 blindfolding either to prevent the detainee seeing  
20 persons... or restricted areas, or alternatively as  
21 a means of disorientating (by sensory deprivation)  
22 a detainee before and during breaks in questioning."

23 A. No, it wasn't my intention to convey the fact that it  
24 was used for disorientation. It was purely to convey  
25 the policy in terms of the use of darkened goggles for

1 security purposes.

2 Q. You deal -- I don't want to be misleading in any way,  
3 you deal with the question of disorientating as we will  
4 see at the end of this email, don't you?

5 A. I can't recall, I am sorry.

6 Q. Let me take you to it in just a moment.

7 What I do want to be clear about, however, is  
8 that -- leave aside the question of disorientation for  
9 a moment -- you were, were you, concurring with the use  
10 of hoods as a means of sight deprivation for security  
11 purposes?

12 A. No, it was the policy in relation to darkened goggles  
13 with which I was concurring.

14 Q. You set out the quotation from Lieutenant Colonel  
15 Clapham, and towards the foot of the page, he says, in  
16 the part that you have cut and pasted, as it were:

17 "In conclusion it is unlikely that blindfolding can  
18 be justified on grounds of disorientation -- I realise  
19 that this may prove controversial and contrary to  
20 standard practice and it may be that this requires  
21 further consideration/discussion. As far as the  
22 protection of persons or info is concerned blindfolding  
23 may be justifiable if the means used is suitable or  
24 designed for the purpose. Hoods do not fit this  
25 requirement. The actual requirement is to mask the eyes

1 and there is no need for the means used to impair  
2 breathing."

3 Was that what you would have understood too?

4 A. I have to stress it was only a few weeks after I arrived  
5 in post. So what I was keen to do was to convey the  
6 guidance really at the end of that email, which states  
7 that:

8 "I recommend that steps be taken to ensure that the  
9 practice of hooding is ceased..."

10 I didn't know whether hooding had taken place or  
11 not, because I was literally new into post:

12 "... and alternative means be considered where  
13 blindfolding..."

14 Q. "... is necessary for sustainable reasons."

15 That is the end of the bit you quote?

16 A. Yes.

17 Q. You go to say:

18 "This advice dovetails very nicely with your  
19 comments below and I believe, therefore, that your note  
20 is perfectly appropriate and reflects the law as it  
21 stands. Disorientation as a means of extracting  
22 information is a no no, but for security reasons, as you  
23 set out below, may be perfectly justifiable."

24 A. Correct.

25 Q. So what did you mean, Brigadier, "may be perfectly

1           justifiable" in that sentence:

2                   "Disorientation as a means of extracting information  
3           is a no no, but for security reasons, as you set out  
4           below, may be perfectly justifiable."

5                   What was justifiable?

6   A.   The sight deprivation for security reasons.

7   Q.   Were you acknowledging that sight deprivation may  
8           itself, even if for security reasons, produce  
9           disorientation?

10  A.   No, that wasn't my intention.

11  THE CHAIRMAN:  Did you say that wasn't your intention or did  
12           you say that you didn't know?

13  A.   It wasn't my intention to convey that it was used for  
14           disorientation purposes.

15  THE CHAIRMAN:  I daresay.  Did you know that it was used  
16           occasionally for --

17  A.   No.

18  THE CHAIRMAN:  You didn't?

19  A.   No.

20  Q.   All right.

21  MR ELIAS:  Because if one reads that sentence, Brigadier --  
22           that last sentence in your words:

23                   "Disorientation as a means of extracting information  
24           is a no no but for security reasons... may be perfectly  
25           justifiable ..."

1           It could be read as meaning: disorientation or the  
2           means that produced disorientation may for security  
3           reasons be perfectly justifiable.

4   A.   That was not my intention.  It is obviously a clumsily  
5           drafted sentence.

6   Q.   So, the Inquiry should understand that from your  
7           perspective anyway, hooding was never approved?

8   A.   Absolutely, yes.

9   Q.   Insofar as you taught or advised, you would have advised  
10          what?  That it was undesirable or that it was not to be  
11          used?

12  A.   Not to be used.

13  Q.   May we just have a look at the document to which you  
14          have referred, whilst dealing with this point, we find  
15          it at MOD050806, an email from you dated 12 May 2004, so  
16          we have jumped on in time.

17  A.   Yes.

18  Q.   In which you say, as we can see:

19                 "DISC has never taught that the use of hoods is  
20                 acceptable as an interrogation technique and from  
21                 a purely training perspective, therefore, there has not  
22                 been any change in policy.  Unfortunately, we do not  
23                 know the specific practices that were adopted in theatre  
24                 during Telic 1."

25  A.   Correct.

1 Q. So "DISC has never taught". Was that covering F Branch?

2 A. Yes, F Branch was part of JSIO, and JSIO was one of the  
3 units of DISC.

4 Q. Thank you. So covering that, you were saying -- if  
5 I can put it in terms that the Inquiry is very familiar  
6 with now -- Chicksands has never taught that the use of  
7 hoods is acceptable as an interrogation technique?

8 A. That's correct, yes.

9 Q. Where did you get that information from?

10 A. From talking to the instructors, and also, I believe  
11 there is an email from the CO of the unit that  
12 I mentioned before that confirms that it has never been  
13 taught on prisoner handling and interrogation courses.

14 Q. Did you know whether hooding had ever been taught -- it  
15 had ever been taught that hooding could be acceptable,  
16 not as an interrogation technique but for the purposes  
17 of maintaining security?

18 A. No, I am not aware of that.

19 Q. You didn't know either way?

20 A. I don't know either way, no, I am sorry.

21 Q. Because in this email, you are clearly making a specific  
22 point: hooding has not been acceptable as an  
23 interrogation technique.

24 A. Yes.

25 Q. But you are not saying explicitly here, are you, hooding

1 has always been trained as being something that should  
2 not be done?

3 A. No, not specifically. I am not saying that, no.

4 Q. Was that because you were put in mind or told that  
5 indeed hooding had been something that was trained,  
6 albeit not in the interrogation technique area?

7 A. No.

8 Q. You don't ever remember being told that?

9 A. No.

10 Q. Prior to your appointment in September 2003 to  
11 Chicksands, were you aware that on the ground, if you  
12 like, in action, many soldiers regarded it, we are told,  
13 as an SOP that prisoners would be sandbagged at the  
14 point of capture?

15 A. No.

16 Q. You were never aware of that, were you?

17 A. No, not prior to 2003, no.

18 Q. What, you became aware of it --

19 A. September 2003. I became aware of it subsequently, of  
20 course, because of media reporting and the police  
21 investigation into the death of Mr Mousa.

22 Q. Yes. Stress positions?

23 A. Yes.

24 Q. Were unlawful?

25 A. Yes.

1 Q. Did you always so advise?

2 A. Yes.

3 Q. Insofar as you dealt with them in your briefings, would  
4 you deal with stress positions explicitly?

5 A. Yes, I would. Because I dealt with Ireland v UK  
6 explicitly.

7 Q. So you dealt with all the so-called five techniques on  
8 the same basis, did you, that they were unlawful and  
9 should not be used?

10 A. Yes, I did.

11 Q. Were you aware of, in this regard, what the Inquiry --  
12 I anyway -- have frequently referred to as the Heath  
13 ruling from 1972, Prime Minister Heath's statement to  
14 Parliament?

15 A. No, I was only made aware of that in preparation for the  
16 Inquiry and giving evidence.

17 Q. So although you were aware of Ireland --

18 A. Yes.

19 Q. -- and what was said about the techniques there, you  
20 were never aware of the Prime Minister's statement?

21 A. No, I wasn't.

22 Q. Or of any 1972 Directive that effectively put into  
23 practice, if you like, the Prime Minister's statement?  
24 You weren't aware of that either?

25 A. No, I wasn't.

1 THE CHAIRMAN: Did it come as a surprise when you saw it?

2 A. I wouldn't say it came as a surprise, Sir, because of

3 course it followed almost precisely the judgment in the

4 case of Ireland v UK.

5 THE CHAIRMAN: Perhaps I expressed it wrongly. Did it come

6 as a surprise that you had never seen it before or heard

7 of it?

8 A. Not really, Sir, no. I researched the law in order to

9 do the presentation. I hadn't had any contact with

10 prisoner handling or interrogation courses prior to

11 arriving in Chicksands.

12 THE CHAIRMAN: All right.

13 A. But it wasn't a document that was produced to me on my

14 arrival. It was simply I researched the relevant law

15 and designed the presentation I gave accordingly.

16 THE CHAIRMAN: Okay.

17 MR ELIAS: But, Brigadier, if there were in existence

18 a 1972 Directive that explicitly said that hooding, for

19 example, was banned --

20 A. Yes.

21 Q. -- which we are told was still extant in 2003, it is

22 somewhat surprising, isn't it, that a directive of that

23 kind was not brought to your attention as the lawyer who

24 was now, as it were, auditing Chicksands?

25 A. I don't think so, no. I do not know where it would have

1           come to me from, to be honest, because there was no  
2           legal adviser with our superior headquarters which was  
3           the defence intelligence staff, and nobody had it on the  
4           Chicksands site. So I don't know how I would have got  
5           hold of it.

6    Q. Well, even that statement, if I may say so, "nobody had  
7           it on the Chicksands site", that is a bit surprising,  
8           isn't it, if this was, as it were, the fount of all  
9           knowledge and teaching? It is not a criticism of you --

10   A. I just don't know how to answer that.

11   Q. Don't you find it surprising, if this were an extant  
12           directive that dealt with a ban on hooding, isn't it  
13           surprising that apparently nobody in Chicksands had it?

14   A. Well, as the deliverers of the training in relation to  
15           interrogation and prisoner handling tactical  
16           questioning, one might have thought it was at  
17           Chicksands.

18   Q. Yes. If it wasn't, it is rather surprising, isn't it?

19   A. Yes.

20   Q. May I just ask you just a little -- I don't want any  
21           detail of the course -- you did undertake a conduct  
22           after capture course. As you tell us in your statement,  
23           that involved the use of the very techniques that you  
24           knew were banned?

25   A. Yes.

1 Q. You saw them, as it were, demonstrated and perhaps  
2 participated in exercises where they were used?

3 A. Yes.

4 Q. My only question -- the only reason for raising it -- is  
5 simply this: was a clear distinction made to you as one  
6 of those undertaking the course -- and I think this was  
7 in 1993, approximately, is that right?

8 A. Approximately, yes.

9 Q. Was a clear distinction made to you that these were  
10 things that were being demonstrated to you for the  
11 purpose of what might happen to you, if you were  
12 captured --

13 A. Yes, they were.

14 Q. -- but were not to be practised upon any prisoners who  
15 were taken by British forces?

16 A. They were clearly briefed as being non-Geneva Convention  
17 compliant and therefore techniques that were not to be  
18 used on prisoners of war or detainees, for example.

19 Q. Was that something that was left, as it were, to be  
20 understood or was it an explicit message that was given  
21 to you, do you recall?

22 A. I recall it as an explicit message at the time.

23 Q. Now you will be aware -- because I think you have dealt  
24 with it -- of the suggestion by S012 that you had  
25 audited -- if I may use the word -- some of the F Branch

1 course material.

2 A. Yes.

3 Q. Legally audited it, if you like, to improve its content?

4 A. Yes.

5 Q. As you point out in your own statement, you didn't --

6 because he was suggesting this was something that

7 happened in the middle of 2003 -- you didn't take over

8 in post until 1 September?

9 A. No.

10 Q. Notwithstanding that, and the other matters about which

11 perhaps quite serious errors of fact were made in that

12 claim as to what you had done -- your rank and other

13 matters that were obviously inaccurate as you point out

14 in your statement --

15 A. Yes.

16 Q. Notwithstanding that, from September on at any time did

17 you carry out what might be called a legal audit of the

18 F Branch course content?

19 A. I certainly spoke to the personnel within F Branch to

20 see how I could assist them with their training. And

21 from that flowed the fact that I presented right at the

22 beginning of the course and made a legal presentation

23 available to them, so they knew the parameters in which

24 they should be training.

25 Q. That's to say the legal presentation --

1 A. Yes.

2 Q. -- which you told us about a few minutes ago?

3 A. Correct, yes. But I would have also had discussions  
4 with them, in fairness, as to any issues of concern that  
5 they wished to raise with me. But I was left firmly  
6 with the impression that the training delivered was  
7 Geneva Convention compliant and there was no issue with  
8 the matters that I was teaching on the course. There  
9 was no conflict with any other part of the course.

10 Q. That's of course what you say in your statement to this  
11 Inquiry?

12 A. Yes.

13 Q. I think we understand that. But may I please just  
14 understand this: from discussion, therefore, with the  
15 instructors, you came to learn of nothing which was  
16 causing them particular problems on the legal front;  
17 would that be right?

18 A. Yes.

19 Q. You came to learn of nothing in the content of courses  
20 from those discussions which caused you any concerns?

21 A. That would be correct, yes.

22 Q. That said, did you make, if you like, a line-by-line  
23 assessment of such course material as existed, slides,  
24 written documents and so on, to ascertain that it did in  
25 every respect accord with Geneva Convention and so on?

1 A. No, I didn't.

2 Q. So perhaps what I am referring to as a legal audit --  
3 that is something of a line by line, go through every  
4 course that F Branch give and see that it does  
5 conform -- was never carried out?

6 A. No.

7 Q. Should it have been?

8 A. I don't know.

9 Q. Forgive me?

10 A. I don't know.

11 Q. Putting it another way round, Brigadier, you would have  
12 appreciated, would you, at the time, that the areas of  
13 prisoner handling, tactical questioning and  
14 interrogation were sensitive areas where plainly legal  
15 concepts as to what was and was not lawful, conditioning  
16 techniques and the understanding of conditioning --

17 A. Yes.

18 Q. -- what might be lawful and what might not be, the use  
19 of sight deprivation and the circumstances in which it  
20 may be used, all of these were, of course, matters where  
21 the law, if you like, stepped in all the time?

22 A. I think it's safe to say that the courses delivered at  
23 Chicksands, nearly all of them had potential legal  
24 difficulties associated with them. I would certainly  
25 not have had the capacity to go line by line through

1 every one of those courses and I am afraid that prisoner  
2 handling, tactical questioning and interrogation fell  
3 into the same category.

4 Q. Well, I understand. So what you are telling us is that  
5 it was really, if you like, if I can put it in  
6 shorthand, a resource issue?

7 A. Correct.

8 Q. In perhaps the ideal world you would have liked to have  
9 done -- or had someone do under your supervision  
10 perhaps -- the line by line check to audit each course  
11 to ensure that it did comply, but you simply, what,  
12 didn't have the time yourself to do that?

13 A. Did not have the capacity. The number of courses  
14 delivered on the Chicksands site, I would probably  
15 estimate would be in the region of 50 plus and there's  
16 some very complicated legal issues tied up with many of  
17 those courses, as you can appreciate.

18 Q. The fact that there were complicated legal issues tied  
19 up with some of those courses perhaps underlines,  
20 doesn't it, the need -- if you couldn't do it -- for  
21 someone to have carried out a legal audit of those  
22 courses to make sure that it wasn't left to lay people,  
23 as it were, to interpret the law?

24 A. In an ideal world situation, yes, of course. But there  
25 weren't the resources available to do that. So I tried

1 to contribute to each of the courses in the best way  
2 that I possibly could.

3 Q. This is not a criticism from me, anyway: your way of  
4 doing it was to talk to the providers of the course, to  
5 the instructors, and try to get feedback as to what was  
6 or was not the approach that they took?

7 A. Yes, and to make my presentations available to them so  
8 they knew the parameters in which they should be  
9 training from a legal perspective.

10 Q. This certainly follows, does it?

11 You could not have given S012, you know to whom I am  
12 referring --

13 A. Yes.

14 Q. You couldn't have given S012 any indication that, as it  
15 were, his courses had been line-by-line audited and  
16 approved?

17 A. No, I couldn't.

18 Q. And you didn't?

19 A. And I didn't, no.

20 Q. Just a few specific matters, please. Do you recall when  
21 you were at Chicksands learning of any prohibition on  
22 hooding, any, as it were, additional prohibition on  
23 hooding that occurred at about the time that you started  
24 at Chicksands?

25 A. The only recollection I have is the email that

1 Colonel Clapham sent to me, which we dealt with earlier,  
2 I think.

3 Q. All right. May I ask you, please, about paragraph 47 of  
4 your statement to this Inquiry, BMI07990? You were  
5 asked by the Inquiry to comment on a passage in the  
6 document there referred to which refers to prisoners of  
7 war and detainees being blindfolded while moved around  
8 an interrogation facility.

9 Did you understand that that was the practice, to  
10 blindfold those who were to be subjected to TQ'ing or  
11 interrogation prior to their questioning, for security  
12 reasons?

13 A. For security reasons?

14 Q. Yes?

15 A. The blindfolding?

16 Q. Yes.

17 A. I wasn't aware as to whether that occurred in every  
18 instance, but I was aware in theatre that blackened-out  
19 goggles were being used to deprive the sight of  
20 individual for security purposes. But I do not know the  
21 context of that.

22 Q. I understand. As you go to say in this paragraph:

23 "As I have indicated previously, blindfolding for  
24 security purposes would in my view be legally  
25 justified."

1           But, you go to comment:

2           "... insofar as it states [that's the document] that  
3           the questioner should conduct a visual scrutiny of the  
4           subject for a short time while still blindfolded."

5   A.   Yes.

6   Q.   "As such [you say] the document provides poor guidance  
7           and if followed would potentially involve the  
8           interrogator engaging in unlawful activity."

9   A.   Yes.

10   Q.   Just to put that, if we may, I hope without going to the  
11           document if we could, to put that into its context, the  
12           Inquiry has heard some suggestions that a prisoner might  
13           be brought in blindfolded for security reasons for  
14           tactical questioning and then, for a period of I think  
15           it has been estimated perhaps of 30 or 45 seconds or  
16           a minute, might be left blindfolded whilst the  
17           questioner, as it were, weighed up the prisoner, looked  
18           at him without being seen to be doing so, to see whether  
19           he was nervous, shaking, fit for questioning so far as  
20           one could tell from the man stood in front of him.

21           Would a prisoner being left blindfolded in that  
22           situation for that sort of period of time be contrary to  
23           the law as you understood it?

24   A.   I would take the view that unnecessarily prolonging the  
25           blindfolding would potentially be unlawful, yes.

1 Q. That, you would regard, potentially anyway, as being  
2 prolonging the blindfolding beyond that period which was  
3 necessary?

4 A. You should only be blindfolded for security purposes  
5 while it's necessary to do so. As soon as that purpose  
6 ceases to exist, the blindfold, in my view, should be  
7 removed immediately.

8 Q. Moving on to another topic, did you have any input into  
9 considering -- I am not going to use the word "audit" --  
10 considering the content of questioning, tactical  
11 questioning or interrogation courses?

12 A. The actual questioning process?

13 Q. Yes.

14 A. Not that I recall, no.

15 Q. Do you recall, for example, in your discussions with  
16 instructors, anything being said about the use of  
17 personal abuse or threats, matters of that kind, in the  
18 course of questioning sometimes called the harsh  
19 technique?

20 A. I am aware that the harsh technique was employed in  
21 terms of conduct after capture training. But I was not  
22 aware that it was employed in terms of prisoner handling  
23 and tactical questioning or interrogation training.

24 Q. What you say at paragraph 50 of your statement to the  
25 Inquiry, BMI07991:

1           "Some of the interrogation methods seem to  
2           involve..."

3           Again, you have looked at a document and I am not  
4           going to take you to it.

5    A.   Yes.

6    Q.   Interrogation methods involving the use of personal  
7           abuse, humiliation and threats.

8           You say about those:

9           "This would be contrary to Geneva Convention III  
10          Article 17..."

11          Which you set out over the page and I am not going  
12          to read it out.

13   A.   Yes.

14   Q.   But that was your view when you signed this statement.  
15          Is that still your view?

16   A.   Yes it is.

17   Q.   So under no circumstances could personal abuse,  
18          humiliation or threats be used in the course of, for  
19          example, tactical questioning?

20   A.   No.

21   Q.   Was that something that you would have imparted to  
22          others at Chicksands?

23   A.   I specifically trained every course in the content of  
24          Article 17 and talked them through it, of course.

25   Q.   By "every course", do you mean students, instructors, or

1 both?

2 A. As I say, I will have discussed it with some of the  
3 instructors. I can't recall who now. The presentation  
4 was available to all instructors as a PowerPoint  
5 presentation on their electronic system, and I would  
6 have briefed it to every one of the courses that  
7 I presented too, yes.

8 Q. Thank you. Can we look at paragraph 63 of your  
9 statement to the Inquiry, BMI07995, please. Just so  
10 that we don't misunderstand this, you say this:

11 "The only change to the courses that I was aware of  
12 was the wide-ranging brief which I provided to  
13 individuals on the courses."

14 The wide-ranging brief being the one that you told  
15 the chairman about some minutes ago now.

16 A. Yes.

17 Q. The Convention and so on. That was a change because it  
18 was new that you, a lawyer, were providing it?

19 A. Yes.

20 Q. But your understanding is and was, should we understand  
21 from this sentence, that otherwise in your time the  
22 course remained as it had been?

23 A. I don't know whether it remained as it had been, because  
24 I didn't have access to the course materials as such.  
25 So it may well be that the course evolved and I might

1 not necessarily be aware of that.

2 Q. Putting it another way, then. You didn't make any  
3 specific changes yourself to course content that now  
4 come to mind?

5 A. Not that I recall, no.

6 Q. May we then just look at three or four documents. Can  
7 we look at MOD0508 -- forgive me, I have looked at that  
8 document already with you. I need not take you to it  
9 again. That is your email of May 2004.

10 I now want to look, please, at the note of two  
11 meetings: MOD042641. As we can see from the top of that  
12 document, Brigadier, we have now gone through to March  
13 of 2005.

14 A. Yes.

15 Q. It is a meeting, is it, about defence interrogation,  
16 notes taken of a meeting held on 7 March 2005?

17 A. Yes.

18 Q. Just below halfway down the list of those present is  
19 your name as lieutenant colonel then?

20 A. Yes.

21 Q. I just want to take you, please, to paragraph 3 over the  
22 page of the note, under the general heading of "Legal  
23 Considerations":

24 "The legal position on interrogation has not changed  
25 for over 50 years (compliance with ICRC, codes of

1           conduct, case law, Geneva Convention, HRA..."

2           Then just moving on a little into the next sentence:

3           "However, the assembled agreed [that is presumably  
4           this meeting, is it?] that whilst the law had remained  
5           unaltered, public opinion and its obvious ramification  
6           upon political will had evolved significantly."

7           Then there is the reference to EU law being  
8           different to US law. I leave aside the interrogation  
9           bullet point next. But then the next one:

10           "Perhaps the MoD should approach Attorney General to  
11           gauge 'flexibility of law'."

12           Do you know what that was a reference to?

13    A. I do recall that it was discussed at the meeting.

14           I think it -- I can't recall precisely who it was.

15           I think it was possibly Brigadier Duncan who was --

16           I can't remember his rank at that time because I didn't  
17           look on the list, but I think he raised the view that we  
18           were so constrained by the law that we really shouldn't  
19           be doing interrogation any longer in essence. And there  
20           was some discussion, by the nonlawyers, I hasten to add,  
21           as to whether the Attorney General could be approached  
22           for further guidance. As far as I was concerned and as  
23           far as Vivien Rose was concerned, who was an MoD lawyer  
24           at the meeting, the law was very clear in terms of the  
25           parameters in which these activities were carried out.

1           And the Attorney General would not wish to engage in  
2           moving the boundaries, if I could put it that way.

3   Q.   No, and so the flexibility that is referred to here was  
4           some push amongst some at the meeting -- you say not the  
5           lawyers -- is this how we should interpret it, some push  
6           if you like, that the law, can I put it bluntly, should  
7           not be allowed to interfere as much as apparently it was  
8           with tactical questioning and interrogation?

9   A.   Well, in my recollection --

10  Q.   Does that put it fairly?

11  A.   I think that is probably right. My recollection is that  
12           this is a poor summary of what was discussed, really.  
13           It is not very accurate. As I say, there was some  
14           discussion about whether the law had changed, in other  
15           words become more restrictive, and that clearly wasn't  
16           the case. The law was very clear in the area and the  
17           parameters in which these operations should be conducted  
18           was very clear.

19  Q.   The penultimate bullet point in this box against "Legal  
20           Considerations":

21           "Increased scrutiny by lawyers represents a barrier  
22           for interrogating people, and this has a disabling not  
23           enabling effect upon the handler/de-briefer. Commanders  
24           fear potential repercussions if they disagree with legal  
25           advice."

1           Taking into account what you say about this being  
2           not a particularly accurate record of the discussion,  
3           does that summarise, however, some of the views that  
4           were being put forward perhaps by the soldiers rather  
5           than the lawyers?

6   A.   I don't recall now, I am sorry.

7   Q.   Can we move on then, please, to MOD042644, another  
8           defence interrogation meeting now, 4 April 2005. The  
9           summary of discussion, we see you are just above the  
10          first redaction, aren't you?

11  A.   Yes.

12  Q.   As an attendee. If we go over the page again to 3 and  
13          "Legal Considerations", would you agree, regardless of  
14          the accuracy or otherwise of the summary, what is set  
15          out in the bullet points here seems to be something of  
16          a rowing back, if you like, from the concerns that were  
17          expressed at the last meeting?

18  A.   Yes.

19  Q.   What is now being suggested is that law has been there  
20          for decades. It is not a new situation. The legal  
21          framework should not be considered as a boundary to be  
22          tested. It should not be viewed as a limiting factor  
23          but as a fact of life:

24                 "The law is in place to define the boundaries, not  
25                 to dictate to the experts how to conduct interrogation.

1           It is important that commanders and POLADs at the  
2           appropriate levels appreciate this."

3    A.   Yes.

4    Q.   But there was, plainly, was there, in March and April  
5           2005, serious discussion and proposition by some that  
6           the constrictions that the law placed on interrogation  
7           methods were undesirable?

8    A.   I think that's fair to say, yes.

9    MR ELIAS:   Yes, thank you.

10   THE CHAIRMAN:   Yes.   You will be asked some other questions  
11           now.

12   A.   Of course, sir.

13   THE CHAIRMAN:   Mr Friedman?

14                                   Questions by MR FRIEDMAN

15   MR FRIEDMAN:   Thank you, Brigadier.   Before you took over  
16           the post as the legal adviser in September 2003, without  
17           going into any detail, had you had substantial  
18           professional experience of working with intelligence  
19           agencies, whether military or civilian, before that?

20   A.   Yes.

21   Q.   We have seen in other contexts, as regard to HUMINT  
22           capability, the phrase, a military lawyer being  
23           "indoctrinated" for the purposes of using HUMINT advice.  
24           The word "indoctrinated".   Were you familiar with that  
25           term as a military term of art?

1 A. No.

2 Q. No. Would you consider that you had been indoctrinated  
3 in the sense of being prepared, prior to taking up the  
4 post in 2003, of the various issues relating to HUMINT  
5 practices?

6 A. When you say "indoctrinated", I am sorry, I don't quite  
7 understand what you mean.

8 Q. Perhaps I will give you an example and we can do it that  
9 way. MOD049310 is a directive for the purposes of  
10 Operation Telic, which I do not suggest that you would  
11 have seen --

12 A. No.

13 Q. -- because of the role that you had. But this was for  
14 the purposes of work in Iraq and at paragraph 7,  
15 MOD049311, dealing with the issue of legal advice, it  
16 says:

17 "HUMINT operations are subject to specific legal  
18 advice. The NCC LEGAD [which was in existence at the  
19 time] will be indoctrinated to HUMINT operations and  
20 provide appropriate advice."

21 So I am wondering whether you would understand what  
22 was meant by the word "indoctrinated" in a context like  
23 that.

24 A. No.

25 Q. Did you get any briefing from Lieutenant Colonel Clapham

1 before taking up the position in September 2003?

2 A. No.

3 Q. I want to ask you about your understanding of the  
4 banning on hooding, and do it this way. In answer to  
5 questions, you said that you weren't aware of the Heath  
6 statement until preparing to give evidence.

7 A. Yes.

8 Q. But you obviously were aware of the Ireland v UK  
9 judgment, and you gave the answer that the ban by the  
10 Prime Minister was almost precisely in the same terms?

11 A. Yes.

12 Q. Can I just take you to Edward Heath in Parliament in  
13 1971. It is at PLT000812 --

14 THE CHAIRMAN: There better be a relevant point to this,  
15 Mr Friedman.

16 MR FRIEDMAN: Yes, yes.

17 Just on the right-hand column at the top, you get  
18 the key statement from the Prime Minister:

19 "The Government, having reviewed the whole matter  
20 with great care and with particular reference to any  
21 future operations, have decided that the techniques  
22 which the committee examined will not be used in future  
23 as an aid to interrogation."

24 Do you see that?

25 A. Yes.

1 Q. Can I take you over the page to PLT000813. On the  
2 left-hand column, the second entry of the  
3 Prime Minister, starting with the words:

4 "A directive has been issued to the GOC ..."

5 Which therefore covers the whole army in Northern  
6 Ireland.

7 Then he says this:

8 "As for the use of techniques for non-interrogation,  
9 obviously from the point of view of security sometimes  
10 it is necessary for people to be asked to stand against  
11 a wall with their arms raised so that they may be  
12 searched to see whether they have weapons. That is  
13 a specific and limited use. As for putting a blanket  
14 over someone's head, the army has been instructed not to  
15 use that technique in any circumstances."

16 Then it goes on:

17 "The police are covered by the normal police  
18 regulations."

19 A. Yes.

20 Q. And so on. It does not talk about hooding there --

21 A. No.

22 Q. -- but you can see in that entry that the Prime Minister  
23 is undertaking to Parliament that sight deprivation,  
24 when it comes to a blanket, will not be permissible in  
25 any circumstances, be it interrogation or security?

1 THE CHAIRMAN: Mr Friedman, you must ask, please, a relevant  
2 question. I have heard that in opening among other  
3 things.

4 MR FRIEDMAN: I just want to understand whether you have  
5 encountered any acknowledgment that the Prime Minister  
6 undertook that sight deprivation was, in terms of  
7 a blanket there, was going to be limited for all  
8 circumstances and not just security?

9 A. Was I aware of this Hansard extract?

10 Q. Yes.

11 A. No, I wasn't, not until I prepared for the Inquiry  
12 today.

13 Q. What about the substance of what is being said in that  
14 second entry in the Hansard extract, "any  
15 circumstances"?

16 THE CHAIRMAN: Mr Friedman. I really don't see the point in  
17 these questions. You are no doubt going to make  
18 submissions about this and I am quite content with that.  
19 But to ask someone questions about something he has only  
20 seen for the first time a day or two ago seems to me not  
21 a helpful exercise.

22 MR FRIEDMAN: I understand. I will move on.

23 Can we take it as a given that you were clearly  
24 stretched beyond the capability to focus on the detail  
25 of the training for reasons that you have explained to

1 Mr Elias.

2 A. Yes.

3 Q. I just want to ask you: being put in a position, as the  
4 in-house lawyer at Chicksands, did you effectively ask,  
5 "What are the directives and regulations in place?"  
6 When you first got there?

7 A. Yes, I would.

8 Q. Who did you ask?

9 A. I would have asked the instructors who were delivering  
10 the specific courses, or the commanding officers of the  
11 relevant schools, as to what directives or direction  
12 they had received in order to deliver their training.

13 Q. So you asked them and it was a matter for them to give  
14 it to you?

15 A. Yes.

16 Q. Did you ask whether there had been any previous legal  
17 advice on any matters that you might need to know about?

18 A. I don't recall asking that, no.

19 Q. I want to deal with a document that is before your time,  
20 but see again if you agree with the substance. It is at  
21 MOD041753. "Policy for Interrogation and Related  
22 Activities". You confirmed in your statement at  
23 paragraphs 58 and 59 that you did not see it before.  
24 But just the second paragraph:

25 "Addressees may wish to note that UK interrogation

1 policy is now vested in the new [JSIO] which forms part  
2 of the Defence Intelligence and Security Centre at  
3 Chicksands. The new unit includes regular and reserve  
4 interrogation elements that were components of the old  
5 [JSIO] at Ashford."

6 Do you accept as correct in substance that the  
7 policy and its development would be vested in the JSIO?

8 A. No, I wouldn't, no.

9 Q. If you don't, where would it be vested?

10 A. I would -- I believe it would have been invested in ADI  
11 HUMINT who would work within the defence intelligence  
12 staff.

13 Q. The word is "vested", as opposed to "invested", but if  
14 it was vested in ADI HUMINT, did Chicksands and the JSIO  
15 have a key role in advising them on policy?

16 A. Well, no, they develop the policy and give it to us as  
17 the subordinate headquarters.

18 Q. So it is the other way round?

19 A. Yes.

20 Q. Yes.

21 A. But if they were giving us a policy that was unworkable  
22 or unlawful, for example, of course we would interact  
23 with them and suggest amendment.

24 Q. But there wouldn't be a burden on you to put them on  
25 notice of things that they may need to look at, because

1 of your own experience at JSIO?

2 A. No, not necessarily, no.

3 Q. Moving over then to the policy for interrogation and  
4 related activities. MOD041755. There's a letter (f).  
5 I just want to ask you whether in substance you agree  
6 with this or not:

7 "(f) Commandant DISC should review on a routine  
8 basis all interrogation related procedures, methods and  
9 organisations employed by the UK armed forces. He  
10 should also be responsible for the supervision and  
11 conduct of all interrogation related training carried  
12 out by the three services including..."

13 Then the CAC training is there. Do you agree with  
14 that in substance?

15 A. As to whether that was the arrangement or whether --

16 Q. Was that your understanding at the time?

17 THE CHAIRMAN: Again, I am sorry to interrupt you, but how  
18 does this help me? That's what it says.

19 MR FRIEDMAN: Yes.

20 THE CHAIRMAN: It says it in 1997.

21 MR FRIEDMAN: Yes.

22 THE CHAIRMAN: Which is a little earlier than the period  
23 I am concerned with. I understand all the documents  
24 that lead up to where we have got to, but I don't think  
25 it really helps to ask somebody who doesn't know

1 anything about this because it is not his period about  
2 his interpretation of that document. I can't see the  
3 point of it.

4 MR FRIEDMAN: It may be my questioning. I am just trying to  
5 find out what Brigadier Yates and people working with  
6 him in 2003 understood to be their responsibility.

7 THE CHAIRMAN: Why don't you ask him what he understood to  
8 be his responsibilities in 2003?

9 MR FRIEDMAN: It is my fault. Effectively I am trying to  
10 say in substance: did you understand that to be your  
11 responsibility or not.

12 A. Certainly the second part of it, because we are talking  
13 about the commandant DISC, that is factually accurate  
14 because my understanding in 2003 in the period I was at  
15 Chicksands was that the commandant DISC was responsible  
16 for the supervision and conduct of interrogation-related  
17 training.

18 Q. Can I then move to this question of legal considerations  
19 of the training? You have been asked about the conflict  
20 between your own evidence and the evidence of S012?

21 A. Yes.

22 Q. I just want to put to you the evidence of S045, who was  
23 the CO at the time.

24 A. Yes.

25 Q. Looking at the cipher, you recall him, do you?

1 A. Yes.

2 Q. It is BMI07304. He is talking at paragraph 39:

3 "I also subsequently asked the SO1 legal of DISC,  
4 Lieutenant Colonel David Yates, to review all of the  
5 training provided by F Branch to ensure that UK law and  
6 the Geneva Conventions were complied with. Having  
7 carried out this exercise, he advised me that the  
8 training was legally compliant. I have been asked by  
9 the Inquiry to clarify whether I received this advice in  
10 writing or orally but I cannot now recall whether the  
11 advice took the form of an email, telephone call or  
12 face-to-face meeting."

13 Do you agree with his description?

14 A. Well, the review was as I described earlier. It was  
15 interacting with the instructors on the course,  
16 contributing to the course and ensuring that there was  
17 nothing they were training that was inconsistent with  
18 the presentation I provided to them. And I received  
19 those assurances. But it wasn't a slavish line-by-line  
20 reading of all their course materials because that would  
21 have taken a considerable period of time.

22 Q. But simply taking that first sentence, it appears that  
23 he has asked you to review all the training and its  
24 compliance. Did he ask you to do that?

25 A. I have no recollection of that. But I've no reason to

1           doubt it.

2    Q.   The email that you were shown before that includes your  
3           cutting --

4    THE CHAIRMAN:  This must be your last matter, Mr Friedman.  
5           You have been quite a long time dealing with these  
6           matters, and with some matters that are not of great  
7           relevance.

8    MR FRIEDMAN:  The email that you were shown before, it was  
9           prompted at first by an email from S045, which is at  
10          MOD053857.

11                 Looking at the S045, his email to you is at  
12          MOD053858.  It is on 23 October.  He is asking you to  
13          comment on this "before I send this off".  You have been  
14          shown before your reply to this as to why you agreed  
15          with the gist.

16                 Can I just ask you to go over the page to  
17          paragraph 5, which is at MOD053859:

18                 "As for the C2 and lessons learned.  DISC/JSIO  
19          generated the JFIT..."

20                 It says:

21                 "There have been lessons learnt from this deployment  
22          and they will be reflected in future courses.  However,  
23          even at this stage I am not content that the legal  
24          status and legal 'rules of engagement' have been clearly  
25          defined in respect of personnel

1 'captured/arrested/detained' during this current phase  
2 of operations and, as stated earlier, am refusing to  
3 conduct theatre specific training without clear legal  
4 guidelines."

5 A. Yes.

6 Q. At that stage he is uncertain of his position legally in  
7 terms of interrogation and TQ capability, isn't he?

8 A. It appears to be so, yes.

9 Q. Lastly this, and very briefly, on those meetings in  
10 2005, we go to the first one, in March, at MOD042641,  
11 looking at the list you said that yourself and  
12 Vivien Rose were taking a strong contrary position to  
13 what some of the soldiers, including Colonel Duncan,  
14 were saying. But if you look at "Absent/Apologies",  
15 Vivien Rose is not there at that meeting, that is  
16 correct, isn't it?

17 A. My recollection was that she was there. But I may be  
18 mistaken. I apologise. She was certainly there at the  
19 subsequent meeting.

20 Q. We know that and I will come to that in a second very  
21 briefly. Just looking at the list assuming that is  
22 correct in terms of apologies, does that make you the  
23 only lawyer in the room?

24 A. It would make me the only lawyer in the room, yes.

25 THE CHAIRMAN: Now the last question, Mr Friedman?

1 MR FRIEDMAN: Yes.

2 THE CHAIRMAN: The very last one.

3 MR FRIEDMAN: Just going then to the MOD042644, we see there  
4 is an entry in the introduction that:

5 "The notes below are a brief summary of discussion,  
6 not a full set of formal minutes."

7 A. Yes.

8 Q. Do you recall having discussions with Vivien Rose before  
9 that second meeting -- she having looked at those  
10 minutes -- to the effect, "We need to row these people  
11 back", given what has been minuted in that last meeting?

12 A. No. I have no recollection of that, no.

13 MR FRIEDMAN: Thank you.

14 THE CHAIRMAN: Yes. Mr Dingemans?

15 Questions by MR DINGEMANS

16 MR DINGEMANS: Are you familiar with the term the "shock of  
17 capture"?

18 A. Yes.

19 Q. Did you teach that it was permissible to exploit the  
20 shock of capture for tactical questioning purposes?

21 A. No.

22 Q. Is that your legal view, that it is not permissible to  
23 exploit the shock of capture for questioning?

24 A. An individual, once they are captured, feels the shock  
25 of capture. It's an inevitability of the circumstances

1 in which they find themselves. Perpetuating that shock  
2 of capture, however, may well be unlawful.

3 Q. So it would be wrong to tell anyone to prolong the shock  
4 of capture for tactical questioning purposes?

5 A. In what respect? I think at Chicksands what they used  
6 to teach was that the firm but fair handling and the  
7 swift handling of individuals to an interrogation centre  
8 by its very nature would prolong the shock of capture,  
9 but the intent was to get the individual so he could be  
10 questioned as soon as possible. But that, in my view,  
11 would not necessarily be unlawful.

12 Q. But it would be wrong to artificially attempt to prolong  
13 the shock of capture by other means, for example keeping  
14 people in a sense of isolation before they are being  
15 questioned?

16 A. Yes.

17 MR DINGEMANS: Thank you.

18 A. Depending on the operational circumstances, because it  
19 may well be that they have to be kept in isolation  
20 because that's the situation in which they find  
21 themselves.

22 MR DINGEMANS: Thank you.

23 THE CHAIRMAN: Thank you. Mr Garnham?

24 Questions by MR GARNHAM

25 MR GARNHAM: Thank you, Sir.

1           Just two matters. One for the avoidance of doubt,  
2           Brigadier: did anyone at Chicksands ask you to conduct  
3           a legal audit of their training materials.

4   A. No.

5   Q. Or to go through their materials to ensure they complied  
6           with the Geneva Convention?

7   A. No.

8   Q. If someone had said, "Would you mind going through all  
9           our materials and checking it line by line?", what would  
10           you have said?

11   A. I would have said that I don't have the capacity to do  
12           that.

13   Q. Secondly, and finally, you were the first in post in  
14           Chicksands?

15   A. Yes.

16   Q. When you left, did somebody else take over?

17   A. Yes.

18   Q. Is there still some person there?

19   A. The legal support has expanded quite dramatically since  
20           I left. There is now a lieutenant colonel which was the  
21           post I was in, and a major, both at the Chicksands site.  
22           There is shortly to be a lieutenant colonel going into  
23           the DISC, defence intelligence staff, and there is  
24           a major now in one of the operational theatres that  
25           I used to -- or one of the theatres outside the UK --

1           that I used to cover and provide advice in relation to.  
2    Q.   So that which you did in the two-year period is now done  
3           by four lawyers?

4    A.   It will be four lawyers by the end of this year, yes.

5    MR GARNHAM: Thank you very much.

6                           Further questions by MR ELIAS

7    MR ELIAS: Just this, Sir. May we look, please, at  
8           a document in the light of answers that you have given,  
9           MOD028363, please. We have seen it before. I hope you  
10          have, Brigadier. It is S012's email to his troops, as  
11          it were:

12                         "... ministers have now taken a very close interest  
13           in what we teach on the above courses."

14                         When, if you like, in May 2004 hooding was hitting  
15          the press. Do you follow.

16   A.   Yes.

17   Q.   I need not trouble you with the content of it, other  
18          than to go to the penultimate paragraph, if you will:

19                         "As previously briefed..."

20                         Do you see that?

21   A.   Yes.

22   Q.   "... S01 legal [who I take to be a reference to you] has  
23          already reviewed our training material and considers  
24          that it does not infringe anything that it should not,  
25          and is therefore within UK law."

1 A. It certainly wasn't a slavish going through the training  
2 material. We would have had a discussion as to what was  
3 being trained. So I would not -- I certainly would not  
4 have viewed all of the training material.

5 Q. So at best, if you like, you would have been asking  
6 him -- and maybe his instructors -- "What areas are you  
7 teaching?"?

8 A. Yes. Potentially. And ensuring that that was in  
9 accordance with the legal presentation that I made  
10 available to them.

11 Q. So far as he refers to review, that is all that it could  
12 have been?

13 A. Yes, and it may well be that we discussed certain  
14 documents, but I can't remember the content of those  
15 documents now.

16 Q. What, by documents do you mean course material?

17 A. It may well have been course material, yes.

18 MR ELIAS: Thank you.

19 Questions by THE CHAIRMAN

20 THE CHAIRMAN: Could it be that, as I understand what you  
21 were saying, you gave them your presentation telling  
22 them what the law was --

23 A. Yes, sir.

24 THE CHAIRMAN: -- no doubt you would have discussed some of  
25 what they were doing, but you say not everything, is

1           that right?

2    A.   Sorry, I did not quite catch the question.

3    THE CHAIRMAN:  You would, or may, have discussed some of

4           what they were training?

5    A.   Yes.

6    THE CHAIRMAN:  The content of their courses.  But as

7           I understand your evidence, not all of it?

8    A.   No.

9    THE CHAIRMAN:  You regarded it, did you, your job as done,

10           by telling them what your view of the law was?  They

11           then had to apply it to what they were carrying out on

12           their courses?

13   A.   In essence, yes, but there was interaction between us

14           and discussion --

15   THE CHAIRMAN:  That I understand.

16   A.   Yes.

17   THE CHAIRMAN:  The interaction did not go as far as you

18           going through every mortal thing and saying, "You can do

19           this" or, "You can't do that".

20   A.   That would have been numerous box files and no, I didn't

21           do that.

22   THE CHAIRMAN:  One other matter I wanted to ask you.

23           I heard yesterday from S046 that he was instrumental in

24           getting a permanent legal adviser to Chicksands, which

25           I understood to be you.

1 A. No, that's incorrect.

2 THE CHAIRMAN: That's incorrect?

3 A. Well, my understanding, I was present at the meeting  
4 between the director Army Legal Services and the  
5 director intelligence corps, when the creation of this  
6 new post was discussed. And as far as I am concerned,  
7 that was the first time that this was mooted --

8 THE CHAIRMAN: It may be it doesn't matter a lot. But that  
9 was his view and his understanding was that you came  
10 really to help him and his people who are training  
11 interrogation and tactical questioning --

12 A. No.

13 THE CHAIRMAN: I had not quite finished.

14 A. I am sorry, sir, I do apologise.

15 THE CHAIRMAN: And unfortunately you were taken away for  
16 a number of other duties and didn't really have the time  
17 to do what he wanted you to do.

18 I think, leave aside whether it was him, you didn't  
19 have the time to have a full review of everything that  
20 was going on in F Branch?

21 A. That's correct, sir. I should point out, however, I was  
22 on the staff of the director intelligence corps which  
23 was a purely army post.

24 THE CHAIRMAN: Yes.

25 A. And I was not on the staff of the Defence Intelligence

1 and Security Centre. So in many respects I was being  
2 misemployed by trying to help out the training at DISC  
3 because I was actually appointed by the army to look  
4 after the directorate intelligence corps and its army  
5 units as opposed to this tri-service training  
6 establishment.

7 THE CHAIRMAN: Right. Thank you.

8 Well, that is all the questions you are to be asked  
9 which by the Inquiry. I am very grateful to you for  
10 coming to us and assisting me. You are now free to go  
11 with my thanks.

12 A. Thank you.

13 THE CHAIRMAN: We will have a break now of ten minutes.

14 (3.22 pm)

15 (A short break)

16 (3.29 pm)

17 THE CHAIRMAN: Yes, now, we have --

18 MR HALLIDAY: We have Jonathan Thomas, sir.

19 THE CHAIRMAN: There you are, standing up. I am going to  
20 ask that you be sworn.

21 JONATHAN THOMAS (sworn)

22 THE CHAIRMAN: Please sit down, Mr Thomas.

23 A. Thank you, Sir.

24 THE CHAIRMAN: If you place yourself so that you can get  
25 close enough to that microphone to speak into it, then

1 we will all be able to hear. Yes, Mr Halliday.

2 Questions by MR HALLIDAY

3 MR HALLIDAY: Can you state your full name, please.

4 A. Jonathan Paul Thomas.

5 Q. Can you see a red folder to your side?

6 A. I can see that.

7 Q. Could you open that, please. Is your witness statement  
8 to the Inquiry in there?

9 A. It is, sir.

10 Q. Can you turn to the final page, please?

11 A. Yes.

12 Q. Does the version you have in fact bear your signature?

13 A. No, sir.

14 Q. Do you have a pen with you?

15 A. Yes.

16 Q. Have you read the statement recently?

17 A. I have indeed, sir, yes.

18 Q. Is it true to the best of your knowledge and belief?

19 A. It is.

20 Q. Could you please sign the statement.

21 A. Certainly.

22 Q. The chairman has read that statement. I am not going to  
23 ask you about everything that it covers, only some of  
24 the matters in it. You joined the army in October 1991,  
25 is that correct?

1 A. Correct, sir.

2 Q. You were part of the direct intake into the intelligence  
3 corps, is that correct?

4 A. Correct.

5 Q. Did you attend an interrogation course at Chicksands in  
6 November 1997?

7 A. Yes, sir.

8 Q. Some years later, were you posted to F Branch in 2003 as  
9 an instructor?

10 A. Correct.

11 Q. What was your rank at that time?

12 A. Sergeant.

13 Q. Relative to other people at F Branch, how senior or  
14 junior were you then?

15 A. I was the lowest rank there.

16 Q. Did you teach on various courses at F Branch -- without  
17 telling me what they were?

18 A. I did, sir, multiple, yes.

19 Q. Is it right that whilst you spent most of your time  
20 teaching other courses, you did also teach on the  
21 prisoner handling, tactical questioning and  
22 interrogation courses?

23 A. Correct, sir.

24 Q. Just answering yes or no, did you have any operational  
25 experience of tactical questioning and interrogation

1           when you joined F Branch in 2003?

2    A.   No, sir.

3    Q.   Before you started instructing in those subjects --

4           tactical questioning and interrogation -- in 2003, did

5           you go through some period of instructor training?

6    A.   Not instructor training.  I was an observer on all

7           courses that F Branch ran prior to instructing on the

8           courses.

9    Q.   For how long were you an observer prior to commencing

10           work as an instructor?

11   A.   Recollection, it would have been one or two courses.

12   Q.   So you had done a course yourself in interrogation

13           almost six years previously.  Then you observed just one

14           or two courses and then you became an instructor

15           yourself?

16   A.   Yes, sir.

17   Q.   Could you confirm when you left the army, please?

18   A.   In July 2004.

19   Q.   Did you continue to work as an instructor at Chicksands

20           between April 2003 and leaving the army in July 2004?

21   A.   I did, sir, amongst other duties and other deployments.

22   Q.   Generally speaking, were there significant differences

23           between the content of the interrogation course you did

24           in 1997 and the interrogation courses you helped to

25           teach in 2003?

1 A. Difficult one to answer, because of the course in 1997.  
2 It was familiar to me when I returned in 2003 but to say  
3 that they were exactly similar, I can't recall.

4 Q. Are you familiar with a phrase, the "shock of capture"?  
5 A. Yes, sir.

6 Q. What does that mean to you?  
7 A. A big grey area which is a condition that starts when  
8 a prisoner is captured. It's a mindset, if you like,  
9 from going from the safe and secure environment of his  
10 own troops, his own colleagues, to that of then being  
11 captured and detained.

12 Q. How did you become aware of that term?  
13 A. From the course in 1997, I believe.

14 Q. Was it something which was also mentioned when you were  
15 teaching in 2003?  
16 A. Yes, sir.

17 Q. In your 1997 course or in the teach(?) as you taught in  
18 2003, was it taught that the shock of capture was  
19 something you could use or exploit in order to obtain  
20 information from a prisoner?  
21 A. You could certainly exploit from it, but it's a natural  
22 condition which occurs when the prisoner is captured.

23 Q. Were you taught that you could do anything to maintain  
24 or prolong that natural condition?  
25 A. The system itself maintains the shock of capture.

1 Q. What do you mean by the "system"?

2 A. Well, the fact that the prisoner himself is no longer  
3 free, the prisoner is controlled.

4 Q. Is there anything apart from the loss of liberty or the  
5 controlled environment which would lead to the shock of  
6 capture being maintained?

7 A. Just the system itself with his own loneliness, his own  
8 thoughts, the fear of the unknown.

9 Q. What about the term "conditioning"; are you familiar  
10 with that term?

11 A. I am, sir.

12 Q. What does that mean to you?

13 A. Conditioning again is, in my opinion, similar to the  
14 shock of capture. It's a big -- big area, but the fact  
15 that a prisoner is being compliant with the detaining  
16 force is a form of conditioning.

17 Q. Are there any other forms of conditioning apart from  
18 being compliant?

19 A. The main one being compliant.

20 Q. Did you mention the word "conditioning" when you were  
21 teaching your courses in 2003?

22 A. I don't recall.

23 Q. Do you recall the term being mentioned by other  
24 instructors in 2003?

25 A. Again, I don't recall specifics on who may have

1 mentioned it.

2 Q. Can we have MOD015498 on screen.

3 Just picking up the text halfway through the second  
4 paragraph, it says this:

5 "Subjects may be blindfolded when delivered by the  
6 guards, but not necessarily, this being dependent on the  
7 circumstances under which the questioning is being  
8 carried out. The questioner should carry out a visual  
9 scrutiny of the subject; this visual scrutiny need only  
10 last a short time. The questioner should look at the  
11 subject's body language/posture et cetera so as to  
12 assess how the subject is reacting to the conditioning  
13 process."

14 First of all, do you recall this document being used  
15 on the courses you taught?

16 A. I don't recall this one, sir, no.

17 Q. Do you recall the word "conditioning" being used in that  
18 kind of context?

19 A. Yes, I believe so.

20 Q. What did it mean?

21 A. It's the whole process of moving the prisoner from the  
22 detention room to the interrogation room is done by --  
23 by commands, of which the prisoner is compliant to.

24 Q. Was it a term which was given a clear definition for the  
25 students who attended these courses?

1 A. My personal opinion, I don't believe so, sir, no.

2 Q. Do you think there was a risk of the word "conditioning"

3 being misinterpreted by some students?

4 A. No, I'm not saying that. What I will say is that the

5 terminology "conditioning" can cover such a vast area.

6 Q. In the tactical questioning/interrogation courses you

7 helped to teach, was anything taught about depriving

8 prisoners of their sight?

9 A. Yes.

10 Q. What was taught about that?

11 A. The prisoner was deprived of sight when being moved

12 between sensitive areas and to stop prisoners

13 communicating with one another.

14 Q. Why was it necessary to prevent communication between

15 prisoners?

16 A. Because prisoners don't need to speak to each other --

17 prisoners are prisoners. They can't concoct cover

18 stories, if they can't talk to one another.

19 Q. So if prisoners were kept together in a detention cell

20 prior to their questioning, was it necessary to keep

21 them deprived of their sight during that period of time?

22 A. I believe so, sir, yes.

23 Q. Was it mentioned that a side benefit of sight

24 deprivation might be maintaining the shock of capture?

25 A. I do not believe that that was mentioned. But it would

1 be a by-product.

2 Q. You don't recall any discussion about that by-product at  
3 all, though?

4 A. Sorry, sir, no.

5 Q. Do you recall it being part of the teaching that when  
6 the prisoner was brought into the room with the tactical  
7 questioner, with his blindfold on, the tactical  
8 questioner could scrutinise him for a period in order to  
9 put more pressure on him while the blindfold remained  
10 on?

11 A. I don't think it was done to put pressure on the  
12 prisoner. It was done for the interrogator or the  
13 tactical questioner to make an assessment of the  
14 person's body language.

15 Q. You don't recall any mention of another purpose of that  
16 being to put pressure on the prisoner?

17 A. I don't recall that, sir, no.

18 Q. What means were used to deprive prisoners of their  
19 sight?

20 A. In F Branch? Blindfolds or blacked-out goggles.

21 Q. Was anything said about whether alternative means could  
22 be used?

23 A. At the school we used blindfolds and the blacked-out  
24 goggles.

25 Q. But was anything said about whether other types of sight

1 deprivation could be used? If it wasn't, say no.

2 A. I don't recall specifics.

3 Q. Let me ask about one specific: was anything said about  
4 whether sandbags could or could not be used to maintain  
5 sight deprivation?

6 A. Not as part of the training syllabus as far as I can  
7 recall.

8 Q. You say "as far as you can recall"; do you have a clear  
9 recollection that there was no mention of sandbags or do  
10 you simply not remember?

11 A. I don't remember, but I'm erring on the side that  
12 sandbags was not mentioned in any of our courses.  
13 However, some of the students may have mentioned  
14 sandbags.

15 Q. When you say you err on that side, does that mean that  
16 your best recollection is that nothing was said about  
17 sandbags being prohibited from use?

18 A. No.

19 Q. Nothing was said about that, so far as you remember?

20 A. As far as I remember.

21 Q. You say in your statement that in your general training  
22 you were taught that whichever way you deprived  
23 a prisoner of his sight, you were not to cover his nose  
24 or his mouth?

25 A. Yes.

1 Q. You remember that now, do you?

2 A. Yes, sir.

3 Q. When were you taught that?

4 A. Because you were depriving the prisoner of sight and  
5 nothing else.

6 Q. But do you recall when you were told that mouths and  
7 noses of prisoners were not to be covered?

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

9 Q. Was it at Chicksands or in other training that you  
10 learnt that?

11 A. It would have been at Chicksands.

12 Q. Is it possible that that is a message which was  
13 introduced in late 2003 or early 2004, and had not been  
14 part of your earlier training?

15 A. No, as far as I can recall, that was there from when  
16 I arrived in F Branch, which was early 2003.

17 Q. In your witness statement you did say that this  
18 particular message -- not covering mouths or noses --  
19 was something you learnt in your -- the phrase you used  
20 was "general training". What did you mean by the phrase  
21 "general training" there?

22 A. If it was general training, may have included the law of  
23 armed conflict or the Geneva Convention covered on  
24 annual training -- annual training that was required in  
25 the military.

1 Q. But that annual training was distinct from your  
2 Chicksands training, was it not?

3 A. Correct, sir, yes.

4 Q. So are you saying that this is something you learnt in  
5 your annual law of armed conflict training or in your  
6 Chicksands training?

7 A. To be honest, one -- either/or, but I would think it  
8 would have been in Chicksands when I arrived there in  
9 either 1997 on the course, when we were dealing  
10 specifically with handling prisoners, or in 2003.

11 Q. Was anything taught on the courses in 2003 about stress  
12 positions?

13 A. No, sir.

14 Q. Nothing was said about them being prohibited?

15 A. F Branch didn't cover stress positions.

16 Q. Did you give or receive any training about the use of  
17 white noise or sleep deprivation?

18 A. Again, F Branch didn't cover sleep deprivation or white  
19 noise.

20 Q. Again, to make it clear, it wasn't stated expressly that  
21 these activities were prohibited, is that right?

22 A. Not that I recall. But what I know is we didn't cover  
23 white noise.

24 Q. Or sleep deprivation?

25 A. Or sleep deprivation, sorry, yes.

1 Q. Was anything said on the courses about who was  
2 responsible for the welfare of prisoners?  
3 A. The guard force, sir.  
4 THE CHAIRMAN: When you say the simple word "guard force" or  
5 two words, do you mean you were taught about the  
6 responsibility of the guard force?  
7 A. No, sir, we wouldn't cover the speaking to the guard  
8 force, but the capturing force would be the ones that  
9 would hold the prisoners prior to the TQ or the tactical  
10 questioner conducting his business, and prior to the  
11 prisoners being moved on through the chain to the  
12 interrogation -- interrogators.  
13 THE CHAIRMAN: All right.  
14 MR HALLIDAY: So you were not told anything about how to  
15 brief the guard force?  
16 A. Not that I recall, sir, no.  
17 Q. Were you told that students as tactical questioners or  
18 interrogators had any responsibility for the welfare of  
19 prisoners?  
20 A. Sorry, can you --  
21 Q. Were you told that interrogators or tactical questioners  
22 had any responsibility for the welfare of prisoners?  
23 A. When in -- when conducting their business with the  
24 prisoners, then the responsibility for the prisoners was  
25 with the interrogators, or the TQers. But outside of

1 the interrogation room or the tactical questioning area,  
2 then responsibility would be then handed back to the  
3 guard force.

4 Q. That's something that was said quite clearly on the  
5 course, is it?

6 A. From recollection, I believe so, sir, yes.

7 Q. Do you remember something called the harsh technique  
8 being taught?

9 A. I do, sir, yes.

10 Q. On these courses. What did that consist of?

11 A. Normally a lot of shouting and sometimes swearing.

12 Q. Did it include insults?

13 A. Sometimes, sir, yes.

14 Q. What sort of insults, without being shy?

15 A. The normal one was, you know, to insult them  
16 professionally, you know, that they weren't that good at  
17 their job because they were standing there in front of  
18 us. They were not that good because they have been  
19 captured. That kind of scenario.

20 Q. Was it ever taught that the harsh technique could  
21 include threats?

22 A. If they were credible threats.

23 Q. What do you mean by credible threats?

24 A. Threats that could be carried out.

25 Q. For example?

1 A. "You are going to stay here for a long time. If you  
2 don't start cooperating you will stay here for a long  
3 time."  
4 Q. Do you recall a training video which used a fictitious  
5 people called the Albans?  
6 A. I don't, sir, no.  
7 Q. You don't recall a video which exhibited the harsh  
8 technique where the questioner was shown saying:  
9 "If you don't answer my questions, you will be  
10 handed over to the Albans who are waiting outside. Of  
11 course I've got no idea what they will do to you, but  
12 I think you do."  
13 A. I don't recall that, sir, no.  
14 Q. Do you recall implied threats of that sort being part of  
15 the harsh technique?  
16 A. Specifically, no, sir, I don't.  
17 Q. Do you know who I mean when I refer to S011?  
18 A. Yes, sir, yes.  
19 Q. S011 says that he, Sergeant Neil McKinnon and you  
20 attended Catterick to give a one-day introduction to  
21 tactical questioning and prisoner handling in June 2003?  
22 A. Yes, sir, those two conducted the course and I observed  
23 the course.  
24 Q. So he is right about that much, is he?  
25 A. Yes, sir.

1 Q. Do you recall the contents of that particular course?  
2 A. I don't, sir, not at all.  
3 Q. Let me try you on some specific matters. Do you recall  
4 whether S011 or Sergeant McKinnon told the troops  
5 attending that course that firm but fair handling was  
6 necessary in order to maintain the shock of capture?  
7 A. I do not recall it at all, sir, no.  
8 Q. Do you recall anything about sight deprivation being  
9 mentioned on that course?  
10 A. To be honest, I recall nothing about that particular  
11 course.  
12 Q. You do recall attending Catterick --  
13 A. Yes, I do.  
14 Q. -- on that occasion?  
15 A. Yes.  
16 Q. Doing the best you can to cast your mind back to that  
17 occasion, do you recall anything being mentioned about  
18 sleep deprivation?  
19 A. No, sir. It was not too long after that course that my  
20 son was born, so my mind was --  
21 Q. You had other priorities?  
22 A. Yes.  
23 Q. You are not the first witness to say that.  
24 Do you recall any discussion about the Baha Mousa  
25 case in either late 2003 or early 2004?

1 A. No, sir.

2 Q. Not mentioned at all at Chicksands?

3 A. I don't remember any conversations.

4 Q. Do you remember more general concerns about some of the  
5 practices that had been reported from operations in  
6 Iraq?

7 A. No, sir.

8 Q. Do you recall any change to teaching materials around  
9 this time?

10 A. No, sir.

11 Q. It may jog your memory if I take you to an email. It is  
12 MOD028363. It is an email from the OC of F Branch,  
13 S012. You know who that is?

14 A. Very well, sir, yes.

15 Q. Sent to F Branch so that would have included you, would  
16 it not?

17 A. Yes, sir, yes.

18 Q. On 11 May 2004. In his email he said the following:

19 "As you are no doubt aware, Ministers have now taken  
20 a very close interest in what we teach on the above  
21 courses. At this moment they and 3 star types are being  
22 briefed based on numerous documents that I have prepared  
23 and sent, both to S01 Legal, ADI and most recently to CO  
24 JSIO answering questions ref how we teach and what we  
25 teach, specifically ref hooding (which I know we teach

1 not to do!!). To date we appear to be holding our own  
2 however, the questions may well become much more  
3 searching as this progresses."

4 Do you recall receiving this email?

5 A. I don't recall receiving it, sir, but from the  
6 distribution list you can see it's F Branch so that  
7 would have been sent to me.

8 Q. Do you recall this episode when S012 told you and others  
9 that lots of questions were being asked about the  
10 training at Chicksands?

11 A. I do not recall it, sir, no.

12 Q. You don't recall being put under any pressure to toe  
13 a party line or anything like that, do you?

14 A. No, but as far as the chain of command for F Branch  
15 where S012 was, I was at the bottom and there was many  
16 people in between the two of us.

17 MR HALLIDAY: Thank you.

18 THE CHAIRMAN: Yes. If would you just wait there, there  
19 will be one or two questions, I expect.

20 Mr Friedman?

21 Questions by MR FRIEDMAN

22 MR FRIEDMAN: Thank you very much.

23 Can I just start by clarifying the dates. It is  
24 paragraph 5 of your statement.

25 A. Yes, sir.

1 Q. It just says that you are posted to F Branch in April  
2 2003 as an instructor. Today in the evidence you  
3 referred to starting there early in 2003. I just want  
4 to check, is April as far as you are concerned, that is  
5 the start date, or is there any doubt about it being  
6 earlier than that?

7 A. No, as far as I'm concerned it's April, sir, yes.

8 Q. The chairman knows from other evidence that all of the  
9 key instructors -- most of the key instructors -- at  
10 F Branch had gone out to Iraq on Operation Telic 1, and  
11 they would return in May. They were out from about  
12 March to May.

13 So when you first started, do you remember them  
14 being away on Telic 1?

15 A. I do, sir. I remember them being away, sir, yes.

16 THE CHAIRMAN: How many were left behind?

17 A. I believe, Sir, it was just myself and S S004.

18 THE CHAIRMAN: Thank you.

19 MR FRIEDMAN: The chairman has heard evidence from S004 that  
20 he came back from deployment and he was on enforced  
21 relaxation and downtime and therefore there were no  
22 courses until the rest of the F Branch instructors  
23 returned from Iraq. Does that accord with your  
24 recollection?

25 A. It does, sir, yes.

1 Q. So then you would have sat through your two courses to  
2 train up to be an instructor, is that right?

3 A. From memory, sir, yes, that's correct.

4 Q. And then taken up yourself.

5 In your time of sitting through those courses, and  
6 then being an instructor until you left in July 2004,  
7 was there one instructor in particular who through  
8 experience and through his effectiveness as an  
9 instructor stood out in F Branch?

10 A. Yes, sir. One or two, I believe.

11 Q. Yes. Looking at the cipher list, who would there be?

12 A. S049.

13 Q. Yes.

14 A. And S011.

15 Q. Right?

16 A. Along with Sergeant McKinnon.

17 Q. Sergeant McKinnon. In terms of S011 and S049 who the  
18 Inquiry has heard from, did they have different  
19 approaches to the discipline?

20 A. Not that I can remember, sir.

21 Q. S011, we know, had had an enormous amount of experience.  
22 Did he tell anecdotes about his experience in your  
23 presence?

24 A. I do not recall them, sir.

25 Q. Did you watch him train when you sat in?

1 A. I would have done, sir, yes.

2 Q. Now, you learnt your trade to train and indeed trained  
3 after people had got experience from Operation Telic and  
4 Iraq. Yes?

5 A. Yes, sir.

6 Q. Was anything said about that experience, that in the  
7 training, one had to factor in that Iraqis had been used  
8 to very brutal treatment from Saddam Hussein. Was  
9 anything said about that?

10 A. I don't recall anything like that, sir, no.

11 Q. And nothing about the fact that one was learning  
12 techniques that could be deployed on -- whether it was  
13 Iraqis or Afghan people -- and those people because of  
14 their background might be very resilient to these  
15 techniques?

16 A. I certainly don't remember a conversation like that,  
17 sir, no.

18 Q. The harsh technique and insults, you gave an answer that  
19 the ideal insult would be about professional capability,  
20 because the person had been caught and therefore failed  
21 in a sense, yes?

22 A. I said that was a common one, sir, yes.

23 Q. Yes. Just in terms of training people who might go out  
24 and have to interrogate civilians, was there a sense  
25 that people were going to go to Iraq where the British

1 Army was in occupation and not in conventional warfare,  
2 and how the technique might have to apply differently to  
3 civilians as opposed to enemy soldiers?

4 A. I don't recall that, sir, no. A discussion or anything.

5 Q. But in terms of the limitation on insults, is it fair to  
6 say that the only limitation is the imagination of the  
7 person asking the questions and what he or she thinks is  
8 going to be effective to get life-saving information?

9 A. I think that's fair based on the individual, yes.

10 Q. Yes.

11 The email that you were shown after Baha Mousa had  
12 died that S012 sent round. I know you don't recall it,  
13 but during that period between September 2003 when  
14 Baha Mousa dies and you leaving in July 2004, was there  
15 a fear being expressed by any of your colleagues that  
16 Chicksands might get hung out to dry for political  
17 reasons because big stories were coming out about  
18 detainees being hooded and the like?

19 THE CHAIRMAN: Never mind the political reasons, and the  
20 rest of it. Was there a feeling that Chicksands was  
21 going to be hung out to dry?

22 A. I don't believe so, Sir.

23 MR FRIEDMAN: You left F Branch in 2004. Did you leave the  
24 army in 2004 as well?

25 A. I did, sir, yes.

1 Q. That experience from April 2003 to July 2004, is there  
2 anything then or in hindsight since that you feel  
3 a concern about what was being taught?

4 A. Sorry, can you -- rephrase that, please?

5 Q. Yes. Whether at the time you were at F Branch or since,  
6 looking back, is there anything that you feel a concern  
7 about in terms of what was being taught?

8 A. No, sir.

9 MR FRIEDMAN: Thank you.

10 THE CHAIRMAN: Yes. Mr Dingemans?

11 Questions by MR DINGEMANS

12 MR DINGEMANS: May I just ask you about your understanding  
13 of the harsh technique and the threats.

14 First of all, the threats couldn't be carried out,  
15 could they, that you were making to the prisoners?

16 Everyone knew that?

17 A. Depending on what the threat was, sir, yes.

18 Q. But the threats had to be credible in the sense that the  
19 prisoner had to believe that you could carry them out?

20 A. No, when I mean credible, the interrogator or TQer must  
21 remain credible at all times, and if he was to threaten  
22 something that could not or was not carried out, then  
23 his credibility would disappear.

24 Q. Is this right, that threats could be implicit in the  
25 sense that you could have a person standing in the

1 corner of a room with a baseball bat, which is an  
2 implicit threat but was not actually carried out?

3 A. If that was to be the case, sir, I never observed any  
4 such threats.

5 Q. Could anyone who attended your courses or the courses  
6 you observed come away with that message?

7 A. I don't believe so, sir, no.

8 THE CHAIRMAN: Mr Ashley?

9 Questions by MR ASHLEY

10 MR ASHLEY: Do I understand it correctly that you did the  
11 course yourself on one occasion some years before you  
12 went on to being an instructor at Chicksands?

13 A. Yes, sir.

14 Q. To become an instructor, you completed two courses and  
15 therefore observed a number of the other instructors  
16 carrying out the course?

17 A. Yes, sir.

18 Q. As a result of that, you are clear about the fact that  
19 nothing was said about stress positions?

20 A. Sir.

21 Q. Sleep deprivation?

22 A. Sir.

23 Q. The use of sandbags or instructing the guards, speaking  
24 to the guards?

25 A. Not that I can recall, sir, yes.

1 Q. Insofar as the harsh technique is concerned, can you  
2 recall the way in which that was taught? Was it by  
3 demonstration of using instructors, or was there a video  
4 of some description that was shown?

5 A. From memory, sir, I believe it was a bit of both where  
6 the instructors could demonstrate it themselves and  
7 we -- as far as I can remember, we had videos of other  
8 students conducting harshes from previous courses.

9 Q. Is it right that in the video and indeed at Chicksands,  
10 there is a lot of damage to the walls inside the  
11 interrogation cells where furniture had been thrown  
12 around, is that right?

13 A. There was certainly damage to the walls inside the  
14 rooms, sir. I couldn't say that it was all caused due  
15 to furniture.

16 Q. No, but do you recall a video where a chair was thrown?  
17 Not at a detainee, but do you recall incidents of that  
18 nature being allowed, so long as there was no physical  
19 contact with the detainee?

20 A. As long as it came nowhere near the character player,  
21 the role-player, yes, sir.

22 Q. So far as threats, can I ask you this -- not really so  
23 much as a threat, but presumably it was perfectly  
24 legitimate to point out the factual situation to  
25 a detainee, "If you don't answer this question, we could

1 keep you here longer", and by way of an example for  
2 instance, "Your family will be left alone" in what was  
3 quite a dangerous place as Iraq was at that point in  
4 time?

5 A. Yes, sir, agreed.

6 MR ASHLEY: Thank you very much.

7 THE CHAIRMAN: Yes, Ms Cross?

8 Questions by MS CROSS

9 MS CROSS: Thank you sir. Just a few questions, please.

10 We heard that you said you attended the course in  
11 Catterick as an observer. Was that one of the courses  
12 you attended as an observer prior to becoming an  
13 instructor?

14 A. Yes, ma'am.

15 Q. We have also heard evidence in relation to threats.

16 Could you threaten violence?

17 A. No, ma'am.

18 Q. Could you imply the threat of violence?

19 A. I don't recall or believe you could, ma'am, no.

20 Q. In terms of stress positions, would you consider stress  
21 positions to be legitimate?

22 A. No, ma'am.

23 Q. What about sleep deprivation?

24 A. No, ma'am.

25 Q. Finally, in terms of the percentage of time you actually

1 spent teaching on the prisoner handling tactical  
2 questioning course, is it possible to give an indication  
3 of how much time you actually were involved in the  
4 course?

5 A. I was predominantly involved in other courses at  
6 F Branch. But I would say 10, 15 per cent maybe on the  
7 interrogation, PH&TQ courses.

8 MS CROSS: Thank you, sir.

9 MR HALLIDAY: No more questions, Sir.

10 Questions by THE CHAIRMAN

11 THE CHAIRMAN: Mr Dingemans, the gentleman over there, asked  
12 you the question about the baseball bat; do you remember  
13 that?

14 A. Yes, Sir.

15 THE CHAIRMAN: Let me put to you precisely what, as  
16 I understand it, one of our witnesses said would be  
17 perfectly all right. You say whether you agree or not.  
18 He said you were entitled to make an implicit threat;  
19 for instance, you could have standing by you a man with  
20 a baseball bat which has its obvious implication.

21 Was that something that was permissible under the  
22 teaching at Chicksands?

23 A. I don't recall anything to do with individuals with  
24 baseball bats on any of the courses --

25 THE CHAIRMAN: No, I don't suppose you do. But would you

1           have regarded that as a permissible implicit threat that  
2           someone could use from what you were teaching or had  
3           been taught yourself?

4    A.   Personally as an instructor I would not allow that, Sir.

5    THE CHAIRMAN:   Would you not allow it as an instructor?

6    A.   No, Sir, because you are assessing the students on their  
7           tactical questioning and interrogation methods through  
8           questioning to extract information.

9    THE CHAIRMAN:   Yes.   Would you have positively taught that  
10           that was wrong?

11   A.   I can't say from memory that I would have thought that  
12           was wrong, but it wouldn't have -- certainly if I was  
13           monitoring an exercise, that would not have happened.

14   THE CHAIRMAN:   You would have said no?

15   A.   Absolutely.

16   THE CHAIRMAN:   All right, thank you.

17           Well, that's all the questions, I think we have for  
18           you in the Inquiry.  Thank you very much for coming  
19           along.  You are free to go now.  And you go with my  
20           thanks.

21   A.   Thank you, Sir.

22   THE CHAIRMAN:   We have one or two odd things to do when you  
23           leave, so by all means get up and leave the hearing.

24   A.   Thank you, sir.

25   THE CHAIRMAN:   Thank you.  I thought you had forgotten the

1 read-only ones, Mr Halliday.

2 MR HALLIDAY: No, Sir. Sir, there are four witnesses today  
3 whose statements are to be read in.

4 THE CHAIRMAN: Yes.

5 Summary of witness statements by MR HALLIDAY

6 Summary of witness statement of ANYA BEEFORTH

7 MR HALLIDAY: The first is Anya Beeforth. From 2002 to 2004  
8 she was an instructor on the All Arms Regimental Police  
9 course based at the Military Corrective Training Centre.  
10 She has provided a witness statement to the Inquiry in  
11 relation to the training given to provost staff working  
12 in a guard room within a licensed detention facility.

13 She tells the Inquiry that the training programme  
14 would have been delivered with reference to JSP 469,  
15 entitled "Humane Treatment of Detainees", and the  
16 Imprisonment and Detention Rules 1979. The course  
17 contained a control and restraint component, although  
18 this was delivered by an external instructor. She says  
19 that the course emphasised that the use of force was an  
20 option of last resort, had to be reasonable, and only  
21 used in order to achieve control. The course did not  
22 include any teaching on the use or prohibition of  
23 plasticuffs, hooding, stress positions or "conditioning"  
24 techniques. She also states that the course did not  
25 include any training regarding the risks of positional

1 asphyxia.

2 Witness statement of ANYA BEEFORTH

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Witness Name: Anya Beeforth

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Statement No: 1

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Exhibits: None

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Dated: 10 June 2009

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THE BAHA MOUSA PUBLIC INQUIRY

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Witness Statement of Anya Beeforth

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1 I, Anya Beeforth will say as follows:

2 I make this statement in response to the Inquiry's  
3 Rule 9 Request dated 1 May 2009. I have read this  
4 Request, and I seek here to cover everything that it  
5 raises to the best of my ability and recollection.  
6 I have also been shown and have read a copy of my  
7 previous statement dated 2 October 2003 [MOD000344] and  
8 the Exhibit to that statement, an extract from  
9 a power-point program [MOD015400].

10 Rank and day-to-day role since April 2002

11 1. From April 2002 to approximately April 2004  
12 I was based at the Military Correctly Training Centre  
13 ('MCTC') in Colchester as an Instructor on the All Arms  
14 Regimental Police Course ('RPC') and Security Senior  
15 Non-Commissioned Officer ('SNCO'). My rank during this  
16 period was Sergeant.

17 2. My day-to-day role as an Instructor at the MCTC  
18 was teaching the RPC, in conjunction with another  
19 Instructor, who I remember being called 'Billy', but  
20 whose full name I cannot now recall. We would alternate  
21 our duties between teaching the RPC, and overseeing  
22 security at the gate of the training compound.

23 3. In approximately April 2004, I moved to the Army  
24 Welfare Service. I completed my initial training (2  
25 month class-room training) at Portsmouth, and then moved

1           into a 4 month training placement working as  
2           a counsellor in Deepcut. From that point, my role was  
3           as a Social and Occupational Welfare Worker with the  
4           Army Welfare Service. This essentially involves  
5           providing counselling services to servicemen and women,  
6           as well as civilians working for the Army, covering  
7           a range of issues such as bereavement counselling,  
8           marriage guidance, housing issues and debt guidance.  
9           Towards the end of 2004, I was posted to Windsor, in the  
10          same role.

11                 4. In May 2005 I was posted to Germany, where  
12           I remain currently. I am continuing in my role as an  
13           Army Welfare Worker. In April 2007, I was promoted to  
14           the rank of Staff Sergeant, which is my current rank.

15                 Training on the RPC prior to September 2003

16                 5. Because I stopped teaching at the MCTC over  
17           5 years ago, my recollection of the details of the RPC  
18           is now very vague. However, I am sure that documents  
19           could be obtained directly from the MCTC, which would  
20           confirm the precise details of the course content that  
21           was taught at that time.

22                 6. I recall that the RPC was a seven day course run  
23           in a classroom in the training wing at the MCTC in  
24           Colchester. I believe that we ran on average  
25           approximately two courses a month. The RPC was

1 basically for anyone working in a guardroom with  
2 a licensed detention facility, regardless of rank. We  
3 therefore dealt primarily with Provost staff, both  
4 Sergeants and Corporals, however we also sometimes had  
5 specific guardroom staff. We would have approximately  
6 15 to 20 people on any given course.

7 7. The RPC was lecture-based, but there was quite  
8 a bit of practical content as well. I would estimate  
9 that we spent 60% of the time doing theory in the  
10 classroom, and 40% of the time doing practical work. We  
11 tried to cover all aspects of detaining a person,  
12 including booking someone into the facility, searching  
13 procedures, interviewing (regarding welfare issues),  
14 briefing them (on matters such as visitation rights,  
15 expected behaviour, day-to-day routine and availability  
16 of medical, dental and welfare services) and keeping  
17 them in detention. The practical work was simply  
18 practising the theory, so for example, we would run  
19 a mock booking in of a person and practice the process,  
20 including searching them, briefing them and so forth.

21 8. The course content was strictly set by  
22 a PowerPoint program which we presented to the class and  
23 simply worked through. This program was compiled in  
24 conjunction with JSP 469 "Humane Treatment of  
25 Detainees", and the Imprisonment and Detention Rules

1 1979.

2 9. The person with the control over the PowerPoint  
3 presentation and content of the RPC in general was the  
4 Inspector of Military Establishments (IME). This was an  
5 experienced and senior person from the MCTC. However, I  
6 cannot now recall the name of the IME who was in charge  
7 while I was there. I recall that if a question came  
8 from higher level about course content, or if there were  
9 any legal issues or law changes that might impact the  
10 course content, the IME would receive them and then  
11 contact us to advise us of any changes.

12 10. I recall that as instructors we were not  
13 allowed to deviate from the PowerPoint program at all.  
14 I remember that the only time I suggested an update to  
15 the PowerPoint program was shortly after I had taken  
16 over as an instructor on the RPC, when I felt that some  
17 of the slides had spelling errors, and I amended these  
18 with the consent of the IME. However, I never suggested  
19 any change to the fundamental content of the PowerPoint  
20 program or the RPC.

21 11. As part of the RPC, there was a control and  
22 restraint ('C&R') component, but this was taught by  
23 a different, specially-trained instructor, who would  
24 come in and visit the class. Billy or I would sometimes  
25 remain and watch the instructor, but we would not

1 otherwise be involved in this aspect of the course.

2 I therefore cannot now remember very much about this  
3 part of the course, such as the identity of the  
4 instructor, or the content of the C&R component.

5 12. In my view, the RPC was quite clear on the use  
6 of force, as demonstrated by the PowerPoint slide on the  
7 use of force to which I have previously referred  
8 [MOD015400]. The course emphasised that the use of  
9 force had to be justified at all times; for example, it  
10 must be the option of last resort and be reasonable  
11 force, and only be used in order to achieve control.  
12 The PowerPoint slide clearly states that if the force  
13 does not stop once control is achieved, it becomes  
14 excessive and therefore amounts to torture.

15 13. Aside from this guidance about only using  
16 reasonable force as a last resort and only for as long  
17 as necessary, nothing was taught in the RPC in relation  
18 to the use or prohibition of plasticuffs, hooding,  
19 stress positions, 'conditioning' or 'shock of capture'.  
20 I do not recall these phrases even being mentioned in  
21 the RPC PowerPoint program.

22 14. The RPC did not include any training regarding  
23 the risks of positional asphyxia or other matters  
24 relating to a prisoner's breathing. I was not involved  
25 in determining the content of the RPC and do not know

1           whether consideration was ever given to including  
2           training on positional asphyxia in the course.  However,  
3           I believe it was probably not included, because this  
4           would be more of a First Aid issue.  All soldiers have  
5           to complete annual training tests known as ITDs, which  
6           include a module on First Aid.  I do not think that this  
7           module specifically covers the issue of positional  
8           asphyxia, but it does cover general airway management  
9           training and dealing with unresponsive people by way of  
10          CPR and so forth.

11                 15.  I have been asked whether Provost Sergeants  
12          undertook any additional training to that taken by  
13          Provost Corporals.  I am unable to comment on any  
14          training outside the RPC which I taught, but (as stated  
15          above), with regard to the RPC, all ranks sat the same  
16          course, and there was no separate training for Sergeants  
17          or Corporals.

18                 16.  I have also been asked whether the RPC course  
19          at MCTC has changed in any respect since September 2003.  
20          However, I left the MCTC in April 2004, and I therefore  
21          have no knowledge of what has been taught there since  
22          that time.  I cannot recall there being any changes to  
23          the course for the period September 2003 - April 2004.

24                 17.  I am not aware of any training being given by  
25          members of the MCTC as part of pre-deployment for

1 OP TELIC II in 2003, but I doubt that this would have  
2 happened, as the MCTC was generally never involved in  
3 pre-deployment training.

4 My own training and qualifications

5 18. As to my qualifications to teach the RPC, prior  
6 to joining the MCTC I was promoted to the rank of SNCO.  
7 In order to reach this rank you have to complete  
8 a number of courses including Basic Instruction  
9 Technique training, which is essentially teaching  
10 skills. This gave me the general skills required to  
11 present a class or lesson to a group of people. I then  
12 sat the RPC myself, in order to become familiar with the  
13 content, and I sat and passed the test for Regimental  
14 Police candidates. I then taught the course myself,  
15 initially with a period of overlap from the departing  
16 instructor, so that I could have some guidance if  
17 required.

18 19. As to my own training in the subjects covered  
19 by the RPC, I was a member of the Royal Military Police  
20 (RMP) prior to joining the MCTC, and therefore undertook  
21 training and refresher courses in arrest and C&R  
22 techniques as part of that role. I cannot now remember  
23 what this training involved, but I recall that it was  
24 largely consistent with the RPC training, with the  
25 emphasis very much on justifying any use of force. Upon

1 joining the MCTC, I remember that I received some  
2 additional training in C&R techniques, focussed on  
3 controlling without injuring, and the use of force,  
4 which was in line with the training I'd received with  
5 the RMP and with the training I later gave during the  
6 RPC. As stated above, I also completed the RPC myself  
7 before moving on to teach it.

8 20. I have never received or given any training in  
9 relation to the use of hoods or plasticuffs during my  
10 career and, as stated above, this is certainly not  
11 covered in the RPC. I received training and refreshers  
12 in the use of handcuffs with my RMP training, because  
13 sometimes they are necessary when arresting people.  
14 I used them on occasion as an RMP, and I remember that  
15 at the MCTC they were available for use (we had to sign  
16 out any handcuffs being used). However, I never  
17 actually used them. Beyond that, I cannot recall the  
18 details of any training or use of handcuffs that I have  
19 received. We did not teach anything about the use of  
20 handcuffs on the RPC, unless this was covered under the  
21 C&R component, which was taught by the separate  
22 instructor and which I cannot now remember.

23 21. I have never received or given any training in  
24 relation to 'conditioning'. I am aware that  
25 conditioning means treating a person or animal in

1 a certain manner in order to make them cooperate with  
2 you. However, I only have this understanding based on  
3 my counselling training, when we used to do a great deal  
4 of reading and research into past observations and  
5 experiments of human and animal behaviour. I otherwise  
6 have no experience of conditioning and have never seen  
7 it in my military career or taught it as part of the  
8 RPC.

9 22. I believe that 'shock of capture' refers to  
10 understanding what a person feels after they have been  
11 captured. As explained above, all soldiers undergo  
12 regular ITD training and these include courses on the  
13 Geneva Convention, but I am not sure whether this  
14 includes anything about shock of capture. I cannot  
15 remember ever receiving any training in relation to  
16 shock of capture and it was not taught as part of the  
17 RPC, as I have previously stated.

18 Statement of Truth

19 I believe the facts stated in this witness statement  
20 are true.

21 Signed: Anya Beeforth.

22 Dated: 10 June 2009.

23

24 Summary of witness statement of S035

25 MR HALLIDAY: The second witness is S035. For twelve months

1 from August 2002, S035 was the branch warrant officer of  
2 F Branch at the JSIO. He also deployed on Op Telic 1  
3 between March and April 2003 together with other JSIO  
4 interrogators to form the UK HUMINT team for 16 Air  
5 Assault Brigade.

6 In the latter capacity, he acted as a TQer and  
7 interrogator supporting battlegroup operations. He  
8 tells the Inquiry that he did not witness hooding or any  
9 of the five prohibited techniques during Op Telic 1, nor  
10 was he aware of any discussion raising the issue of  
11 hooding. He was not aware of any directive guiding the  
12 use of tactical questioning and interrogation in Iraq.

13 He says that during F Branch courses, role-playing  
14 sessions were monitored by the instructors via an audio  
15 and videolink. He states that sight deprivation for the  
16 purposes of security was effected through the use of  
17 blindfolds, but that students were told that blacked-out  
18 goggles could be used as an alternative. He does not  
19 recall students being told that sight deprivation could  
20 be used as an aid to TQ or interrogation, and says that  
21 he never heard the phrase hooding; he does not recall  
22 students being told that they should not hood prisoners.  
23 Further, he states that he does not recall any mention  
24 of stress positions or sleep deprivation.

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Witness statement of S035

Witness Name: S035

Statement No: 1

Exhibits: S035/ 1

Dated: 3 September 2009

THE BAHA MOUSA PUBLIC INQUIRY

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Witness Statement of S035

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1 I, S035 will say as follows: -

2 1. I make this statement in response to the  
3 Inquiry's Rule 9 Request dated 27 May 2009. I have read  
4 this Request, and I seek here to cover everything it  
5 raises to the best of my ability and recollection.  
6 I have also been shown and read copies of the following  
7 documents: MOD015468, MOD015482, MOD035479 and  
8 MOD011704.

9 Career

10 2. I joined the British Army, Intelligence Corps,  
11 in 1987. I finished my training at Ashford in July 1987  
12 and left the course as a Lance Corporal. I completed  
13 a number of operational tours, including tours of Iraq  
14 in 2003 (OP Telic 1), 2006 (OP Telic 6) and 2008  
15 (OP Telic 11). I am currently serving as an acting  
16 Major with the British Defense Staff (US).

17 3. In August 2002, I was posted as the Branch  
18 Warrant Officer (BWO) of F Branch of the Joint Service  
19 Intelligence Organisation (JSIO), a branch responsible  
20 for running the Prisoner Handling / Tactical Questioning  
21 (TQ) and Interrogation courses. I held this post for  
22 approximately 12 months before being promoted in August  
23 2003 and moving to Abingdon.

24 Deployment on OP Telic 1

25 4. During OP TELIC 1, from 28 March 2003 until 19

1 April 2003, I was deployed with five JSIO instructors  
2 (Maj S049, Capt S011, Capt S012, [redacted] and SSgt  
3 McKinnon) to Iraq to form the UK HUMINT team attached to  
4 16 Air Assault Brigade ("Air Asslt Bde"). The team's  
5 role was to provide TQ / Interrogation and Debriefing  
6 support to the operations of 1st Battalion, Royal Irish  
7 Regiment (1 R Irish), 1st and 3rd Parachute Battalion  
8 (1PARA and 3PARA) Battlegroups (BG). The team was based  
9 primarily at the 1RIrish BG HQ outside of the village of  
10 Rumayllah, but split into smaller teams to deploy  
11 forward with the BG on selected operations. The team  
12 Officer Commanding (OC) was Maj S049 and Capt S012 the  
13 J2X. The other instructors formed the HUMINT team from  
14 which individuals would be selected to support BG  
15 operations. As a team member, I was a Tactical  
16 Questioner / Interrogator and Debriefier supporting BG  
17 operations. I had the additional responsibilities as  
18 the WO for the Field HUMINT Team (FHT) which included  
19 administrative and operational support.

20 5. Trained interrogators and Tactical Questioners  
21 were in short supply during Op TELIC 1 and the whole of  
22 F Branch was deployed to fill the gap. Once the UK  
23 HUMINT team was established I returned to Chicksands to  
24 continue assisting with the training courses presented  
25 by F Branch.

1           6. During Op TELIC 1, I did not witness hooding,  
2           the use of stress positions, sleep deprivation, food or  
3           water deprivation or the use of white noise. I was not  
4           aware of any discussions that raised the issue of  
5           hooding at all.

6           7. In response to a question from the Inquiry on  
7           the point, I do not recall seeing nor was I aware of any  
8           specific directive regarding the use of tactical  
9           questioning and interrogation in theatre during Op TELIC  
10          1.

11          8. No concerns were raised with me, nor  
12          did I otherwise become aware of, any concerns regarding  
13          the use of such techniques or the physical handling of  
14          any prisoner. At no point did I have any contact with  
15          the International Committee of the Red Cross or other  
16          similar bodies.

17          Role at Joint Service Intelligence Organisation

18          9. I was posted to JSIO in August 2002 and carried  
19          out my handover with [redacted] over the period of  
20          a two-week interrogation course. I was not qualified in  
21          TQ or interrogation at the time of my posting to JSIO.  
22          During the handover period, I observed several  
23          instructional lessons; however, the bulk of the handover  
24          was spent learning the exercise scenarios and the effort  
25          required in sourcing role-players.

1           10. My BWO responsibilities at JSIO were focused on  
2           administrative support, discipline and ensuring that the  
3           training programme ran to schedule. This included  
4           ensuring that enough instructors were available to  
5           present the lessons and also overseeing the exercises.

6           11. My main function was to identify and persuade  
7           military personnel to volunteer themselves to play the  
8           role of prisoners for the exercises. This was an  
9           extremely difficult task since there was no pre-arranged  
10          pool of personnel. Much of my time was spent briefing  
11          these role-players on the content of their script and  
12          highlighting to them when they should release certain  
13          information.

14          12. During the exercises, the instructors would  
15          oversee the questioning sessions via a live audio/video  
16          link. As this was happening, I would take the next  
17          group of students into the main office, where I would  
18          read to them the exercise student brief. This provided  
19          the background to the exercise, the student's role  
20          within it and what they were required to achieve. The  
21          students would then spend time preparing for their  
22          questioning of the role-players. Once the previous  
23          iteration of the exercise was complete, I would inform  
24          the students that they were about to begin and they  
25          would make their way to their respective rooms. I would

1 then speak to the role-players and provide them with the  
2 time and location for the next iteration. Immediately  
3 before the start of the exercise, I would ensure that  
4 all students, role-players and instructors were in  
5 position, before blowing a whistle to commence the start  
6 of the exercise. The instructors monitoring the live  
7 link would ensure that personnel were complying with the  
8 student brief.

9 13. Once the time was up, I would blow a whistle to  
10 indicate that the exercise had concluded, at which point  
11 the role-players would return to their rest area and the  
12 instructor would then conduct a debrief of the student  
13 in-situ. In between briefing all parties, I would  
14 attempt to spend as much time as possible in the  
15 monitoring room, observing the questioning sessions and  
16 interacting with the instructors. I oversaw the  
17 exercises from my arrival in August 2002 to my departure  
18 in August 2003 (excluding the period of deployment on  
19 Op Telic 1 as described in paragraph 4 above), the  
20 instructors were responsible for the monitoring of the  
21 questioning sessions and debriefing the students; my job  
22 was to ensure that all parties were in the right place  
23 at the right time after having received all pre-briefs.

24 14. As the BWO, I reported to Capt S012, the Branch  
25 OC. Capt S012 reported to Maj Pearce / Maj S001, the

1 Company Commander. The following personnel were  
2 employed as Branch instructors throughout my tenure as  
3 BWO; Maj S049; Capt S011; Capt S011; WO1 Roberts; SSgt  
4 S048; SSgt McKinnon; Sgt Sanderson; Sgt S053; and Sgt  
5 Southan.

6 15. On administrative and programming issues, the  
7 instructors reported to me; however, on TQ /  
8 interrogation and course content matters, the  
9 instructors reported to Capt S011, and he in turn to  
10 Capt S012.

11 Training: TQ and Interrogation courses prior to  
12 September 2003

13 16. During the exercises, I was aware of the  
14 information which the students and the role-players were  
15 given prior to the exercise: however, I could not  
16 observe all of the questioning sessions, since they all  
17 took place simultaneously in different rooms. The  
18 responsibility for monitoring the content of the  
19 role-playing sessions was the function of the  
20 instructors, which, as explained above, was carried out  
21 through a live audio/video link remote into a central  
22 monitoring suite. I would also base myself in the suite  
23 during the exercises when I wasn't involved in briefing  
24 the next student group.

25 17. The course lasted two weeks: the first week

1 covered prisoner handling and tactical questioning,  
2 while the second week taught interrogation methods.  
3 During the first week of each course there were twenty  
4 four students. In order to get all students through  
5 each exercise, four iterations were required with six  
6 students going through at the same time. This meant  
7 that I had to brief four different groups of students  
8 for every exercise and I would have to start briefing  
9 the next group whilst the previous iteration of the  
10 exercise was ongoing. On the rare occasions when there  
11 were eight instructors available, each exercise could  
12 have three iterations.

13 18. During the second week of the course, the  
14 number of students would drop to twelve; therefore only  
15 two iterations (of six students) of each exercise were  
16 required to get all students through. The bulk of the  
17 instruction was front-loaded on the course with the  
18 practical exercises coming afterwards.

19 19. I received extensive HUMINT training at JSIO in  
20 July 1997 whilst attending a nine week HUMINT course.  
21 My tactical questioning and interrogation training  
22 commenced immediately on arrival at JSIO in August 2002  
23 and I was awarded the qualification of Interrogator in  
24 Feb 2003, after observing two 'TQ and I' courses as the  
25 Branch Warrant Officer. In order to qualify, I had to

1 observe all instruction and discuss the approaches and  
2 strategies for every exercise with one of the  
3 instructors. I did not participate in the role-play  
4 with the students on the course, since I had to organise  
5 the exercises; however, Capt S011 and the other  
6 instructors would provide me one-on-one instruction for  
7 each exercise. My Interrogation qualification has now  
8 lapsed, since it is valid only for five years.

9 20. I remember that the only instructor with any  
10 operational TQ or Interrogation experience (gained  
11 during the First Gulf War) was Capt S011. As a result  
12 of his experience, he was the Senior Instructor and  
13 focal point for TQ and Interrogation. As such, he was  
14 responsible for determining the bulk of the instruction  
15 given to the students, with the remainder falling to Maj  
16 S049 and Capt S004. The remaining instructors assisted  
17 during the debriefing of the students after the  
18 practical exercises, of which there were many.

19 21. I have been asked by the Inquiry to explain how  
20 the PH and TQ courses were compiled. I do not know how  
21 the PH and TQ course was originally compiled, but  
22 believe that the course had been in its 2003 form for  
23 several years and had not changed much since 1991. Capt  
24 S011, as Senior Instructor, might be able to provide  
25 historical detail as to the progression of the course

1 content. The Training Development Team based at  
2 Chicksands might well be able to provide assistance  
3 since they had the responsibility for ensuring that  
4 courses were developed in accordance with best practice.

5 Sight deprivation at JSIO

6 22. Prior to the exercises, those playing detainees  
7 ('the role-players') would stand outside of the room  
8 which they were to be questioned. Once I blew the  
9 whistle the role-player would place a blindfold (a black  
10 blindfold made of a soft polyester-type material and  
11 secured around the head with black elastic) over their  
12 eyes and wait for me to position them in the room.  
13 Hoods were not used. I would position the roleplayer  
14 where the student directed me to and then I would depart  
15 the room closing the door behind me. The student would  
16 then direct the roleplayer to remove their blindfold and  
17 they would commence questioning them. At the end of the  
18 exercise the student would instruct the roleplayer to  
19 place their blindfold on when they heard the sound of  
20 the whistle, the roleplayer would then immediately take  
21 it off and walk back to the rest area.

22 23. On one occasion, the students would enact the  
23 role of the guard-force (i.e. that which I usually  
24 performed as described in the paragraph above)  
25 delivering and collecting the role-player to the

1           questioning room, to give them an understanding of how  
2           long it takes to move a blindfolded individual from one  
3           location to another, in this case approximately 25-30  
4           metres and replicating the prisoner being moved through  
5           a sensitive area to the questioning room.

6           24. I have been asked by the Inquiry whether  
7           I actually saw the blindfolding of the role-players'  
8           eyes in the manners described above. In response,  
9           I confirm that I did observe the role-player's eyes  
10          being blindfolded.

11          25. I believe students were informed during  
12          classroom based lessons that if they did not have  
13          blind-folds then blacked out goggles would be a suitable  
14          alternative. I believe that the students were informed  
15          of this during a classroom-based lesson, but I cannot  
16          recall which one. The blind-folds were essential to  
17          ensure that the prisoner did not witness anything that  
18          was potentially sensitive while being moved from the  
19          holding area to the questioning facility.

20          26. I do not know if the guard force was required  
21          to blindfold the prisoners at other times, but the  
22          students were instructed that prisoners should be  
23          blindfolded for security reasons when moving between  
24          sensitive areas on the military camp.

25          27. I do not recall students being told that

1           blindfolds could be used as a means of sensory  
2           deprivation in order to aid TQ or Interrogation.  
3           I believe that the only reason why prisoners are  
4           blindfolded is for reasons of security. I remember  
5           students were briefed that after the prisoner had  
6           entered the questioning room the blindfold should be  
7           removed as soon as possible by the prisoners themselves.  
8           If the questioning of the prisoner takes place at the  
9           holding facility where the prisoner is being detained,  
10          there would be no requirement to blind-fold the  
11          prisoner, as long as he would not be able to observe  
12          anything that could be deemed of use to the enemy, such  
13          as the layout of the military camp.

14                 28. The students were to carry out two tasks when  
15          the prisoner arrived, before commencing questioning;  
16          they were to physically check that the name of the  
17          prisoner on the student brief that they were given prior  
18          to the exercise was the same as that on the capture tag  
19          that was delivered with the prisoner. This would ensure  
20          that the questioner did not question the wrong prisoner.  
21          Secondly, the student was to carry out a visual  
22          assessment of the prisoner. I believe that the prisoner  
23          would remain blindfolded until these checks were  
24          complete and these checks lasted a matter of seconds.  
25          Some of the students preferred to be standing when the

1 prisoner was delivered into the questioning room, other  
2 students performed the visual check from the seated  
3 position. I do not recall that the visual scrutiny or  
4 assessment check aimed to increase any type of pressure  
5 on the prisoner.

6 29. I never heard the phrase "hooding" being used  
7 at all during my time at F Branch JSIO and therefore do  
8 not recall any distinction being made between hooding  
9 and blindfolding. Students were told during training  
10 that the use of blindfolds or blacked-out goggles were  
11 appropriate for use. I do not recall the students being  
12 told that they could not hood, since the phrase hooding  
13 was not mentioned. However, I do recall that the  
14 students were briefed that they could not gag the  
15 prisoner since the prisoner must be able to breathe  
16 without hindrance. This specific point is highlighted  
17 in bold in the student handout at page 2 of MOD015482.

18 Stress positions

19 30. My understanding of a stress position is that  
20 an individual is placed in a position that is difficult  
21 and tiring to sustain for long periods of time. I do  
22 not recall from where, or from whom, I first gained an  
23 understanding of the phrase. Students were taught that  
24 the prisoner could either stand up when being questioned  
25 or could sit down, at the questioner's choice. None of

1 the courses presented by F Branch included the use of  
2 stress positions as an aid to questioning or  
3 interrogation of a detainee or prisoner. I am not aware  
4 of any instruction being given with regard to stress  
5 positions and I do not recall the phrase "stress  
6 positions" being mentioned in any way on the course.

7 Sleep deprivation, white noise and deprivation of  
8 food and water

9 31. Sleep deprivation, exposure to discomforting  
10 levels of noise and the deprivation of food or water  
11 were not training tools or aids to the tactical  
12 questioning or interrogation process. At no point  
13 during any part of any course were any of these  
14 techniques raised as tactics to be employed as an aid to  
15 interrogation. The responsibility for ensuring that the  
16 prisoner is given the requisite sleep, food and water is  
17 a prisoner handling function, not the responsibility of  
18 the tactical questioner. Therefore, the questioner  
19 should not have the ability to change or influence  
20 a prisoner's sleep or feeding programme. I do not  
21 recall any instruction which directly stipulated that  
22 these approaches should not be used. I do not know what  
23 is meant by the term lack of sleep in MOD015468 under  
24 the heading 'System Induced Pressures'. As stated  
25 above, the tactical questioner does not control the

1 prisoner's rest time therefore I do not know how the  
2 system (the tactical questioner) could induce any  
3 pressure. I think that the phrase 'System Induced  
4 Pressure' in relation to lack of sleep might be  
5 referring to the lack of sleep that a prisoner  
6 experiences given the controlled conditions that  
7 detention inevitably brings, in that detention  
8 contributes to creating uncertainty and worry in the  
9 prisoner's mind, so that they cannot sleep properly.

10 Conditioning and shock of capture

11 32. I have not received any training on  
12 conditioning and do not know the meaning of this term or  
13 its use. I do not remember the issue of conditioning as  
14 a tactic to prepare the prisoner for questioning being  
15 raised.

16 33. My understanding of the shock of capture is the  
17 physical or emotional shock that a person experiences  
18 during capture, which will make them more likely to pass  
19 on information. Students were taught that a prisoner is  
20 more likely to pass on information during the early, as  
21 opposed to the latter, stages of capture, and that the  
22 value of any information of which a prisoner is aware is  
23 diluted over time. It was also emphasised that  
24 a prisoner should be presented for questioning as early  
25 as possible after the arrest, as the initial shock of

1 capture will wear off. The shock of capture experienced  
2 by each person will be different and I do not know how  
3 long it lasts.

4 Responsibility for the prisoners

5 34. Students on the course were taught that they  
6 only assumed responsibility for the prisoner's treatment  
7 when that person entered the room used for TQ or  
8 interrogation. Prior to and after the TQ or  
9 interrogation sessions, the prisoner handlers or  
10 guard-force were responsible for the prisoner's welfare.  
11 The guard-force was answerable to the unit Chain of  
12 Command for all physical treatment and welfare aspects  
13 of the prisoner. The students were also instructed  
14 that, as questioners, they must not touch the prisoner.  
15 The physical movement and treatment of the prisoner was  
16 the function of the guard. The students were made aware  
17 that the TQ course was not a course that prepared  
18 prisoner handlers: the sole function of the course was  
19 to prepare students to question a prisoner with the  
20 intent of gaining tactical information that could be  
21 exploited by the operations staff.

22 35. The students were told that as tactical  
23 questioners they should engage with the guard-force to  
24 identify behavioural patterns of the prisoners,  
25 especially in the post-questioning period.

1           Additionally, as tactical questioners they should be  
2           aware whether the prisoner was acting in a manner unlike  
3           other prisoners.  If so, this could indicate that the  
4           prisoner has not been accepted by the other prisoners or  
5           indeed wants to remain anonymous from the others.  This  
6           is potentially crucial information to the tactical  
7           questioner.  I do not recall any instruction given that  
8           suggested that the questioner should provide  
9           instructions to the guard-force to deprive the prisoner  
10          of sleep or sight (other than blindfolding for the  
11          purposes of transporting the prisoner when there were  
12          security considerations).

13                   Geneva Convention and LOAC

14           36.  On each TQ and Interrogation course, a detailed  
15          brief on the Geneva Convention was given at the  
16          beginning of the course, where the instructor  
17          articulated the legal parameters that students were to  
18          work within and how the GC related to the treatment of  
19          prisoners.  I attended this lesson, which was  
20          a power-point lesson given by Capt S011.  The document  
21          MOD 15482 - 15490 accurately reflects the majority of  
22          the lesson; however, the instructor also highlighted the  
23          history of the Geneva Convention and also the NATO  
24          Standardised Agreements (STANAGs).  In addition to these  
25          training courses, every soldier in the Army would also

1 receive training on the Geneva Convention and the LOAC  
2 as part of their annual ITD. I do not recall any  
3 additional guidance given on the limits of behaviour for  
4 approved approaches to TQ and Interrogation apart from  
5 reinforcement by instructors that all approved  
6 approaches must not breach any aspect of the Geneva  
7 Convention or its Protocols.

8 37. The training exercises on TQ and Interrogation  
9 delivered by F Branch, JSIO were GC compliant. In order  
10 to ensure compliance during the exercises every  
11 questioning session was monitored live by an instructor  
12 through an Audio / Video link. The instructors knew  
13 that they were to interject immediately if the student  
14 was breaching any protocol, such as touching the  
15 prisoner. Immediately after all exercises, every  
16 student would always be given an individual debrief,  
17 highlighting the positive and negative aspects of their  
18 performance.

19 38. I have seen the video "Handling Prisoners of  
20 War", but I do not remember whether this was shown as  
21 part of the pre-deployment training or as part of the  
22 ITDs. I do not remember the video being shown as part  
23 of any of the JSIO courses.

24 Documents

25 39. All students on the TQ and Interrogation

1 courses were given a copy of the Joint Warfare  
2 Publication (JWP1-10) for the duration of the course.  
3 They were briefed that that this manual focused on  
4 prisoner handling and that they should obtain a copy of  
5 this from their Chain of Command if they were to be  
6 employed in that field.

7 40. I have read the PH & TQ and Interrogation  
8 Course Policy Document 2003. I do not remember seeing  
9 this document before and do not know how it was  
10 compiled.

11 41. I have read the documents JMS/3 (MOD015468) and  
12 JMS/5 (MOD015482). I do not remember seeing these  
13 documents before, but they appear to be instructor notes  
14 or students handouts. Most of the points raised in the  
15 documents would have been covered during the courses;  
16 however, I cannot remember when or during which lesson  
17 or to what degree each point was expanded upon.

18 42. I do not know why no course material prior to  
19 August 2003 appears to have survived or if there was any  
20 requirement for previous course material to be  
21 preserved.

22 Attendance on the courses

23 43. I believe that the PH & TQ course ran three  
24 times per year. As stated above, a maximum of  
25 twenty-four students could take part (on the first half

1 of the course and 12 on the second). The course lasted  
2 five days and the majority of the students were regular  
3 army personnel; these were traditionally a mixture of  
4 Infantry and Intelligence Corps with the remainder being  
5 tri-service reservists. The interrogation course was  
6 run bi-annually and in conjunction with the PH and TQ  
7 course. The full course lasted for 10 working days: the  
8 first week was always the PH and TQ course (the same as  
9 that given to regular Army personnel), while the second  
10 week provided training on interrogation. Therefore all  
11 students on the interrogation course were PH & TQ  
12 qualified. The interrogation course could take twelve  
13 students; they were mainly Reservists from one of the  
14 three reservist units whose war-time role was  
15 interrogation. These twelve students made up half of  
16 all students sitting the PH and TQ. The heavy course  
17 loading of F Branch JSIO was such that it would have  
18 been impractical to have run more PH & TQ /  
19 interrogation courses; there was no availability in the  
20 training schedule, and to have run courses concurrently  
21 with other HUMINT classes would have been extremely  
22 problematic due to a lack of real-estate (classrooms and  
23 debriefing rooms) but also - and most importantly - due  
24 to the lack of instructors.

25 44. I believe it was intended that all infantry BGs

1 should have two qualified TQ personnel. They could  
2 provide integral TQ support to operations, thus speeding  
3 the TQ process up, in that the BG would not have to wait  
4 for specialist HUMINT personnel to arrive from higher  
5 command, which would cause potential delay to the timely  
6 acquisition of tactical information.

7 Training: TQ and Prisoner Handling for 1QLR

8 45. I believe that there was one additional PH & TQ  
9 course that took place prior to Op TELIC 1, circa  
10 January or February 2003. This was held at Chicksands  
11 and followed the regular programme. I am, however,  
12 unable to say if this course was presented specifically  
13 to 1 QLR, or if any of their members attended.

14 46. I have read the letter dated 15 May 2003 from  
15 Capt Elliott (1 QLR) and the note head "TQPH Cadre 10  
16 June 03 Nominal Roll" (MOD035479) and the document dated  
17 16 May 2003 (MOD011704). I do not remember any request  
18 for an additional TQPH course from 1 QLR or any F Branch  
19 instructor travelling to Alma Barracks to deliver such  
20 training. If such a request had been received by JSIO  
21 then it would most likely have gone through HQ JSIO or  
22 HQ DISC, since one of these units would ordinarily be  
23 responsible for authorising external training. I note  
24 from the document dated 16 May 2003 that it does not  
25 mention anything about training from Chicksands, nor

1 does it mention any TQPH training.

2 Training: CAC / Resistance to interrogation

3 47. I have not received any Conduct after Capture  
4 ("CAC") training from 4 CAC Coy and do not know who was  
5 responsible for carrying out the tactical questioning or  
6 interrogation of UK Servicemen on the course presented  
7 by 4 CAC Coy. I also do not know what qualifications or  
8 guidance was in place for those conducting the training.

9 48. I do not know what the qualification  
10 requirements were for CAC instructors or what guidance  
11 was in place. I also do not know what steps were taken,  
12 if any, to make sure that those who attended the CAC  
13 course as trainees or as a capturing force were made  
14 aware that the techniques used were not permitted for  
15 use by UK Servicemen on operations.

16 49. I have read the quote by Brigadier Aitken that  
17 "... in 2003, attendance on CAC training qualified an  
18 individual to conduct I&TQ." I do not remember what the  
19 policy was in 2003, but my understanding is anyone who  
20 had a CAC qualification could conduct interrogation in  
21 theatre only if that individual had a TQ or  
22 Interrogation qualification from 3 (Trg) Coy before  
23 being deployed. In other words, an individual could not  
24 conduct interrogation or TQ if they only had a CAC  
25 qualification.

1           Subsequent changes

2           50. I was posted from JSIO in August 2003 and do  
3 not know if any specific changes were made to JSIO  
4 training in relation to TQing, Interrogation or Prisoner  
5 Handling after September 2003.

6           Press

7           51. I have not given any interviews to the media  
8 regarding the matters relevant to the Inquiry's terms of  
9 reference.

10          Statement of Truth

11          52. I believe, to the best of my ability and  
12 recollection, that the facts stated in this witness  
13 statement are true.

14          Signed: S035.

15          Dated: 3 September 2009.

16

17                   Summary of witness statement of S045

18 MR HALLIDAY: The next is S045. In September 2003 S045  
19 became the commanding officer of the JSIO. He tells the  
20 Inquiry that he had no involvement prior to or during  
21 Op Telic 1 and 2 in the provision of advice, guidance or  
22 orders in relation to prisoner handling in the context  
23 of interrogation or tactical questioning, nor is he able  
24 to comment on the content of JSIO training documents  
25 prior to September 2003.

1           He describes the steps he took to provide  
2           information concerning the techniques taught at the JSIO  
3           after requests from the chain of command prompted by  
4           questions in Parliament on hooding and the treatment of  
5           prisoners. In essence, his response was that hooding  
6           was not and had never been trained at JSIO, but that  
7           blindfolding was permissible for security reasons. He  
8           tells the Inquiry that he asked the S01 legal at DISC,  
9           Lieutenant Colonel David Yates, to review all the  
10          training provided by F Branch and he was advised that  
11          the training was legally compliant.

12                           Witness statement of S045

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Witness Name: S045  
Statement No: 1  
Exhibits: None  
Dated: 28 February 2010

THE BAHA MOUSA PUBLIC INQUIRY

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Witness Statement of S045

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1 I, S045 will say as follows:-

2 1. I make this statement in response to the  
3 Inquiry's Rule 9 Request dated 11 December 2009. I have  
4 read this Request, and I seek here to cover everything  
5 it raises to the best of my ability and recollection.  
6 I have also been shown and have read copies of various  
7 documents and FRAGOs which the Inquiry has specifically  
8 asked me to consider:-

9 (i) JIC(A) (72) 21 PJHQ (Final) dated 29 Jun 1972  
10 (CAB001020)

11 (ii) CJO HUMINT Directive & Annex B Guidance on PW  
12 Handling dated 27 Feb 2003 (MOD049310)

13 (iii) PJHQ Guidance on PW Handling 2003 dated 27  
14 Feb 2003 (MOD049314)

15 (iv) Intelligence Exploitation Base Joint Forward  
16 Interrogation Team OP TELIC (MOD041858)

17 (v) OP TELIC LCC JFIT - Lessons Learned to Date 01  
18 March 2003 (MOD042060)

19 (vi) Post Operational Tour Report - Land Command  
20 Component Joint Forward Interrogation Team (MOD041849)

21 (vii) F Branch JSIO - OP TELIC Post Operation Report  
22 dated 21 May 2003 (MOD042844)

23 (viii) Suggested Alterations to JFIT Doctrine as  
24 a Result of OP TELIC01 dated Jul 2003 (MOD038658)

25 (ix) Prisoner Handling & TQ Course programme dated

1 April 2002 (MOD028300)

2 (x) Joint Service Intelligence Organisation

3 F Branch - Introduction to Interrogation and Tactical

4 Questioning - Course Notes (MOD022469)

5 (xi) Assessment (MOD022472)

6 (xii) Power Point Presentation TWP1-10 Handling of

7 PW's (MOD022482)

8 (xiii) Power Point Presentation on STANAGS

9 (MOD022480)

10 (xiv) Interrogation Course Programme 12-23 dated

11 Jan 2004 (MOD015470)

12 (xv) Handling of PW and Detainees in an

13 Interrogation Facility (MOD015482)

14 (xvi) Pressures on Prisoners and Detainees

15 (MOD015468)

16 (xvii) Policy for Interrogation and Related

17 Activities dated 16 Jan 1977 (MOD042035)

18 (xviii) Policy for Interrogation and Related

19 Activities dated 30 Oct 1997 (MOD041757)

20 (xix) Policy for Interrogation and Related

21 Activities dated 30 Oct 1997 (MOD041753)

22 (xx) JSIO - Request for Clarification of the Legal

23 Status of Interrogation in Situations other than General

24 War dated 28 Oct 1999 (MOD028340)

25 (xxi) Interrogation Requirements Study - Preliminary

1 Results dated 30 Nov 1999 (MOD028335)  
2 (xxii) CO JSIO - Interrogation - Doctrine, Assets,  
3 Training and the Way Ahead dated 13 Apr 2000 (MOD028347)  
4 (xxiii) UK Defense Policy for Tactical Questioning  
5 and Interrogation dated 23 Jul 2002 (MOD041725)  
6 (xxiv) Memo to all DHWG Members - UK Defense Policy  
7 for TQ and Interrogation dated 17 Jun 2002 (MOD042040)  
8 (xxv) Memo from 1 MI Brigade - Response to UK  
9 Defense Policy for TQ and Interrogation dated 12 August  
10 2002 (MOD041733)  
11 (xxvi) Tactical Questioning/Interrogation Situation  
12 dated 11 Dec 2002 (MOD042058)  
13 (xxvii) Letter from Lt Gen Reith to Maj Gen Ridgway  
14 dated 24 Oct 2003 (MOD005806)  
15 (xxviii) Email from CDI-PS-S to DI HUMINT SO2-S  
16 dated 16 Jan 2004 (MOD043941)  
17 (xxix) Email from OC F Branch to F Branch dated 11  
18 May 2004 (MOD028363)  
19 (xxx) Email from Lt Col S045 to Stuart Kistruck  
20 dated 17 May 2004 (MOD053852)  
21 (xxxii) Email from Lt Col S045 to DISC dated 17 May  
22 2004 (MOD053853)  
23 (xxxiii) Email from Col David Yates to Lt Col S045  
24 dated 11 May 2004 (MOD053856)  
25 Background and rank and role during Op TELIC 1 & 2

1           2. I joined the army in June 1970 and entered the  
2 Intelligence Corps. I was commissioned as an officer in  
3 1987 and spent most of my army career, until I left in  
4 April 2005, working in intelligence. Prior to taking up  
5 the post of CO JSIO in September 2003 (see below,  
6 paragraph 4), I had no involvement with either tactical  
7 questioning or interrogation, had never conducted  
8 tactical questioning or interrogation on operations nor  
9 delivered any training in those subjects.

10           3. From April/May 2002 to September 2003 (during  
11 Op TELIC 1 and part of OP TELIC 2), I was based at  
12 Chicksands, working in the Directorate Intelligence  
13 Corps responsible for equipment procurement. During  
14 this time I held the rank of Major. I was responsible  
15 for providing specialist equipment support to the  
16 Intelligence Corps worldwide and advising on the  
17 intelligence input into major procurement policies.  
18 During my time in the Directorate Intelligence Corps,  
19 I reported to the Chief of Staff and then through him to  
20 the Director of the Intelligence Corps. Under my  
21 command was a civilian. I did not have a predecessor as  
22 I do not think the role existed previously. Nor  
23 did I have a successor as I do not think I was replaced.

24           4. With effect from September 2003 (during Op TELIC  
25 2), I became the Commanding Officer (CO) of the Joint

1 Services Intelligence Organisation (JSIO), and was  
2 promoted to Lieutenant Colonel. I held this role until  
3 I commenced my retirement leave on 1 April 2005.

4 5. As a CO at JSIO, I reported to the Commandant  
5 DISC, Brigadier Everson, then above him to the Director  
6 General Intelligence Collection (DGIC) and ultimately to  
7 the Chief of Defence Intelligence (CDI) (neither of  
8 whose names I can now remember). JSIO comprised four  
9 companies: 1 Operations Coy; 2 Reserve Coy; 3 Training  
10 Coy and 4 CAC Coy and the Officers Commanding each of  
11 those companies reported directly to me. I cannot now  
12 recall the names of the respective OC's exactly.  
13 Broadly speaking, the companies may be described as  
14 follows:

15 (i) 1 Operations Coy was primarily responsible for  
16 debriefing personnel [redacted].

17 (ii) 2 Reserve Coy consisted primarily of reservists  
18 who constituted [redacted] and also provided a range of  
19 linguistic capability. They were predominantly  
20 linguists who had received interrogation training.  
21 There were three sub units from the RAF, Navy and Army.

22 (iii) 3 Training Coy had the responsibility of  
23 training all elements of the HUMINT spectrum and  
24 specifically within that Coy, F Branch was responsible  
25 for Interrogation and Prisoner Handling Tactical

1 Questioning training. To the best of my recollection,  
2 Maj S001 handed over to [redacted] as OC but I cannot  
3 remember exactly who was in post as at September 2003.

4 (iv) 4 CAC Coy was responsible for the delivery of  
5 CAC training, both practical and theoretical to the  
6 Defence community. I think the Squadron leader was  
7 named Mark but I cannot now remember his surname.

8 6. My role as CO JSIO involved responsibility for  
9 the effective delivery of training across the four  
10 companies in JSIO and responsibility for the personnel  
11 under my command. This involved overseeing the  
12 provision of facilities, ensuring that training  
13 conformed to policy and also ensuring that there were  
14 sufficient numbers of trained instructors. The role did  
15 not require day-to-day involvement in the delivery of  
16 training, although I would occasionally observe training  
17 sessions to gain an understanding of the courses.

18 7. I have never been directly involved in the  
19 process of HUMINT policy formulation but my  
20 understanding is that, throughout the period for which  
21 I was CO JSIO, the Assistant Director Intelligence (ADI)  
22 HUMINT, who I believe at that time was Col S058 (who  
23 reported to the DGIC, who in turn reported the Chief of  
24 Defence Intelligence, the head of the Defence  
25 Intelligence Staff) had primary responsibility for

1           formulating HUMINT policy and drafting doctrine on  
2           tactical questioning and interrogation. The doctrine  
3           itself however was issued by another department, which  
4           was responsible for all doctrine issues (although I do  
5           not know the details and cannot remember its name).  
6           This policy is then converted into training objectives  
7           (TOs) and Enabling Objectives (EOs) and these then form  
8           the basis for the course programme. Normally this would  
9           involve a course design programme run at the DISC with  
10          various committees with representatives from the  
11          course/policy sponsor (ADI staff), training development  
12          and other relevant SMEs, the training delivery  
13          organisation and any other group that is required to  
14          give an input. This process is necessarily lengthy.  
15          For a completely new course, this process could easily  
16          take over a year from start to finish. Any significant  
17          amendments to existing training would go through the  
18          same process, regardless of who proposed the amendment.

19                 8. My predecessor as CO JSIO was Lt Col S046.  
20                 I had no direct successor owing to a reorganisation that  
21                 took place in about April 2005. JSIO was subsumed into  
22                 the Defence School of Intelligence (although it may have  
23                 been called something different at the time) and the  
24                 post of CO JSIO was merged with two other posts to  
25                 create a new post. After the reorganisation, the four

1 companies comprising JSIO became known as the HUMINT  
2 Wing and reported to the Lieutenant Colonel who occupied  
3 the newly created post, whose name I cannot now  
4 remember.

5 9. I have addressed the issues raised in the Rule 9  
6 Request in the following order:

7 (a) Involvement in Wider Policy considerations;

8 (b) Doctrine/Guidance/Orders;

9 (c) Op TELIC 1 and 2;

10 (d) Training in interrogation, tactical questioning  
11 and conduct after capture; and

12 (e) Review of DISC Training after October 2003 and  
13 abuse allegations in Spring/Summer 2004.

14 (a) Involvement in Wider Policy Considerations

15 10. I did not play any role in the wider policy  
16 considerations in the period 1996 to early 2003. I have  
17 been shown the Policy for Interrogation and Related  
18 Activities dated 16 Jan 1997 (MOD042035), the Policy for  
19 Interrogation and Related Activities dated 30 October  
20 1997 (MOD041757), the Policy for Interrogation and  
21 Related Activities dated 30 Oct 1997 (MOD041753), the  
22 Request for Clarification on the Legal Status of  
23 Interrogation in Situations other than General War dated  
24 28 October 1999 (MOD028340), Interrogation Requirements  
25 Study - Preliminary Results dated 30 November 1999

1 (MOD028335), CO JSIO - Interrogation - Doctrine, Assets  
2 Training and the Way Ahead dated 13 April 2000  
3 (MOD028347), the UK Defence Policy for Tactical  
4 Questioning and Interrogation dated 23 Jul 2002  
5 (MOD041725), the memo to all DHWG Members - UK Defense  
6 Policy for TQ and Interrogation dated 17 Jun 2002  
7 (MOD042040), the Memo from 1 MI Brigade - response to UK  
8 Defence Policy for TQ and Interrogation dated 12 Aug  
9 2002 (MOD041733) and Tactical Questioning/Interrogation  
10 situation dated 11 Dec 2002 (MOD042058). As I have  
11 explained below, I do recall seeing some of these  
12 documents after I took up post as CO JSIO in September  
13 2003. However, I did not see any of these documents at  
14 the time that they were written.

15 (b) Doctrine/Guidance/Orders

16 11. Save in the one respect identified in  
17 paragraph 12 below, I was not aware of the orders,  
18 instructions and doctrine that were of general  
19 application to interrogation, tactical questioning and  
20 prisoner handling by the armed forces as at March 2003  
21 nor was I aware whether or to what extent such orders,  
22 instructions and doctrine had been supplemented for  
23 Op Telic 1 and/or Op Telic 2 prior to September 2003.

24 12. As I mention at paragraph 43 below I had seen  
25 JIC(A) (72) 21 (Final) (CAB001020). However, I was not

1 aware of what it meant in practice for interrogators and  
2 tactical questioners.

3 13. I have been shown and have read a document from  
4 PJHQ, dated 27 February 2003, entitled "CJO Directive to  
5 COMBRITFOR for HUMINT Operations in support of UK Forces  
6 deployed on Op Telic [redacted]", reference  
7 D/PJHQ/2/2170/15/0 (MOD049310) and guidance on the  
8 Handling of Prisoners of War and Detainees found at  
9 Annex B (MOD049314). I have not seen either document  
10 previously and was not aware of either document prior to  
11 September 2003 nor was I involved in their drafting.  
12 Those responsible for its distribution and for ensuring  
13 it was implemented would have been within the G2  
14 (intelligence) chain of command in theatre. Although  
15 I have not seen these documents before I am familiar, as  
16 a member of the armed forces, with the tenor of the  
17 introduction to the PW Handling guidance, which  
18 emphasises the importance of the Geneva Conventions.  
19 I am not however, familiar with the detail of that  
20 document.

21 14. I was not aware of nor involved in drafting the  
22 Standard Operating Procedure ('SOP') for the JFIT  
23 (MOD041858) which I am referred to by the Inquiry or any  
24 other SOP in theatre. I have not seen this document  
25 before and do not know whether a finalised document was

1 produced or whether any similar SOI/SOP was prepared for  
2 Tactical Questioning.

3 15. I did not have any involvement prior to or  
4 during Op Telic 1 and/or 2 in the provision of advice,  
5 guidance or orders in relation to prisoner handling in  
6 the context of Interrogation or Tactical Questioning.

7 16. I first became aware of hooding having taken  
8 place in Iraq in October 2003 when I made the enquiries  
9 referred to below at paragraph 32. However, I do not  
10 know, and have never known, the legal authority that lay  
11 behind this in that specific theatre of operations.

12 (c) Op TELIC 1 and 2

13 17. I did not deploy on either Op TELIC 1 or 2 (nor  
14 on any subsequent TELIC). Nor did I form part of the  
15 Chain of Command for the operation in Iraq at these  
16 times in either theatre or in the UK.

17 18. My awareness of concerns and involvement in  
18 discussions regarding hooding, stress positions, sleep  
19 deprivation or other aspects of the physical handling of  
20 prisoners in Iraq during Op Telic 1 and/or 2 is limited  
21 to my involvement after I took up post as CO JSIO in  
22 September 2003 and is detailed below from paragraphs 30  
23 to 45. I have been shown and have read MOD042060;  
24 MOD041849; MOD042844; MOD038658, (those documents  
25 broadly comprising post operational tour reports and

1 recommendations). I address these below at  
2 paragraph 34.

3 19. I am not aware of any DISC/JSIO unit, whether  
4 in theatre or in the UK, having a role in providing  
5 direction, advice, supervision or orders to tactical  
6 questioners at Battle Group level other than their  
7 initial training at JSIO. When units are posted from  
8 the UK to any operational theatre, they come under the  
9 operational command of that theatre. They therefore  
10 receive orders from operational command in theatre and  
11 work directly to them, not to JSIO.

12 (d) Training in Interrogation, Tactical  
13 Questioning & Conduct after Capture

14 20. I have been asked a number of questions by the  
15 Inquiry in relation to the interrogation and tactical  
16 questioning courses provided by JSIO prior to September  
17 2003. However, I am unable to provide the answers to  
18 these questions as I did not take up the post as CO JSIO  
19 until September 2003, prior to which I was in a role  
20 unconnected to that subject matter. I do not therefore  
21 have any information or knowledge in relation to the  
22 content of the Prisoner Handling and TQing course. Nor  
23 do I have any information on those who attend the course  
24 or whether refreshers were provided.

25 21. I have been shown and have read the following

1 documents: MOD028300 (Prisoner Handling and Tactical  
2 Questioning Course Programme for April 2002) and  
3 MOD015470. I cannot be sure whether I have seen these  
4 exact course programmes before although I have seen  
5 several course programmes similar to these and the broad  
6 content of these programmes is familiar to me in light  
7 of the general knowledge I gained from September 2003 as  
8 a CO. In particular, the JSIO course programmes were  
9 brought to my attention by the OC of 3 Training Coy as  
10 a matter of routine for information purposes. If there  
11 was a policy review or change of doctrine, however,  
12 I would become more closely involved in the course  
13 programmes. However, as a CO, I was never involved in  
14 any such policy review or change of doctrine of  
15 interrogation, prisoner handling or tactical  
16 questioning. The importance of the Geneva Conventions  
17 is highlighted in the material. The Geneva Conventions  
18 were also, reinforced every year within the Individual  
19 Training Directives (replaced by Mandatory Annual  
20 Training Tests (MATTs)). I underwent this training  
21 annually, as do all army personnel, irrespective of  
22 their rank or role. As part of this training,  
23 a presentation was provided on the Geneva Conventions  
24 followed by a question and answer session to ensure we  
25 all acquired the information being taught. The training

1 provided by JSIO in relation to the Geneva Conventions  
2 referred to above was therefore additional to this  
3 annual training.

4 22. I have also been shown and have read Prisoner  
5 Handling and Tactical Questioning Course Handouts from  
6 January 2003 (MOD022469, MOD022472, MOD015482 and  
7 MOD015468). I have not seen any of these documents  
8 before now, nor would I expect to have seen the  
9 materials used by the instructors teaching the course,  
10 unless it involved some new material which significantly  
11 altered what was previously taught. I would only become  
12 more closely involved in course handouts if there was  
13 a policy review or change of doctrine.

14 23. I have also been referred to MOD022480 and  
15 although it is not familiar to me, I would expect it to  
16 have been supported by a handout. However, I am  
17 impressed by the level of detail provided on the  
18 Standard NATO Agreements (STANAGs).

19 24. I have been shown and have viewed a copy of  
20 an MOD video "Handling Prisoners of War" (C1459, 1982).  
21 I have never seen this video before. I am not aware of  
22 when, to whom and in what circumstances the was shown  
23 prior to September 2003 as I had not yet assumed my role  
24 as CO of JSIO.

25 25. It is my understanding that it was mandatory to

1 have a small number of personnel in infantry units  
2 trained in TQing. Normal members of a battalion would  
3 undergo specific training for this role. It was  
4 necessary to have such personnel because, if infantry  
5 units captured prisoners, the units needed to have  
6 individuals trained in TQing to ensure prisoners were  
7 treated properly and the maximum amount of information  
8 was extracted. I gained this knowledge from my position  
9 as a CO of JSIO when I came to learn that the purpose of  
10 the prisoner handling and tactical questioning course  
11 was to train personnel in infantry units in this area.  
12 I believe this became a mandatory requirement.

13 26. I am unable to comment on any training provided  
14 by 4 (Conduct after Capture) Company, JSIO, prior to  
15 March 2003 as I did not take up my post as CO JSIO until  
16 later that year in September 2003. I am therefore  
17 unable to comment on what qualifications were required  
18 or what guidance was given.

19 27. I have been asked whether (and if so what)  
20 steps were taken to ensure that those involved as the  
21 capturing force in such exercises, and particularly  
22 those carrying out the prisoner handling, tactical  
23 questioning and interrogation roles were aware that  
24 techniques would be applied to those attending the  
25 course that were not permitted to be used by UK

1           Servicemen themselves on operations. In response,  
2           during my tenure as CO JSIO, I attended a couple of CAC  
3           exercises as an observer and remember that these points  
4           were made very clear in the briefing, a copy of which  
5           I would expect to be available from CAC company.

6           28. I have been asked whether (and if so what)  
7           steps were taken to ensure that those attending the  
8           courses were aware that techniques would be applied to  
9           them that were not permitted to be used by UK Servicemen  
10          themselves on operations. As before, from the exercises  
11          I attended as an observer, it was made very clear to all  
12          that attended the training at the outset that they would  
13          be subject, during the course, to measures over and  
14          above those which could be used by UK Servicemen.

15          29. I have been asked whether it is correct, as  
16          suggested in the report by Brigadier Aitken (MOD041542)  
17          that "... in 2003, attendance on CAC training qualified  
18          an individual to conduct I&TQ". I do not think so. It  
19          is my understanding that attendance on the CAC training  
20          certainly did not qualify an individual to carry out  
21          TQing and Interrogation in 2003 (certainly in the period  
22          for while I was CO JSIO although, although I have no  
23          reason to think that it was any different prior to  
24          September 2003). My impression was that it was  
25          well known within the military that TQing and

1 Interrogation are specialist areas that require  
2 specialist training.

3 (e) Review of DISC Training after October 2003 and  
4 abuse allegations in Spring/Summer 2004

5 30. I have been shown and have read a number of  
6 documents relating to a review of military doctrine and  
7 parliamentary questions in relation to the use of  
8 hooding.

9 31. As referred to above in paragraph 7, I have  
10 never been directly involved in the process of policy  
11 formulation. As CO JSIO, I was concerned with the  
12 training delivered by JSIO and not with policy issues.  
13 Policy issues were the subject of reviews at MOD level.

14 32. In October 2003, very soon after taking up post  
15 as CO JSIO, I remember receiving a number of specific  
16 questions via my chain of command at DISC and directly  
17 from the ADI HUMINT staff that had been raised in  
18 Parliament in relation to the use of hooding and abuse  
19 of prisoners. The information requests required  
20 responses within very tight timescales (12 or 24 hours)  
21 which limited the scope of my enquiries and were  
22 received by DISC from the ADI HUMINT staff, part of MOD  
23 and the sponsors of the interrogation training.  
24 I remember one of the questions asked was whether  
25 hooding was a technique taught at JSIO. In order to

1 fulfil the request, I located documents from various  
2 files held at JSIO. I do not recall the specific files  
3 but I would have looked at all available files relating  
4 to interrogation training and documents concerning the  
5 policy available at that time. I am not aware that  
6 there was any documentation dealing specifically with  
7 hooding and as I recall it, my responses to the  
8 enquiries were therefore based on discussions with those  
9 involved in delivering training and individuals who had  
10 been deployed at the JFIT on Op TELIC 1. I also  
11 questioned in detail the OC of F Branch Capt S012, (the  
12 branch within 3 Training Company responsible for  
13 delivering interrogation and tactical questioning  
14 training). I then prepared answers to these questions  
15 and forwarded the answers to ADI HUMINT, who was the  
16 policy lead for interrogation. In essence, my response  
17 was that hooding of prisoners was not, and never had  
18 been, trained at JSIO (indeed it was at that time  
19 explicitly prohibited for all purposes) but that  
20 blindfolding was permissible for force protection or for  
21 security reasons. [MOD043941].

22 33. During the course of my enquiries, I spoke to  
23 former JFIT staff from Op TELIC 1 including the OC, Capt  
24 S014, the 2 i/c (whose name I cannot now recall) and  
25 also the Ops Warrant Officer (whose name I cannot now

1 recall) about the use of hooding. When I spoke to the  
2 OC, Capt S014, and Ops WO of the JFIT, my primary  
3 concern was the training delivered by JSIO and not the  
4 policy issues. I was also aware that all the issues in  
5 the JFIT report at MOD041849 were available to the Chain  
6 of Command and would be considered as part of a higher  
7 level review. The JFIT staff I spoke to informed me  
8 that a small number of prisoners arriving at the JFIT  
9 had injuries, possibly suggesting they might have been  
10 injured either while resisting arrest or at some point  
11 on their journey to the JFIT. They also raised concerns  
12 in relation to the guard force being insufficiently  
13 trained and also in relation to inadequate facilities at  
14 the JFIT. These conversations arose as a result of the  
15 Parliamentary questions. I would not have known of any  
16 concerns arising during any deployment, as I was, as  
17 explained above at paragraph 19, not in the operational  
18 chain of command in theatre and would not therefore have  
19 expected such concerns to be reported to me.

20 I specifically asked the JFIT staff whether hooding had  
21 been used as a means of disorientation during the  
22 interrogation process and they were adamant that it had  
23 not (see paragraph 36 below). These discussions took  
24 place a number of months after they returned from  
25 operations. I had not been deployed and so had no first

1 hand knowledge but I had no reason to doubt what I was  
2 told by the JFIT staff when I spoke to them.

3 34. I have been shown and have read MOD042060,  
4 MOD041849 and MOD042844, all of which are post tour  
5 reports. I note that they pre-date my appointment to  
6 JSIO but I do remember seeing these documents when  
7 I made my enquiries at the end of 2003. I remember  
8 speaking to the author of MOD041894 as part of my  
9 enquiries. I have also been shown MOD038658, which  
10 again, pre-dates my appointment but I certainly saw this  
11 document.

12 35. When I spoke to the individuals who had been  
13 deployed at the JFIT (and in particular Capt S014, the  
14 OC and Ops WO) to answer the Parliamentary Questions,  
15 I asked them about the reasoning behind hooding (purely  
16 as a matter of curiosity) and they referred me to  
17 paragraph 21 of the Post Op Tour Report (MOD041849),  
18 which had been addressed to my predecessor. However, my  
19 enquiries were primarily focused on the training that  
20 was being delivered, not on the legal basis of  
21 deprivation of vision. I do recall discussing other  
22 issues, such as the use of sandbags to restrict vision  
23 for security reasons as there was little else available.  
24 I was therefore aware (from about October 2003) that  
25 hooding through the use of sandbags had been taking

1 place in Iraq in around March / April 2003 for a period  
2 of a few days. I was told that it took place when the  
3 JFIT was set up until the ICRC visited a few days later  
4 and ordered hooding be ceased, following which I was  
5 told that the use of hooding did, in fact, cease. I was  
6 informed that it was used (over this period of a few  
7 days) solely as a means of concealing sensitive  
8 operational elements from the view of prisoners.

9 36. All my knowledge of this subject originates  
10 from my enquiries made after September/October 2003 and  
11 so is 'second hand'. As part of my enquiries with the  
12 JFIT, I asked to what extent, if any, a distinction was  
13 drawn in September/October 2003 between blindfolding and  
14 hooding and was advised that blindfolding was permitted  
15 in certain circumstances but hooding was not permitted.  
16 The understanding I gained from my conversations was  
17 that prisoners were denied the opportunity to observe  
18 specific military operations, equipment and dispositions  
19 if it was deemed that these observations could pose  
20 a significant risk to lives and operations if they were  
21 subsequently compromised. I understood that this was  
22 achieved after the ICRC visit in March/April 2003, on  
23 a case by case basis, by the use of blacked out goggles  
24 or eye masks/blindfolds. I understood that this was  
25 purely a security measure and it was not suggested to me

1           that this was an attempt to disorientate prisoners to  
2           aid the interrogation process.

3           37. I knew the enquiries I was making at the  
4           request of ADI HUMINT were in support of an ongoing  
5           investigation taking place at a higher level. As I have  
6           said, my primary concern was the training delivered by  
7           JSIO and not the policy issues, as I was aware that  
8           these were the subject of reviews at a much higher  
9           level. I was also aware that all the matters raised in  
10          the JFIT report were available to the Chain of Command  
11          and would be considered as part of a higher level  
12          review.

13          38. I also spoke in detail to the OC at F Branch,  
14          Capt S012, which was the section within JSIO delivering  
15          training interrogation and tactical questioning. He  
16          advised me that deprivation of sight as an aid to  
17          interrogation (as opposed to deprivation of sight for  
18          security reasons) did not form part of (and never had  
19          formed part of) the TQing and Interrogation training  
20          delivered at JSIO.

21          39. I also subsequently asked the S01 Legal of  
22          DISC, Lt Col David Yates, to review all of the training  
23          provided by F Branch to ensure that UK law and the  
24          Geneva Conventions were complied with. Having carried  
25          out this exercise, he advised me that the training was

1           legally compliant. I have been asked by the Inquiry to  
2           clarify whether I received this advice in writing or  
3           orally but I cannot now recall whether the advice took  
4           the form of an email, telephone call or face to face  
5           meeting.

6           40. My enquiries led me to conclude that the  
7           training provided by JSIO was in accordance with Geneva  
8           Conventions and UK law. I was satisfied from the  
9           enquiries I had made and from my reading of the  
10          documentation, that the answers I had been given were  
11          correct. I reiterate that I was only qualified to  
12          comment on the training provided by JSIO. As regards  
13          what was trained elsewhere or what was, in fact,  
14          happening in practice, I was not in a position to know.  
15          I was not in theatre to know what took place in practice  
16          and was not, in any event, in the operational chain of  
17          command.

18          41. I have been shown and have read MOD043941 and  
19          note it relates to one of the Parliamentary questions on  
20          hooding. Although the email was copied to me, I do not  
21          recall this particular email. The email contains  
22          a composite of generic answers to a whole series of  
23          questions (which all related to the same subject) that  
24          I had provided an answer to. It provides a reasonable  
25          summary of my answers.

1           42. As mentioned above, I saw many of the documents  
2 which are listed in paragraph 10 relating to the wider  
3 policy considerations from 1996 to 2003 during the  
4 course of answering information requests from ADI HUMINT  
5 but had not seen them prior to that point.

6           43. I saw JIC (A) (72) 21 Final (CAB001020) around  
7 December 2003/January 2004 when I came to answer further  
8 specific questions in relation to hooding (again for  
9 Parliamentary Questions). As part of the enquiries  
10 I made in order to answer these Parliamentary Questions,  
11 I reviewed this document. I cannot say for certain  
12 whether or not I had seen it before this time. I was  
13 not involved in the drafting, implementation or  
14 distribution of it. However, I was familiar with the  
15 essence of the document in the sense that the general  
16 principles within it were familiar to me (as I believe  
17 I may have come across it prior to 2003 in a previous  
18 role unconnected to the Inquiry's Terms of Reference).  
19 In particular I was aware of the prohibited  
20 interrogation techniques imposed in paragraph 7 of this  
21 document on deprivation of vision, stress positions,  
22 white noise equipment, sleep deprivation and restricted  
23 diet. I knew that prisoners were sometimes blindfolded,  
24 but my understanding was (from discussions with SME's  
25 during October 2003) that this was only for security

1 reasons, such as to prevent them observing sensitive  
2 operational details which could be of use to the enemy,  
3 not to confuse or disorientate them to aid the  
4 interrogation process. I understood the blindfolds  
5 would be removed as soon as the prisoner was out of  
6 sight of the sensitive areas and would in any event  
7 always be removed prior to interrogation.

8 44. I was involved in reviewing DISC training in  
9 TQing and interrogation to ensure it complied with MoD  
10 policy following the letter of 24 October 2003 from Lt  
11 Gen Reith (MOD005806). I definitely received this  
12 letter and although I cannot remember exactly, think it  
13 may have been this letter that provoked my requesting  
14 the input of SO1 Legal for advice (as referred to  
15 above). I remember being concerned to ensure that the  
16 sentiments of this letter were incorporated into the  
17 JSIO training.

18 45. As referred to above, I investigated specific  
19 parliamentary questions which concerned whether JSIO's  
20 training included hooding. My enquiries confirmed that  
21 it did not. I am not aware of any major changes made in  
22 JSIO's training after September 2003 in relation to  
23 TQing, interrogation, PW handling and CAC. This is  
24 likely because the conclusions drawn from my initial  
25 enquiries were such that there was no cause for concern

1 to render the implementation of any changes necessary.

2 46. I was not involved in consideration of the  
3 prisoner abuse allegations in May 2004. However, as CO  
4 JSIO, I was required to respond to requests for  
5 information by those in the chain of command above me  
6 and which I in turn would have sought from relevant  
7 training branch within JSIO. I have been shown and have  
8 read emails from that period detailing exchanges on  
9 these issues (MOD053852; MOD053853 and MOD053856).

10 Accounts to Press

11 47. I have not given an account of matters relevant  
12 to the Inquiry to the press or other media nor have  
13 I ever been approached by anyone in the press to discuss  
14 these events.

15 Statement of Truth

16 I believe that the facts stated in this witness  
17 statement are true.

18 Signed: S045.

19 Dated: 28 February 2010.

20

21 MR HALLIDAY: Finally, Sir, there is Ian Willis --

22 THE CHAIRMAN: He was the successor to S046, is that right?

23 MR HALLIDAY: Quite so, sir.

24 THE CHAIRMAN: Yes. Yes, Willis.

25 Summary of supplementary witness statement of IAN WILLIS

1 MR HALLIDAY: Finally Willis. Colour Sergeant Willis has  
2 now provided two statements to the Inquiry. The first  
3 was read into the transcript back on 21 January. In his  
4 first statement he described attending an "Arrest and  
5 Restraint" course in 2002, at which he learnt techniques  
6 for restraining noncompliant prisoners, including  
7 a technique known as the "super scapula strike", which  
8 meant delivering a firm blow to the shoulder area to  
9 make the prisoner's knees buckle.

10 The Inquiry therefore asked him for a second  
11 statement to describe the identity of those who provided  
12 this training. He says that the training was delivered  
13 at Catterick Garrison by two sergeants from the Army  
14 Physical Training Corps, which is based at Aldershot.

15 Supplementary witness statement of IAN WILLIS

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Witness Name: IAN WILLIS

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Statement No: 2

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Exhibits: NIL

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Dated: 02 February 2010

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THE BAHA MOUSA PUBLIC INQUIRY

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Witness Statement of IAN WILLIS

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1 I, COLOUR SERGEANT IAN WILLIS, WILL SAY as follows:

2 1. I make this statement in response to the  
3 Inquiry's Rule 9 Request for a further witness  
4 statement, dated 12 January 2010. I have read this  
5 Request, and I seek here to cover everything that it  
6 raises to the best of my ability and recollection.

7 Training

8 2. I have been asked to provide further details  
9 regarding the 'Arrest and Restraint' Instructor Course  
10 that I attended in 2002. I referred to this course in  
11 paragraph 6 of my previous statement, dated 2 December  
12 2009.

13 3. The course was held in the gymnasium at Somme  
14 Barracks, Catterick Garrison. The training was provided  
15 at Brigade level, which is to say that it was attended  
16 by units from throughout the Brigade. The units that  
17 I specifically remember being present were 1 Queen's  
18 Lancashire Regiment and 1 Kings Regiment (now  
19 amalgamated to form 1st Battalion, Duke of Lancaster's  
20 Regiment), the Royal Logistic Corp and the Queen's Royal  
21 Lancers.

22 4. The training was provided by two sergeants from  
23 the Army Physical Training Corp (APTC), based in  
24 Aldershot. The APTC are subject matter experts in  
25 physical training. The training lasted either about 5

1 or 10 days, I cannot recall which.

2 Statement of Truth

3 I believe that the facts stated in this witness  
4 statement are true.

5 Signed: Ian Willis.

6 Dated: 2 February 2010.

7

8 THE CHAIRMAN: That comes as no great surprise. Thank you  
9 very much. That ends this week's hearings and we start  
10 again on Monday with whom?

11 MR HALLIDAY: We have Clements, Conway, Allkins and  
12 Cholerton on Monday, Sir.

13 THE CHAIRMAN: Good, thank you very much. Thank you all.

14 (4.13 pm)

15 (The Inquiry adjourned until 10.00 am, Monday, 10 May 2010)

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