

1 Wednesday, 27 January 2010

2 (10.00 am)

3 Opening Remarks

4 THE CHAIRMAN: Yes, Mr Moss.

5 MR MOSS: Sir, good morning.

6 Our first witness this morning was due to be

7 Mr MacFarlane.

8 THE CHAIRMAN: Yes.

9 MR MOSS: May I apologise to the Inquiry's behalf to you,
10 Sir, and to core participants in indicating, as I have
11 to do, that it is not possible for Mr MacFarlane to give
12 his evidence by videolink this morning. There is a very
13 remote prospect that he might be able to give his
14 evidence this afternoon, but, in effect, his evidence
15 for today has had to be, as near as anything, cancelled.
16 I understand that we will know very shortly for sure
17 what the position is.

18 Mr MacFarlane is abroad, Sir, and hence the need for
19 a videolink. I think perhaps all I should indicate is
20 that there have been various logistical and security
21 difficulties. I think it also right to indicate that,
22 so far as the Inquiry is concerned, Mr MacFarlane has
23 cooperated throughout and has been in contact with the
24 Inquiry yesterday and today and with his own solicitors
25 about the various difficulties that are being

1 experienced. The likelihood, therefore, is that we will
2 need to re-schedule Mr MacFarlane's evidence and look at
3 various options so far as the videolink is concerned,
4 but I apologise for the disruption that has been caused
5 on this occasion.

6 THE CHAIRMAN: It is certainly not his fault and it is also
7 not the Inquiry's fault. These things happen. We will
8 have to fit him in when we possibly can. Do you want to
9 say anything, Mr Dingemans?

10 MR DINGEMANS: Simply to take my learned friend's comment
11 one stage further. He rightly said that it was as near
12 as confirmed that he could not give evidence. Literally
13 just before you came into the room, those instructing me
14 came in, having re-established contact on the
15 telephone -- even the telephones have proved erratic
16 today -- and I am afraid there will be no possibility --

17 THE CHAIRMAN: There is no prospect.

18 MR DINGEMANS: -- that he will give evidence this afternoon.
19 The location at which he was attempting to establish
20 connections has confirmed that they cannot, for whatever
21 reason, make that connection, so I am very sorry.

22 THE CHAIRMAN: Thank you for telling us that. That puts us
23 out of suspense. It is unfortunate, but not his fault
24 and not the Inquiry's fault. We will have to see when
25 he can be re-scheduled.

1 MR MOSS: Sir, yes. As soon as we know a date, obviously we
2 will let core participants know.

3 Sir, may I then call Michael Giblin please?

4 THE CHAIRMAN: If you would stand up for the moment, please,
5 Mr Giblin, I shall ask that you be sworn.

6 MICHAEL MARTIN GIBLIN (affirmed)

7 THE CHAIRMAN: Thank you. Please sit down, Mr Giblin. If
8 you would be kind enough to speak into that microphone
9 in front of you, then we will all hear you. If you are
10 asked any questions that you don't understand by counsel
11 or indeed myself, you will say so at once, I hope.

12 A. Yes, sir.

13 THE CHAIRMAN: Thank you.

14 MR MOSS: Mr Giblin, could you start, please, by giving the
15 Inquiry your full name?

16 A. Michael Martin Giblin.

17 Q. I hope that on the desk in front of you, Mr Giblin, you
18 will find a folder which should contain your statement
19 to the Inquiry. I wonder if you could take a look at
20 that, please, in the hard copy that you have there,
21 which we have at BMI06476, the final page in the
22 statement. Do you have that?

23 A. Yes, sir.

24 Q. Do you see that that's a statement which you signed on
25 4 January earlier this month, 4 January 2010?

1 A. Yes, sir.

2 Q. When you were signing that statement, were you telling
3 the Inquiry that the contents of the statement were true
4 to the best of your knowledge and belief?

5 A. Yes, sir.

6 Q. I just want to ask you a few matters arising out of your
7 statement, not about everything that's in it, but I am
8 also going to ask you a few more general questions about
9 your tour in Iraq.

10 Can we start, Mr Giblin, with a little bit about
11 your background? You tell us, is this right, that at
12 the time of Op Telic 2 in 2003, you were in
13 Anzio Company and you were a lance corporal. Is that
14 right?

15 A. It is, sir.

16 Q. Are you, in fact, still in the army?

17 A. Yes, sir.

18 Q. And what's your current rank?

19 A. Still lance corporal, sir.

20 Q. On this tour in Iraq, were you with Anzio Company for
21 the whole of the tour?

22 A. Yes, sir.

23 Q. Were you therefore based at Camp Stephen?

24 A. Yes, sir.

25 Q. Can you remember which multiple or platoon you were with

1 when you first deployed?

2 A. 20B, sir.

3 Q. So one of the multiples within 2 Platoon, is that right?

4 Subsequent to that, did you have a change in role?

5 A. I did, aye, sir.

6 Q. What did your role change to?

7 A. I went into the ops room, sir, as a signaller.

8 Q. Can you remember whenabouts that change came about?

9 A. It was about two/three months into it, sir.

10 Q. As you know, the main aspect that you were asked to deal

11 with in your statement to the Inquiry involved some

12 video footage. You know what I'm referring to by that,

13 don't you?

14 A. Yes, sir.

15 Q. Can I ask you first of all, when you were on the tour,

16 did you have experience of either you or your colleagues

17 taking videos and photographs? Was that something that

18 you saw?

19 A. We did take photos and videos, but just of ourselves,

20 sir.

21 Q. Just of yourselves?

22 A. Aye, sir.

23 Q. While you were in Iraq yourself, had you taken any

24 photographs showing prisoners?

25 A. No, sir.

1 Q. Had your colleagues shown you any photographs when you
2 were in Iraq depicting prisoners?
3 A. No, sir.
4 Q. Had you seen any photographs in Iraq depicting
5 mistreatment of civilians of any kind, Iraqi civilians?
6 A. No, sir.
7 Q. So far, then, as the video which you came to see is
8 concerned, what was your first involvement in that?
9 When did you first see the video?
10 A. It was in Cyprus, sir.
11 Q. Do you remember whenabouts it was?
12 A. No, sir.
13 Q. You tell us in your statement -- we don't have to have
14 it on the screen for the moment -- that it was in around
15 May 2004. Does that sound right?
16 A. Yes, sir.
17 Q. Whereabouts were you on your base in Cyprus when you saw
18 the video?
19 A. The guard room, sir.
20 Q. Why was it, if you can remember, that videos or
21 photographs were in the guard room that day?
22 A. I don't remember, sir.
23 Q. It wouldn't be normal, would it, for photographs of the
24 Iraq tour just to be hanging around in the guard room?
25 A. No, sir.

1 Q. You can't help us, can you, with what had led to it?

2 A. No, sir.

3 Q. It's well known that at the very end of April 2004 and
4 right at the beginning of May 2004, the Daily Mirror ran
5 a number of articles about prisoner abuse, including
6 photographs which were said to show abuse of prisoners
7 by 1 QLR. Do you remember that?

8 A. Yes, sir.

9 Q. This occasion in the guard room, was it at some stage
10 after the Daily Mirror photographs, do you remember?

11 A. I don't remember, sir.

12 Q. I don't want you to guess, but might it have been the
13 case that videos and photographs were in the guard room
14 because they were being collected, for whatever reason,
15 after the Daily Mirror photographs had been published?
16 Does that ring any bells?

17 A. No, sir.

18 Q. All right. Well, you were in the guard room. Can you
19 help the Inquiry with anybody else who was present?

20 A. Corporal Woods, sir.

21 Q. What was Corporal Woods in relation to you? Was he in
22 your chain of command?

23 A. No, sir.

24 Q. Did you know him?

25 A. I did, aye.

1 Q. How did you know him?

2 A. Friend, Sir.

3 Q. Was anybody else present?

4 A. Captain Rodgers.

5 Q. And would there have been a reason for Captain Rodgers
6 to have been in the guard room at that time?

7 A. No, not really, sir.

8 Q. Was Captain Rodgers, at that stage, in your chain of
9 command?

10 A. Yes, sir.

11 Q. He was in your company, was he, at that stage?

12 A. Yes, sir.

13 Q. Was it just the three of you, yourself, Corporal Woods
14 and Captain Rodgers, or were there other soldiers
15 present as well?

16 A. Just in the office part, yes, sir.

17 Q. It was only the three of you in the office part of the
18 guard room?

19 A. Yes, sir.

20 Q. Were there other soldiers, though, in the guard room
21 generally but not in the office?

22 A. Yes, sir.

23 Q. Just so that we have the feel of it, why were you in the
24 office in the first place?

25 A. I was on guard, sir.

1 Q. It was not that you had gone into the office to look at
2 the photographs or look at the videos or anything like
3 that?

4 A. No, sir.

5 Q. All right. So you are in the office and you are in the
6 office because you are on guard duty. How did you come
7 to know about photographs or videos?

8 A. They were just being passed around, sir.

9 Q. Between who?

10 A. In the office, sir. They were on the desk.

11 Q. Yes, but who was passing them around?

12 A. I don't remember, sir.

13 Q. Was it Corporal Woods and Captain Rodgers who were
14 there with you or the other soldiers who were in the
15 bigger room in the guard room?

16 A. I really don't remember, sir.

17 Q. Those that you did see, if it matters, what were you
18 talking about physically? Was it photographs in hard
19 copy or CD Roms or a combination?

20 A. Hard copy, sir, on a disc.

21 Q. You say hard copies on discs. Were they printed out
22 like old-fashioned photographs that you would stick into
23 an album?

24 A. Oh, no, sir, on disc.

25 Q. It's all on disc, is it?

1 A. Yes.

2 Q. I don't mean exactly, but what sort of quantity of discs
3 were there?

4 A. I don't remember, sir.

5 Q. I don't want you to guess, but are we talking one or two
6 or more, a whole pile of discs? Can you help us?

7 A. I don't remember, sir.

8 Q. Let's just look, if we may, then, on the screen -- you
9 have it in hard copy, if it is easier for you -- at
10 paragraph 7 of your statement, BMI06473. Again, if it
11 matters, you did tell us earlier this month that you
12 recall that there was a pile of discs that were in the
13 guard room. What did you mean by that?

14 A. Asides from a video, you know like DVDs, sir --

15 Q. Yes.

16 A. -- just like normal movies and stuff.

17 Q. Yes, but I am asking you at the moment about the
18 quantity of them. I am interested in the fact that you
19 describe them as a "pile of discs".

20 A. Yes, it was in with a pile of discs, sir, but that's the
21 only one that I knew that contained that type of stuff,
22 sir.

23 Q. Did you know who the discs belonged to at all?

24 A. No, sir.

25 Q. How did it come to be that you looked at anything that

1 was on the discs?

2 A. Because I put them in my laptop, sir.

3 Q. So you had a laptop there. Was it your own laptop?

4 A. Yes, sir.

5 Q. Were there other computers in that guard room office?

6 A. There may well have been, sir.

7 Q. Were you the only one putting in discs and looking at

8 them or were others doing that as well?

9 A. It was just me, sir.

10 Q. You are sure about that, are you, that it was just you

11 on your laptop?

12 A. Yes, sir.

13 Q. Again, let's just have that paragraph 7 back on the

14 screen if we may. You said in your statement:

15 "I do not know where these discs came from or how

16 they came to be in the guard room that day; however,

17 I remember that everyone in the room was swapping the

18 discs around and putting them on computers and looking

19 at the pictures."

20 That might be thought to suggest that they were

21 going on more than one computer, perhaps. Can you help?

22 A. It's not unfamiliar, sir, for the lads in the back to

23 have laptops as well to watch films on and stuff.

24 Q. Of course. What are you saying, that you remember that

25 lads in the guard room, the bigger guard room rather

1 than the office, were putting some of these discs on and
2 looking at them as well?

3 A. As far as I am aware, sir, there was that -- there was
4 just the one disc. The rest of the lads may well have
5 been putting movies on.

6 Q. Let's take it in stages. In terms of your computer, are
7 you saying that you only put one disc into your
8 computer?

9 A. Yes, sir.

10 Q. You did say that there was a pile of discs in the guard
11 room containing video and photograph files from
12 Op Telic 2. That's what you said in your statement. So
13 were there other discs with other photographs on?

14 A. No, sir.

15 Q. The reason why I am pressing you, so that you
16 understand, on the details of this, Mr Giblin, is that,
17 as you appreciate, one of the videos -- one of the items
18 of media on this disc -- appears to have shown the
19 mistreatment of the detainees in which this Inquiry is
20 concerned. You understand that, don't you?

21 A. Yes, sir.

22 Q. Let's just go back to your statement, if we may,
23 paragraph 7, the previous page please. What you have
24 told the Inquiry this morning is that there was only one
25 disc that you put in your computer. If I have

1 understood you correctly, you think that was the only
2 disc with Op Telic photographs on.

3 A. Yes, sir.

4 Q. Why, in your statement earlier this month, were you
5 indicating that there was a pile of discs containing
6 video and photograph files from Op Telic 2?

7 A. There were a pile of discs, sir, but the discs had --
8 they were movie discs and the only one I recall with the
9 pictures and video on was on a disc.

10 Q. I want you to correct me -- we just want to be clear
11 about what it is that you are saying about this. Is it,
12 then, your evidence that there was a pile of CDs, some
13 of which were just normal movies which the lads in the
14 guard room might have been watching, but one disc
15 contained photographs and media from Op Telic 2?

16 A. Yes, sir.

17 Q. Is that what you are saying? So that was a mistake, was
18 it, or perhaps a wrongful impression in paragraph 7 --

19 A. Yes, sir.

20 Q. -- when you said "a pile of discs containing videos and
21 photograph files from Op Telic 2"?

22 A. Yes, sir.

23 Q. All right. How confident are you, how sure are you,
24 that there was only one disc from Op Telic 2?

25 A. In the guard room that day, sir?

1 Q. Yes.

2 A. Just the one, sir.

3 Q. How confident are you about that? Do you feel sure
4 about that?

5 A. Aye, sir.

6 Q. You did go on to say, at the bottom of the page and over
7 to the next page:

8 "... however, I remember that everyone in the room
9 was swapping the discs around and putting them on
10 computers and looking at the pictures."

11 Just help us with that. If there was only one disc
12 and it is on your laptop, were you showing the pictures
13 to the other people who were in the office and in the
14 guard room?

15 A. Yes, sir, we were all -- the three of us were in there
16 looking at them.

17 Q. Were they being shown more widely in the guard room to
18 the lads who were in the guard room or just in the
19 office?

20 A. No, sir, just in the office part, sir.

21 Q. So that was you, Corporal Woods and Captain Rodgers --

22 A. Yes, sir.

23 Q. -- who were the only people who saw what was on that
24 disc?

25 A. Yes, sir.

1 Q. Is that what you are saying?

2 A. Yes, sir.

3 Q. What sort of thing were you looking for as you were
4 going through the photographs?

5 A. Nothing in particular, sir. We were just browsing
6 through the pictures.

7 Q. Out of curiosity because they were pictures of a tour
8 that you were on?

9 A. Yes, sir.

10 Q. I don't expect that you can remember every photograph by
11 any means, of course, but what sort of thing did most of
12 the photographs or videos show?

13 A. Just happy snaps, sir, of lads posing.

14 Q. Apart from the video that we will come on to, do you
15 remember any of the photographs or videos showing
16 prisoners?

17 A. No, sir.

18 Q. Did any of the other photographs or videos show
19 civilians, whether prisoners or not, in any way being
20 mistreated?

21 A. No, sir.

22 Q. Now the video that showed Corporal Payne shouting at
23 detainees, how did that first come to your attention?

24 A. Captain Rodgers was stood behind us and he just pointed
25 to it and said, "Oh, what's that one?", and then once

1 I had brought it up onto the screen, it showed that.

2 Q. All right. I don't want you to guess and if you can't

3 remember you must say, but do you know what it was that

4 led Captain Rodgers to say, "What's that one?" Did the

5 file have a name or anything like that?

6 A. No, sir, it was just -- it was just like a little

7 picture and then, obviously, when you click on it, it

8 brings it up into the movie form.

9 Q. So it had a sort of icon showing, what --

10 A. Yes, sir.

11 Q. -- the first scene from the video, would it have been?

12 A. Yes, sir.

13 Q. What, you then clicked on it and played it, is that

14 right?

15 A. Yes, sir.

16 Q. Did Captain Rodgers watch it with you?

17 A. Yes, sir.

18 Q. Did Corporal Woods?

19 A. Yes, sir.

20 Q. Did anybody else?

21 A. No, sir.

22 Q. Was there anybody else in the office at the time that

23 that was played?

24 A. No, sir.

25 Q. Tell us, if you would, what you can remember about what

1 the video actually showed.

2 A. Corporal Payne in a room with a number of detainees in
3 stress positions up against the wall, with their arms
4 outstretched to the front, hooded and zip tied.

5 Q. I appreciate the timing is difficult but, doing the best
6 that you can, are you able to tell us how long the clip
7 was approximately?

8 A. I don't know, sir.

9 Q. Don't guess, but are we talking a minute or two or could
10 it have been five or ten minutes long or --

11 A. About a minute, sir.

12 Q. You may be aware that this Inquiry has obtained and
13 released a video taken at the TDF at BG Main showing
14 Corporal Payne. Can I ask you this: have you seen that
15 video that the Inquiry has?

16 A. Yes, sir.

17 Q. Are you able to tell the Inquiry whether the video that
18 the Inquiry has is the same as the one that you saw that
19 day in the office?

20 A. Yes, sir.

21 Q. It's exactly the same, is it?

22 A. Yes, sir.

23 Q. If it matters, did you watch that video just the once or
24 did you replay it?

25 A. Just the once, sir.

1 Q. Presumably, if all of the other material that you had
2 been flicking through that day were happy snaps, this
3 video was pretty unusual and would have stood out,
4 wouldn't it?

5 A. Well, yes, sir.

6 Q. What was your reaction? What did you think when you saw
7 it for that one time?

8 A. I didn't like it, sir.

9 Q. It may be an obvious question, but why did you not like
10 it?

11 A. Because I thought it was wrong, what was on it.

12 Q. Were you shocked by it?

13 A. Yes, sir.

14 Q. Can you remember anything about Corporal Woods, who you
15 say was watching it with you? Can you remember anything
16 about his reaction or anything he might have said?

17 A. No, sir.

18 Q. Is it the case that he might have said something and you
19 can't remember or are you saying he didn't say anything?

20 A. More than likely, sir, but I can't remember.

21 Q. It's more than likely that he said something, but you
22 can't remember what it was. Is that what you are
23 saying?

24 A. Aye, sir.

25 Q. What then about Captain Rodgers? Can you remember what

1 his reaction was?

2 A. No, sir.

3 Q. Did you have any discussion with him or did he say
4 anything to you, can you remember?

5 A. No, sir.

6 Q. You didn't have a discussion or you can't remember one
7 way or the other?

8 A. I can't remember, sir.

9 Q. Did you know at this stage that soldiers who had been
10 under the command of Captain Rodgers had been involved
11 in guarding those who were shown on the video?

12 A. No, sir.

13 Q. If that video then was really just played the once, what
14 happened next? What did you do next?

15 A. I deleted them off my computer, sir.

16 Q. Whose idea was that, to delete it?

17 A. Mine, sir.

18 Q. Did you discuss that with either Corporal Woods or
19 Captain Rodgers?

20 A. No, sir.

21 Q. It wasn't that either of them had suggested it to you,
22 deleting it?

23 A. No, sir.

24 Q. You had downloaded it onto your laptop in order to view
25 it, had you?

1 A. I put the whole disc on my computer, sir.

2 Q. You transferred the whole disc onto your computer and
3 then clicked on that?

4 A. Aye, sir.

5 Q. Did you delete the other photographs or just that video?

6 A. Just the video, sir.

7 Q. Did you delete it while Captain Rodgers and
8 Corporal Woods were still in the office with you?

9 A. Yes, sir.

10 Q. Did you tell them that you had done that?

11 A. I don't recall, sir.

12 Q. Can I ask you about the disc, the CD, that it was on?
13 Did you just delete it from your laptop?

14 A. Yes, sir.

15 Q. You didn't do anything with the disc itself?

16 A. No, sir.

17 Q. You say that you knew that what had been shown on that
18 video was wrong, is that right?

19 A. Yes, sir.

20 Q. Did you appreciate at that stage that the video showed
21 those who were detained at the same time as Baha Mousa
22 who had died in custody? Did you understand that at the
23 time?

24 A. No, sir.

25 Q. Are you sure about that?

1 THE CHAIRMAN: Do you understand the question?

2 A. Aye, Sir.

3 THE CHAIRMAN: All right.

4 MR MOSS: You would have known that Baha Mousa had died in
5 1 QLR's custody, I'm sure.

6 A. Yes, sir.

7 Q. When you saw that video, you didn't make the link?

8 A. No, sir.

9 Q. Were you suspicious that it might be Baha Mousa and
10 those detained with him?

11 A. No, sir.

12 Q. From what you have told us already, it's not the case
13 that Captain Rodgers said anything about that, is it,
14 that the video might be linked to Baha Mousa and those
15 detained with him?

16 A. No, he didn't say anything.

17 Q. Can I ask you this, then? If you knew that what you had
18 seen on that video was wrong, did you report it to
19 anybody?

20 A. He was stood behind me, sir. Captain Rodgers was stood
21 behind me.

22 Q. And he was in your chain of command, as you have told
23 us; is that right?

24 A. Yes, sir.

25 Q. You felt, did you, what, that that was enough, that

1 Captain Rodgers in your chain of command was there and
2 had seen it and knew what was on that video?

3 A. Yes, sir.

4 Q. I think it's right, you tell us in your statement, that
5 following seeing the video in the office, you were
6 called in to see somebody about it. Is that right?

7 A. Yes, sir.

8 Q. Can you remember how soon after seeing the video it was
9 that you were called in to see somebody about it?

10 A. The next day, sir.

11 Q. The next day?

12 A. Aye, sir.

13 Q. I think you said, if it matters, again, in your witness
14 statement, that it was that night. Might it have been
15 the same day, but the night that you had seen it?

16 A. No, sir. I meant -- it was on the morning of the next
17 day.

18 Q. Let's just have a quick look at paragraph 9:
19 "That night I was called in to see the adjutant ..."
20 Was that a mistake in your statement as well?

21 A. Yes, sir.

22 Q. All right. It was the adjutant, was it, who had called
23 for you?

24 A. Yes, sir.

25 Q. Can you remember who the adjutant was?

1 A. Not at the time, sir.

2 Q. If it matters, how had you got the message that you were
3 expected to go and see the adjutant?

4 A. I don't recall, sir.

5 Q. Did the adjutant see you alone or was there anyone else
6 there?

7 A. The battalion 2IC, sir.

8 Q. Can you remember who the battalion 2IC was at the time?

9 A. No, sir.

10 Q. It seems that Major Sweeney was the adjutant at the
11 time. Does that ring a bell?

12 A. Yes, sir.

13 Q. At the time of Op Telic 2, Major Suss-Franksen was the
14 battalion 2IC, but the Inquiry is given to understand
15 that he handed that post over to Major Kenyon. I don't
16 want you to guess, but does that help you at all to
17 remember who it was who was with the adjutant on that
18 morning when you were called in to see them?

19 A. No, sir.

20 Q. I appreciate that it is a while ago and it may be
21 difficult. It may be suggested that Major Kenyon, at
22 around this time, wasn't in the country. If that is
23 right and if he was, at the time, the battalion 2IC, are
24 you able to help us at all with who the other person was
25 who was there with the adjutant?

1 A. I presumed it was the battalion 2IC, sir, because we
2 went into his office.

3 Q. So it was the battalion 2IC's office --

4 A. -- office where I went into.

5 Q. Can you remember what rank, then, the other person along
6 with the adjutant was?

7 A. Major.

8 Q. Was it an officer who you recognised?

9 A. No, sir.

10 Q. But there was definitely, was there, another officer
11 present as well as the adjutant?

12 A. Yes, sir.

13 Q. So you are called in to see them. Of the adjutant and
14 other officer, the major who was present, who did the
15 talking to you or was it both of them?

16 A. A bit of both, sir.

17 Q. What was the essence of what they said to you?

18 A. They just wanted to know about the disc, sir, and they
19 wanted the disc.

20 Q. Did they give you any indication of why they wanted it?

21 A. No, sir.

22 Q. If it matters, was it the disc that they were asking to
23 see or did they want to see your laptop?

24 A. My laptop, sir. They wanted my laptop, and I went and
25 got my laptop, and then I told them that it was deleted,

1 so then they asked for the disc, sir.

2 Q. Again, I don't want you to guess, but from everything

3 that was being said, did you get the impression that

4 they were interested in everything that was on the disc

5 or were they particularly interested in this videoclip

6 that you had watched with Rodgers and Woods?

7 A. Aye, sir, the videoclip.

8 Q. So if that was what they were after, what did you say to

9 them?

10 A. I went and got it, sir.

11 Q. But it had been deleted from your laptop, hadn't it?

12 A. Yes, sir, I got the disc.

13 Q. Where did you get the disc from?

14 A. The guard room, sir.

15 Q. So it was still, what, on the same desk in the guard

16 room, was it?

17 A. Yes, sir.

18 Q. Did they say anything else to you when you returned with

19 the disc?

20 A. They wanted to know if there was any duplicates, sir, or

21 any other discs of that nature.

22 Q. So any duplicates, what, of that disc showing the video?

23 A. Of that disc, aye, sir, or any other discs with stuff

24 on.

25 Q. I follow. Again, I don't want you to guess and I don't

1 want you to speculate -- say if you don't know -- did
2 they make clear why they were interested to know if
3 there were any duplicates of the video showing the
4 detention?

5 A. No, sir. No, sir.

6 Q. What about your laptop? Was anything said about your
7 laptop from which the video had been deleted?

8 A. After that, sir, there was like a big surge in battalion
9 for media and pictures and stuff. We had to hand our
10 laptops in.

11 Q. Was that a process that was going on anyway or did the
12 adjutant and the other officer specifically tell you to
13 do something with your laptop?

14 A. I think it was as a result of that, sir.

15 Q. If we just have paragraph 9 of your statement on the
16 screen -- BMI06474 -- you say, five or six lines down,
17 that you went to get the disc, returned it to give it to
18 them and they asked if there were any other copies of
19 the disc or similar pictures or videos and you told them
20 that you didn't know. You then say:

21 "I was then told to hand in my laptop to the RMP,
22 which I did ..."

23 Who was it who told you to hand in your laptop to
24 the RMP?

25 A. Them, sir.

1 Q. Do you know which RMP it was that you handed the laptop
2 into?

3 A. No, sir.

4 Q. Were you given any kind of receipt for it?

5 A. No, sir.

6 Q. Did you get the laptop back?

7 A. Yes, sir.

8 Q. Were the photographs still on it?

9 A. I don't remember, sir.

10 Q. At any stage while you were in the 2IC's office, having
11 gone to get the disc, was the video shown?

12 A. No, sir.

13 Q. So would this be right, that you have no way of knowing
14 one way or the other whether the adjutant and the major
15 who was with the adjutant watched the disc or not?

16 A. Yes, sir.

17 Q. Did they give you any indication what they were
18 intending to do with the disc?

19 A. No, sir.

20 Q. Now I think, Mr Giblin, that you will have been given
21 the opportunity to have a look at some of the other
22 statements to the Inquiry in relation to this.
23 Corporal Redfearn tells the Inquiry that you approached
24 him and were asking him what you should do with the disc
25 containing the video. Is that right?

1 A. No, sir.

2 Q. Did you have any discussion with Corporal Redfearn about
3 this video, so far as you can remember?

4 A. No, sir.

5 Q. Did you know Redfearn?

6 A. I did, sir.

7 Q. How well did you know him?

8 A. Very well. We were good friends, sir.

9 Q. Had there been any disputes or bad blood between the two
10 of you?

11 A. No, sir.

12 Q. Are you saying that that positively did not happen?

13 A. Yes, sir.

14 Q. You did not approach Redfearn and you did not show him
15 the video?

16 A. Yes, sir.

17 Q. It's not the case that you may have done and you have
18 forgotten about it?

19 A. No, sir.

20 Q. You can't help us, then, with any reason or explanation
21 for why your account differs in that way from
22 Corporal Redfearn's recollections?

23 A. No, sir.

24 Q. So far as Mr Sweeney is concerned, he says that he only
25 recalls about ten photographs. Was it as few as

1 that?

2 A. On the disc, sir?

3 Q. Yes.

4 A. I don't remember, sir.

5 Q. In his statement to the Inquiry -- there is a draft

6 supplement which we may come to -- he indicated that he

7 was certain that no video of the nature that we are

8 talking about was ever handed to him. How sure are you

9 that you handed this disc to Major Sweeney?

10 A. 100 per cent, sir.

11 Q. Is there any history between you and Major Sweeney?

12 A. No, sir.

13 Q. No disputes? Nothing that stands out?

14 A. No, sir.

15 Q. I think, in fairness to you, I should indicate that in a

16 draft supplementary statement he has now said that your

17 version of events rings true. He says that the search

18 for photos, videos, was sparked by someone viewing a DVD

19 in the guard room. He then says "... and reporting it

20 to the chain of command". Now you didn't report it to

21 the chain of command, did you?

22 A. No, sir.

23 Q. But you say that the reason for that was that

24 Captain Rodgers was stood right behind you; is that

25 right?

1 A. Yes, sir.

2 Q. Now I am going to move on to deal with other matters.

3 Can I start, please, with Operation Salerno itself? By

4 the time of 14 September, can you remember whether you

5 had made the move across to be in the A Company ops room

6 or were you still in 2 Platoon at that time?

7 A. I don't remember, sir.

8 Q. You tell us in your witness statement, is this right,

9 that you are not sure whether you were involved in

10 Operation Salerno and with Baha Mousa and those detained

11 with him. All that you can remember is that you did

12 have an involvement with an operation at a hotel; is

13 that right?

14 A. Yes, sir.

15 Q. Just this, then, so far as the operation that you do

16 recall is concerned: did you see any detainees in or

17 around the hotel on the operation that you do remember?

18 A. Yes, sir.

19 Q. Where were the detainees in relation to that hotel when

20 you first saw them?

21 A. Coming out of the front of the hotel.

22 Q. What had been your role at the hotel on that operation?

23 A. I was working with the CQMS. I was down the back alley.

24 We had set up like an admin point.

25 Q. Did you have any involvement with the detainees that you

1 saw coming out?

2 A. No, sir.

3 Q. What happened to those detainees once they had come out?

4 A. Loaded on to a truck, sir, and that's all I know

5 about it, sir.

6 Q. Can you remember anything about the detainees or how

7 many there were, roughly speaking?

8 A. No, sir.

9 Q. Were they hooded when you saw them?

10 A. I don't remember, sir.

11 Q. Were they plasticuffed?

12 A. I don't remember.

13 Q. Did you see any mistreatment of the detainees that you

14 saw?

15 A. I don't remember, sir. I briefly saw them moving from

16 the -- in front of the hotel.

17 Q. Okay. And you had been essentially running an admin

18 point, you tell us, with the CQMS. Later that day, on

19 the operation that you remember with the hotel, are you

20 able to tell us whether you might have gone to BG Main

21 and been involved in any way with guarding those who had

22 been detained?

23 A. No, sir. We went straight back to Camp Stephen.

24 Q. Had you in fact been to BG Main before?

25 A. I had been a couple of times, sir.

1 Q. Can you remember what you did on the occasions when you
2 did go to BG Main?

3 A. I had been to see the doctor, sir.

4 Q. Yes. That was one occasion. Was there any other
5 occasion?

6 A. And then passing through, sir, but I don't recall
7 specifically why we went in there.

8 Q. Did you ever do guard duty at BG Main?

9 A. No, sir.

10 Q. You have told us that you knew about the death of
11 Baha Mousa. Was that talked about within A Company
12 after it had happened?

13 A. Vaguely, sir.

14 Q. Did you come to learn anything about the circumstances
15 in which he had died and those detained with him came to
16 be injured?

17 A. No, sir.

18 Q. Nothing at all? You didn't hear that they had been
19 mistreated --

20 A. No, sir.

21 Q. -- or who might have been involved?

22 A. No, sir.

23 Q. Now one or two more general matters if I may, first of
24 all about training for the tour. Could we have on the
25 screen, please, MOD035479? Just so that you have the

1 context -- you have probably been shown this in recent
2 days, but this is 15 May 2003, so shortly before the
3 deployment, from the ops officer, talking about tactical
4 questioning and prisoner-handling training, which was
5 going to be hosted by QLR, but given by Chicksands.

6 If we just go over to the next page, we see that
7 there is a list of those who were due to attend,
8 including CSMs and provost staff, but then a list of
9 people marked down as "gym" and there is a Lance
10 Corporal Giblin who is listed there. Is that
11 a reference to you?

12 A. No, sir, that's my brother.

13 Q. It follows, does it, that you did not have any tactical
14 questioning/prisoner-handling training given to you by
15 the people from Chicksands?

16 A. No, sir.

17 Q. Just dealing, then, with your training more generally,
18 did you have training in the law of armed conflict?

19 A. Yes, sir.

20 Q. What did that involve, so far as you remember it?

21 A. A DVD, sir.

22 Q. How often were you shown it?

23 A. Once, sir.

24 Q. You had only seen that once, had you? Apart from seeing
25 the video, before you had gone to Iraq can you remember

1 receiving any training on how prisoners should be
2 treated?

3 A. No, sir.

4 Q. The Inquiry is obviously interested in the practice of
5 hooding -- hooding with sandbags -- and, of course, you
6 saw that, didn't you, on the video?

7 A. Yes, sir.

8 Q. Had you received any training at all about the use of
9 hoods on prisoners?

10 A. No, sir.

11 Q. Before you had deployed to Iraq, had you ever seen, in
12 your army life, sandbags being used as a hood --

13 A. No, sir.

14 Q. -- on exercises --

15 A. No.

16 Q. -- or anything like that? Before going to Iraq, then,
17 did you understand whether or not sandbags were
18 permitted to be used on prisoners?

19 A. No, sir.

20 Q. You didn't know one way or the other. Would that be
21 right?

22 A. Yes, sir.

23 Q. Can I ask you about stress positions? Do you know what
24 I mean when I refer to a "stress position"?

25 A. Yes, sir.

1 Q. What do you understand it to mean?

2 A. Putting someone in an uncomfortable position that causes
3 them physical pain.

4 Q. Just looking at it very broadly, in your army career,
5 prior to going to Iraq, had you had any experience of
6 stress positions?

7 A. No, sir.

8 Q. You hadn't seen them being used on any kind of exercise?

9 A. No, sir.

10 Q. Had you seen them being used on soldiers as part of
11 physical training, as part of PT?

12 A. No, sir.

13 Q. Did you understand one way or the other whether or not
14 stress positions could be used by British soldiers on
15 prisoners?

16 A. No, sir.

17 Q. What was your basic understanding? What central
18 message, if any, had you received about how prisoners
19 should be treated?

20 A. Detain them and handcuff them.

21 Q. And the training to handcuff them, whenabouts had you
22 received that training?

23 A. Before we went, sir.

24 Q. Was that part of pre-deployment training?

25 A. I'm not sure, sir.

1 Q. If it matters, can you remember who gave you that
2 training about the plasticuffing --

3 A. No, sir.

4 Q. -- or the handcuffing? Were you taught to handcuff in
5 front or behind or was that level of detail not gone
6 into?

7 A. It wasn't gone into, sir.

8 Q. At that stage, when you had that training on cuffing,
9 was anything said at all about the use of hoods?

10 A. No.

11 Q. You would, presumably, like your colleagues, have had
12 a period of acclimatisation. Would it have been at
13 Camp Eagle in Kuwait?

14 A. Yes, sir.

15 Q. Was the training supplemented there? Did you have any
16 prisoner-handling training or instruction in Kuwait?

17 A. I don't remember, sir.

18 Q. Did you have any kind of handover at all or any
19 involvement with the Black Watch when you first arrived
20 in Iraq --

21 A. No, sir.

22 Q. -- who you were taking over from?

23 A. No, sir.

24 Q. So you had no opportunity to see how they were handling
25 prisoners?

1 A. No, sir.

2 Q. In terms of the practices that were actually adopted,
3 you have told us that you were based at Camp Stephen
4 throughout the tour, is that right?

5 A. Yes, sir.

6 Q. In the first two or three months you would have been out
7 and about with your platoon?

8 A. Yes, sir.

9 Q. And then, presumably, more based in the ops room for the
10 second half of the tour; would that be right?

11 A. Yes, sir.

12 Q. When you were on operations, then, in your platoon role,
13 were you involved, from time to time, in taking
14 prisoners?

15 A. Yes, sir.

16 Q. And if prisoners were taken, how were they handled in
17 your experience?

18 A. They were handcuffed, loaded onto the vehicle --
19 whatever vehicle we had at the time -- and then brought
20 back to Camp Stephen for processing.

21 Q. When you say "handcuffed", was that with plasticuffs?

22 A. Yes, sir.

23 Q. Loaded onto vehicles and brought back to Camp Stephen.
24 The Inquiry has heard lots of evidence from other
25 witnesses, a significant number of whom have indicated

1 that prisoners were hooded, including witnesses from
2 A company. Did you see that yourself?

3 A. No, sir. My multiple never personally hooded anyone.

4 Q. How confident are you of that?

5 A. While I was with them for the first couple of months?

6 Q. Yes.

7 A. Pretty confident, sir.

8 Q. You would tell us, would you, if your multiple had
9 hooded prisoners?

10 A. Yes, sir.

11 Q. You say that your multiple personally never hooded
12 anybody. Did you see some prisoners who were hooded?

13 A. There was an incident when a civilian was arrested by
14 a member of the Iraqi police --

15 Q. Yes.

16 A. -- and they went to tie some rag around his head and
17 that and the platoon sergeant took it off. So from
18 that, you know, I was under no illusion that we had to
19 hood people.

20 Q. What about other multiples if they brought prisoners
21 into Camp Stephen, for example? Did you not see other
22 multiples bring prisoners into Camp Stephen who were
23 hooded --

24 A. No, sir.

25 Q. -- or prisoners being unloaded off trucks at

1 Camp Stephen hooded?

2 A. No, sir.

3 Q. Did you ever see any Iraqi, other than the one you

4 talked about with the rag, hooded during the whole of

5 the tour then?

6 A. No, sir.

7 Q. So when you saw that video from the TDF with the

8 prisoners hooded there, were you particularly shocked by

9 that fact?

10 A. Yes, sir.

11 Q. And that was really the first time that you had seen

12 hoods being used, was it?

13 A. Yes, sir.

14 Q. What about the sort of positions that prisoners might be

15 put into when they were first captured or back at

16 Camp Stephen? Were they put into any kind of positions?

17 A. No, sir. They were just loaded onto the trucks and then

18 sat down in the trucks, sir.

19 Q. Would they have been put in any position to be searched?

20 A. Yes, sir, yes.

21 Q. What position would that be for the search?

22 A. Well they would just stand there, sir, and then

23 obviously you conduct the search on them.

24 Q. What about back at Camp Stephen? Did you ever see

25 prisoners there?

1 A. Yes, sir.

2 Q. Did you see them being required to take up any position,
3 hand on heads or anything like that?

4 A. No, sir.

5 Q. Once you were working in the ops room, was there
6 a veranda close by outside?

7 A. Yes, sir.

8 Q. Did you see prisoners there?

9 A. Yes, sir.

10 Q. Were they being made to take up any sort of position?

11 A. No, sir.

12 Q. Did you see any prisoners being made to run around
13 Camp Stephen --

14 A. No, sir.

15 Q. -- escorted by soldiers, forced exercises, that sort of
16 thing?

17 A. No, sir.

18 Q. Just take a look, if you would, with me at some
19 photographs we have from the tour magazine, LCY000040.
20 Can we have the photograph on the left-hand side by the
21 hole-punches? This purports to show Lance Corporal
22 Redfearn and, as you see from the tag below the
23 photograph, the reference is to welcoming new guests to
24 "Hotel Anzio". Was that a nickname for Camp Stephen?

25 A. Not that I knew of, sir.

1 Q. Whether those prisoners are sat on a pavement or whether
2 they are on their haunches, you can see, can't you, that
3 they have got their shirts pulled up over their heads
4 and sitting with their hands on their heads. Did you
5 not see those sort of positions?

6 A. No, sir.

7 Q. And LCY000042, please, at the bottom right-hand, the
8 same sort of thing. You never saw anything like that?

9 A. No, sir.

10 Q. Did you see, from time to time, perhaps, other soldiers
11 treating prisoners a little bit roughly?

12 A. No, sir.

13 Q. The odd slap perhaps?

14 A. No, sir.

15 Q. Were there any occasions on which you saw prisoners
16 mistreated in any way at all?

17 A. No, sir.

18 Q. If you had seen any of that, would you tell the Inquiry
19 about it?

20 A. Yes, sir.

21 Q. Just finally this then: would I be right in saying --
22 I think you have touched on it already -- that you can't
23 at the moment help us with whether or not you would have
24 been in the A Company ops room on the day of Op Salerno,
25 Sunday 14 September?

1 A. I don't remember, sir.

2 Q. Do you have any recollection of prisoners being brought
3 to Camp Stephen at about that time when other prisoners
4 were being taken to BG Main?

5 A. I don't know, sir.

6 Q. There's some suggestion that two of the detainees were
7 brought to Camp Stephen on that day and may have been
8 handed over to the ops team, with one of them being then
9 made to jump up and down, do forced exercises and so on.
10 Do you know anything about that at all?

11 A. No, sir.

12 MR MOSS: Thank you. If you would wait there, there will be
13 some more questions for you.

14 THE CHAIRMAN: Yes, Ms Hetherington.

15 Questions by MS HETHERINGTON

16 MS HETHERINGTON: Mr Giblyn, just following on from the
17 questions you were just being asked about the day of
18 Op Salerno, and you have said that you went to the hotel
19 area --

20 THE CHAIRMAN: He didn't say that was on Op Salerno. He
21 said it was an occasion when he went. He doesn't know
22 whether it was Op Salerno.

23 MS HETHERINGTON: Sorry, the time that you went to the hotel
24 area and set up in the alleyway. When you returned to
25 Camp Stephen, do you remember there being a particular

1 buzz in the camp about the operation?

2 A. No, ma'am.

3 Q. Do you ever remember hearing that a man had escaped from

4 one of the hotels?

5 A. No, ma'am.

6 Q. Did you ever hear, about this or any other operation,

7 a rumour that detainees had been arrested who were

8 suspected of being responsible for the death of

9 Dai Jones?

10 A. Yes, ma'am.

11 Q. Can you recall -- do say if you can't -- whether that

12 was this hotel operation or some other operation?

13 A. I don't know, ma'am.

14 Q. Do you recall hearing about a theft from a hotel by

15 a member of your company?

16 A. Yes, ma'am.

17 Q. And what do you recall about that?

18 A. I can't remember the individual's name. I believe he

19 robbed some money out of one of the safes.

20 Q. Do you recall the commanding officer of QLR coming to

21 your camp the day of the operation to talk to the

22 soldiers about the theft?

23 A. No, ma'am.

24 Q. You obviously came to learn in due course about the fact

25 that a detainee, Baha Mousa, had died at BG Main.

1 Mr Moss asked you about discussions that may have taken
2 place within Anzio Company about that. Obviously you
3 said that your brother was also in QLR and I think --
4 correct me if I am wrong -- he was a PTI --

5 A. Yes, ma'am.

6 Q. -- based at BG Main and also a member of the CO's TAC
7 group; is that right?

8 A. Yes, ma'am.

9 Q. Can you remember, did you have any discussions with your
10 brother about the fact that a detainee had died at
11 BG Main?

12 A. I don't remember, ma'am.

13 Q. So he didn't say anything about what was being talked
14 about at BG Main about it?

15 A. No, ma'am.

16 Q. Just moving lastly to the DVD and the events in Cyprus
17 in May 2004. Can we just have paragraph 9 of your
18 statement up on the screen? BMI06474 is the page.

19 You say at the start of that paragraph that you were
20 called in by the adjutant and the man you believed to be
21 the 2IC. You say:

22 "They wanted to see my laptop and particularly the
23 video of the TDF ..."

24 Can you remember, is that how they described it to
25 you, "Can we see the video of the TDF?"

1 A. They just wanted to see that, that clip, ma'am.

2 Q. Did they describe the clip to you so that you knew what
3 they meant? They must have done, mustn't they,
4 Mr Giblin?

5 A. I can't recall if it was the TDF or it was the
6 Corporal Payne incident.

7 Q. They used one of those terms. So did you know at the
8 time that the man in the video was Corporal Payne?

9 A. Yes, ma'am.

10 Q. Did you know at the time that the room that was shown on
11 the video was the TDF?

12 A. No, ma'am, not at the time.

13 Q. Did either the adjutant or the 2IC say who told them
14 about the video?

15 A. No, ma'am.

16 Q. Did they ask you where you got the disc from or who else
17 had seen it?

18 A. They knew that it had come from the guard room.

19 MS HETHERINGTON: Thank you, Sir.

20 THE CHAIRMAN: Thank you.

21 Mr Dingemans?

22 Questions by MR DINGEMANS

23 MR DINGEMANS: In the guard room, you were on guard that
24 night, is that right?

25 A. Yes, sir.

1 Q. And there was a pile of DVDs which members of the guard,
2 when they weren't actually on the guard duty, could use
3 to watch -- pass the time, is that right?

4 A. Yes, sir.

5 Q. And one of those DVDs was this which contained
6 photographs and the clip?

7 A. Yes, sir.

8 Q. You have a recollection that it was Captain Rodgers who
9 was watching with you. Corporal Redfearn was also in
10 your chain of command at that time, wasn't he?

11 A. He was in the company, sir.

12 Q. Yes. And whoever it was that was watching with you,
13 nothing was said to you about handing it over at that
14 time. Is that right?

15 A. Yes, sir. Nothing was said.

16 Q. But the next day or that evening, whichever it is, you
17 were in front of the adjutant and, you think, the
18 battalion 2IC to hand it over.

19 A. Yes, sir.

20 Q. So whoever had watched it with you, it rather looks as
21 if they had passed it up the chain of command. Is that
22 right?

23 A. Yes, sir.

24 Q. In relation to this, the first time you were asked to
25 make a statement about this was some five and a half

1 MS EDINGTON: Corporal Giblin, you assumed it was the 2IC
2 because the adjutant and whoever it was, the major you
3 did not recognise, took you into the battalion 2IC's
4 office; is that right?

5 A. Yes, ma'am.

6 Q. And that is your sole connection with the 2IC as far as
7 you are aware?

8 A. Yes, ma'am.

9 Q. Now the adjutant's office, it is fair to say, is quite
10 a busy place, isn't it?

11 A. Yes.

12 Q. And he shares with other people?

13 A. Yes.

14 Q. The regimental careers management officer and people
15 like that?

16 A. Yes, ma'am.

17 Q. So it may be, may it not have been, that it could have
18 been any other major other than the battalion 2IC?

19 A. I didn't recognise him, ma'am, whereas I knew the
20 majority of the company OCs.

21 Q. But you went in there, really, because they wanted a bit
22 of discretion because this was quite a nasty piece of
23 videoclip?

24 A. Possibly, ma'am.

25 Q. Now you were asked to hand your laptop to the Cyprus

1 Joint Police Unit, which you did.

2 A. Yes, ma'am.

3 Q. When did you get your laptop back, do you remember?

4 Some months later?

5 A. I think it was only weeks, ma'am.

6 Q. Weeks later. But you don't know whether anything was

7 done with that laptop by the CJPU, by the RMP?

8 A. No, ma'am.

9 Q. Do you remember seeing a regimental part 1 order

10 requiring all types of material such as this to be

11 handed in to company commanders?

12 A. Yes, ma'am.

13 Q. That was after your -- if I can call it "your clip".

14 I am not saying it is your piece of video, but after

15 that guard room video?

16 A. Yes, ma'am.

17 Q. Do you remember, was it a day or so after that that

18 regimental part 1 order was produced, after you had seen

19 the adjutant? You can't remember?

20 A. I can't remember, ma'am.

21 Q. As far as you are aware, did people hand in material?

22 A. Yes, ma'am. I remember people taking laptops up to the

23 company locations.

24 Q. And they were then handed off to the Cyprus Joint Police

25 Unit, as far as you are aware?

1 A. As far as I am aware, ma'am.

2 MS EDINGTON: Thank you very much.

3 THE CHAIRMAN: Mr Evans?

4 Questions by MR EVANS

5 MR EVANS: Lance Corporal Giblin, your routine, once you

6 became a signaller in the ops room: how much of your

7 time did you spend within the ops room in the course of

8 a typical working day?

9 A. About eight hours, sir.

10 Q. The remainder of your time, how was that spent? Was

11 much of it spent in sleep or rest?

12 A. Aye, sir.

13 Q. How much time approximately in the day would you be

14 resting?

15 A. About ten hours, sir.

16 Q. Did you ever come to learn how it came about that the

17 adjutant learned of the videoclip and called you into

18 his office?

19 A. Sorry, sir?

20 Q. Did you ever come to learn how it came about that the

21 adjutant learned of the clip and called you into his

22 office?

23 A. From Captain Rodgers, sir.

24 Q. That he learned that from Captain Rodgers?

25 A. Aye, sir, after the evening meal.

1 Q. How did you come to know that, do you remember?
2 A. I don't remember, sir, but I remember him going to
3 evening meal, obviously being in the officers' mess.
4 Q. All right. Finally this: you talked briefly of an
5 illness that you had early on in the tour. Was that
6 heat exhaustion?
7 A. It was, sir.
8 Q. What was the result of that? Were you hospitalised?
9 A. I was, sir.
10 Q. How long was that, sir?
11 A. Three or four weeks at Shaibah, sir.
12 Q. As a result of that, was it the case that you were
13 advised by the doctors to return to the UK?
14 A. Yes, sir.
15 Q. What was your reaction to that?
16 A. I wanted to stay, sir.
17 Q. So what happened as a result?
18 A. I had to work and sleep in air con.
19 MR EVANS: You had to work and sleep in air con. Thank you
20 very much.

21 Further questions by MR MOSS
22 MR MOSS: Mr Giblin, I suspect the fault was mine, but I was
23 not quite understanding one of your answers to Mr Evans,
24 who has just been asking you questions. You say that
25 you came to learn that it was Captain Rodgers who had

1 told the adjutant about the video. Is that right?

2 A. Yes, sir.

3 Q. Just help us to understand, how did you come to think

4 that that was the case?

5 A. I don't remember, sir.

6 Q. You mentioned something about "... remember him going to

7 evening meal ... being in the officers' mess". What

8 does --

9 A. I remember -- I can't remember who told me, but

10 I remember it being discussed over evening meal, sir.

11 Q. The reference to officers' mess, were you helping out in

12 the officers' mess?

13 A. No, not at all, sir.

14 Q. So what has the officers' mess got to do with anything?

15 A. Well that's where they all eat, sir.

16 Q. So somebody else told you that it was Rodgers who had

17 told the adjutant, is that right?

18 THE CHAIRMAN: If you nod, I don't think it goes on the

19 transcript. That is right, is it?

20 A. Sorry, Sir, yes.

21 MR MOSS: And, what, when you mentioned the officers' mess,

22 you are assuming he might have done that night in the

23 officers' mess when he, Rodgers and the adjutant would

24 have been in the officers' mess together?

25 A. Yes, sir.

1 Q. Do you remember, if it matters, who the other person was
2 who told you that it was Rodgers who told the adjutant?
3 A. I can't remember, sir.
4 Q. Are you sure about that?
5 A. Yes, sir.
6 MR MOSS: Sir, those are my questions.
7 THE CHAIRMAN: Yes, well, thank you very much for coming,
8 Mr Giblin. You are now free to go. Those are all the
9 questions that the Inquiry is going to ask you. If you
10 want to come back at any time, of course you can, but
11 you are free to go now.
12 A. Cheers, Sir. Thank you.
13 THE CHAIRMAN: I think we will break off for ten minutes now
14 and come back in ten minutes' time.
15 (11.14 am)
16 (A short break)
17 (11.24 am)
18 MR MOSS: Sir, I call Richard Osborne, please, who is
19 already in the witness-box.
20 THE CHAIRMAN: Yes. Would you be kind enough to stand up,
21 please, Mr Osborne, and I will ask that you be sworn.
22 RICHARD CHARLES ANDREW OSBORNE (affirmed)
23 THE CHAIRMAN: Thank you. Please sit down. If you would be
24 kind enough to speak into that microphone that is in
25 front of you, then we will all hear you. I am quite

1 certain that if you are asked any questions you don't
2 understand, you will say so at once.

3 A. I will do, Sir.

4 Questions by MR MOSS

5 MR MOSS: Mr Osborne, would you start, please, by giving the
6 Inquiry your full name?

7 A. My name is Richard Charles Andrew Osborne.

8 Q. If you look in front of you, you should see a folder,
9 which I hope will have a hard copy of your statement to
10 this Inquiry which you gave on 8 June of last year.
11 Could you just take that up, please? Do you have it
12 there?

13 A. I do, yes.

14 Q. Do you see, if you turn to the final page, which we have
15 at our BMI01187, that that was the statement that you
16 signed, as I say, in June of last year, on 8 June?

17 A. Yes, it was, yes.

18 Q. I am going to take you to one paragraph in your
19 statement for a clarification or correction that
20 I understand that you want to make, but when you signed
21 this statement, were you telling the Inquiry that the
22 contents were true to the best of your knowledge and
23 belief?

24 A. At that time, yes.

25 Q. Can we have on the screen, then, BMI01168 and your

1 paragraph 37? You told us that it was your
2 understanding that you have been asked whether stress
3 positions were or were not permitted and you say:

4 "In response, I would say that at the time I did not
5 know whether they were permitted or not. I had never
6 seen stress positions being used and never heard them
7 mentioned either in my training or otherwise during my
8 time in the army, including during Op Telic 2.
9 Accordingly the question whether or not they were
10 permitted had never come up."

11 Is that still your recollection?

12 A. No, it's not. The reason for my change -- I have made
13 a mistake, and I am -- would give that freely to the
14 Inquiry today. Following my discussion with counsel
15 last night and looking at the Inquiry website last
16 weekend, I looked at a number of statements and --
17 documents on the website and, as my time to come and
18 present here today, I have given a lot more thought to
19 what I recollect, and as I read some of the statements,
20 you will be amazed at how the memory is jogged.

21 I believe on this particular occasion, with regards
22 to section 37 and paragraph 113, I recall of an incident
23 where I had a fleeting glimpse of what I believe was
24 a number of detainees outside the TDF at BG Main where
25 I saw detainees in a stress position with their arms

1 held out to the front of their body.

2 Q. Thank you. Thank you for the correction. It may not
3 entirely surprise you that I will come back to that in
4 due course.

5 Subject to that correction, is the remainder of your
6 statement true to the best of your knowledge and belief?

7 A. Correct sir.

8 Q. The chairman and all of the lawyers in this room have
9 had the opportunity, Mr Osborne, to read your statement.
10 I am not going to take you to every passage in it, but
11 just to certain topics that arise out of it and I am
12 sure that you understand. Could we start just briefly,
13 please, with your military career? You tell us that you
14 joined the Territorial Army, is that right, in 1993,
15 while at university?

16 A. That's correct, sir, yes.

17 Q. And that you joined part of the officer training corps
18 but then joined the army, as it were, full-time, is this
19 right, on the Sandhurst course in 1998?

20 A. That's correct.

21 Q. When you passed out of Sandhurst, did you join 1 QLR at
22 that stage?

23 A. I did, yes.

24 Q. Were you with QLR for the majority of your time in the
25 army?

1 A. Two-thirds of my time in the army I was with the
2 battalion, yes.

3 Q. Other than your time in the army, had you spent some
4 time as an instructor on courses?

5 A. Yes, sir, I spent 18 months at the Infantry Training
6 Centre at Catterick and also as a team leader for the
7 Prince's Trust with Darlington College in North
8 Yorkshire.

9 Q. I think it is right that you saw service in Northern
10 Ireland, is that right?

11 A. Correct.

12 Q. In the run-up to Op Telic 2, you tell us in your
13 statement -- we don't need to turn it up -- that you had
14 in fact been the 2IC of C Company. Is that right?

15 A. That's correct, sir, yes.

16 Q. But a few weeks prior to deployment, that was changed
17 and you were the company ops officer and, if I have
18 understood it correctly, also the 2IC of A Company?

19 A. I was the 2IC of Anzio Company.

20 Q. Of Anzio Company?

21 A. Correct.

22 Q. That was the name given to it on deployment, is that
23 right?

24 A. Yes.

25 Q. Your predecessor, can you remember who your predecessor

1 in that case was?

2 A. His name was Lieutenant Ainley.

3 Q. Was there a reason for the changeover so close to the
4 deployment, if it matters?

5 A. I believe that he had sustained an injury whilst in
6 Canada and was not fit to take that post and I was
7 called in at the very last minute to take over that
8 role.

9 Q. We will come to the detail in due course, but it is
10 right, isn't it, that partway through Op Telic 2 you
11 changed roles again and left A Company, is that right?

12 A. That's correct, yes.

13 Q. Did you take up a post in G5?

14 A. At Battlegroup Main, the G5 team, yes.

15 Q. Then I think you tell us in your statement that you left
16 the army in March 2004. Is that right?

17 A. That's correct.

18 Q. Did you subsequently rejoin the TA, however?

19 A. I did, in 2007, yes.

20 Q. And are you still part of the TA?

21 A. I am.

22 Q. What is your current rank in the TA?

23 A. I'm a senior captain.

24 Q. Let's turn then, if we may, to some questions about your
25 training. You refer in your statement to a video with

1 which the Inquiry is well familiar. How often do you
2 recall being shown that video?

3 A. I have not seen any video from any soldiers or through
4 any medium of this Inquiry.

5 Q. Sorry, we may be at cross-purposes, but I thought you
6 indicated in your statement, so far as training is
7 concerned, that you did see a video --

8 A. Sorry, the law of armed conflict video, yes.

9 THE CHAIRMAN: I think you are thinking of a rather
10 different video when you gave that answer.

11 A. Yes.

12 MR MOSS: Don't worry. We are not there yet.

13 All right, that training video on the law of armed
14 conflict, how often did you see that?

15 A. It was an annual video shown every year to all soldiers.

16 Q. And apart from the showing of the video and it being
17 played, was any other training given at the same time as
18 part of the LOAC training?

19 A. It was usual for -- after the video to have a discussion
20 with all of the officers or soldiers that were -- had
21 just seen the video and to discuss some of the aspects
22 of the video to test that they understood those -- the
23 key lessons brought out in the video.

24 Q. The Inquiry knows that there is no reference to
25 blindfolding, hooding, sandbagging or anything of that

1 kind -- deprivation of sight -- in that LOAC video. Do
2 you have any recollection of the deprivation of sight
3 coming up in those sort of discussions about LOAC in the
4 annual training?

5 A. No.

6 Q. What about the use of stress positions? Do you remember
7 that coming up?

8 A. No.

9 Q. The Inquiry has also seen a different video which deals
10 more specifically with prisoner-handling and does have
11 one scene of a prisoner with a blindfold on, a video
12 dealing specifically with prisoner-handling. Was that
13 a video that you ever saw?

14 A. No.

15 Q. Apart, please, Mr Osborne, from that LOAC training and
16 the video, do you remember any other training at any
17 time in prisoner-handling?

18 A. The only thing I can recall -- and I believe it may be
19 part of the LOAC video -- is an indication of what items
20 we could remove from enemy combatants and what things we
21 were not allowed to take off them.

22 Q. So the guidance that their personal protective equipment
23 was meant to remain with them, but what you could
24 legitimately take off them and that sort of thing?

25 A. Correct, yes.

1 Q. But nothing about how arrests should be made or the use
2 of hoods or whether stress positions were legitimate or
3 anything like that? No training in that one way or the
4 other?

5 A. No, the only thing -- in light of your question, the
6 only thing I can think of that's mentioned in my
7 statement is an incident of training where arrest and
8 restraint techniques were -- there was one occasion,
9 just before we deployed to Iraq, where Staff Sergeant
10 Roberts gave -- I think we finished a run slightly early
11 and had some time left in that period, and a number of
12 arrest and restraint techniques were demonstrated to the
13 people that I had been -- at that particular session.

14 Q. I follow. Let's deal with that element of your
15 pre-deployment training, then, since you raise it. Did
16 that involve the actual techniques of making arrests
17 there on the spot, what positions to use, that sort of
18 thing?

19 A. No.

20 Q. Did it involve locks and wrist locks and how they might
21 be applied and how to control a prisoner?

22 A. Yes, yes.

23 Q. So nothing about putting a prisoner in a particular
24 position, whether it is a stress position or not?

25 A. No.

1 Q. But physical restraint at the point of capture was
2 covered; would that be right?

3 A. Yes.

4 Q. In terms of the level of force that might be used, what,
5 if anything, did you take away from that training given
6 by the PTI?

7 A. There was nothing in terms of escalation of force if
8 a detainee or a particular prisoner had resisted an
9 arrest. It was just a straightforward demonstration --
10 an explanation and demonstration of the technique.

11 Q. What was your understanding, in that case, of the amount
12 of force that it was legitimate to use?

13 A. My understanding would be all reasonable force to make
14 the arrest.

15 Q. All reasonable force.

16 If it is the case, then, that you had not had any
17 army training on hooding or on stress positions, had you
18 come across them at all prior to going to Iraq?

19 A. No.

20 Q. Had you read about them?

21 A. I had, yes.

22 Q. Whereabouts had you read about them? What sort of thing
23 had you been reading?

24 A. In particular, books about the SAS, books about the
25 Falklands campaign, the first Gulf War, publicly

1 available material.

2 Q. If I can take hooding first of all. From that reading,
3 did you have an understanding, prior to your deployment
4 on Op Telic, of whether or not it was permitted for
5 British soldiers to hood prisoners that they took on
6 operations?

7 A. I was aware that it had in the past been used and
8 I believed that it was an authorised practice, yes.

9 Q. When you say that you were aware that it had been used
10 in the past, what sort of thing are you thinking about?

11 A. In terms of previous British Army campaigns, from
12 reading about these things.

13 Q. Can I ask you similarly about stress positions? Did you
14 have an understanding from your reading as to whether
15 stress positions were something that British soldiers
16 could legitimately do to prisoners on operations?

17 A. I am aware of what a stress position is. I believed
18 that the particular incident, which we will probably
19 discuss later -- that particular incident -- due to the
20 nature of who was in control of that scene, that was an
21 authorised practice.

22 THE CHAIRMAN: If I were you, I would just stick to the
23 question and answer the question and not anticipate any
24 other question.

25 MR MOSS: I was asking you about before you went to Iraq and

1 whether, before you went to Iraq, in terms of your
2 understanding from reading and so on, you knew one way
3 or the other whether stress positions were permitted?
4 A. I did not know if they were permitted or not, no.
5 Q. What was your general understanding about how British
6 soldiers were meant to treat prisoners?
7 A. I believe we were supposed to treat them with respect
8 and dignity, and we were keen, as part of the initial --
9 the second phase of the -- after the war fighting bit
10 had stopped, for us to have an immediate impact, that we
11 were not like the Baath Party and we were there to -- we
12 were there as guests of the Iraqis --
13 Q. Forgive me, but I am going to interrupt. I think you
14 are jumping ahead to Iraq. The fault may be mine. I am
15 more interested in your training before you went to Iraq
16 at this stage. We will come on to what you saw in Iraq.
17 THE CHAIRMAN: Mr Osborne, perhaps it comes from this. You
18 are not giving a presentation, as you said earlier. You
19 are actually giving evidence.
20 A. I understand, sir, yes.
21 THE CHAIRMAN: It is the answers to the questions that you
22 are asked that I am after.
23 A. Okay.
24 MR MOSS: Did you understand, from your general army
25 training and your reading, that you were supposed to

1 treat prisoners humanely?

2 A. Yes, I did, yes.

3 Q. Prior to going to Iraq on Op Telic, did you know

4 anything about a ruling or guidance, given back in the

5 early 1970s by the then prime minister, relating to the

6 use or prohibition of hoods and stress positions?

7 A. No.

8 Q. In the pre-deployment training phase -- we jumped ahead

9 of the chronology just a little bit and you have told us

10 about the instruction given by Staff Sergeant Roberts,

11 the PTI. Apart from that training in arrest and

12 restraint positions, did you have any other training in

13 the pre-deployment phase that related to how to treat

14 prisoners?

15 A. No.

16 Q. When the PTI was giving that instruction, did he say

17 anything at all about the use of hoods or blindfolds?

18 A. No.

19 Q. Did he say anything about the use of plasticuffs?

20 A. No.

21 Q. Prior, then, to going to Iraq -- perhaps it is implicit

22 in what you have said previously -- had you ever seen

23 sandbags being used by anybody in the British Army?

24 A. No, I hadn't, no.

25 Q. Had you ever seen stress positions being used by anybody

1 in the British Army prior to going to Iraq?

2 A. No.

3 Q. Had you seen stress positions being used as part of

4 physical training?

5 A. No.

6 Q. Not being required to hold a position that was painful

7 as part of strength building, that sort of thing?

8 A. If you put it like, there is a, I believe, a ski

9 position, which can be used as part of circuit training

10 for a short -- very short periods of time to help build

11 up endurance in the muscles, but I would not have viewed

12 that as a stress position, but more exercise.

13 Q. All right. Whatever label you give it, have you done it

14 yourself?

15 A. Probably. I don't recall any particular incident, but

16 probably, yes.

17 Q. Obviously painful after a while, difficult to hold?

18 A. No, the exercise, as far as I was concerned, was for

19 very short periods of time as part of circuit training,

20 for maybe a minute or two.

21 Q. Yes, but if you hold that position, it gets painful

22 after a while, no doubt.

23 A. It would do, yes.

24 Q. Before actually crossing the border and going into Iraq

25 for the service there and the tour, did you have a

1 period of acclimatisation?

2 A. I did, yes.

3 Q. Where was that?

4 A. This was at Camp Eagle, across the border in Kuwait.

5 Q. Was there any training given at that stage relating to

6 any legal matters or to prisoner-handling?

7 A. I recall a briefing by an Army Legal Service lawyer and

8 two members of the Black Watch which is in my statement.

9 There was a short presentation of what we could expect

10 to find in Basra when we arrived and they recalled

11 a couple of case studies of things that they had

12 encountered just for us to be aware of and what we could

13 expect, but there was no other training, no.

14 Q. The case studies, was anything raised about any

15 particular incident that had happened with the

16 Black Watch and prisoners?

17 A. Whilst at Camp Eagle, no.

18 Q. The presentation, whether the bit given by the ALS

19 lawyer or by members of Black Watch, did it touch on

20 prisoner-handling at all --

21 A. No.

22 Q. -- or on the use of hoods or stress positions --

23 A. No, it didn't, no.

24 Q. It may not matter, but do you in fact remember the name

25 of the army lawyer who gave the presentation?

1 A. I don't, I am afraid.

2 Q. Do you remember the rank?

3 A. No.

4 Q. Was it a man or a woman?

5 A. It was a man.

6 Q. Once you had entered Iraq, presumably in your role in
7 A Company you would have been based at Camp Stephen as
8 it was known. That is right, isn't it?

9 A. That's correct.

10 Q. Did you, at Camp Stephen, have a handover from the
11 Black Watch?

12 A. Yes.

13 Q. Who did you get your handover from?

14 A. I specifically got a handover from two officers, one of
15 which was an operations officer from the Black Watch for
16 that particular company which we were relieving, and
17 I also got a handover from a former colleague of mine,
18 Captain Petransky, who was the intelligence officer.

19 Q. At the risk of stating the absolute obvious -- do not go
20 into any intelligence matters that are not relevant to
21 this Inquiry -- but was there a reason why you, in your
22 role, were getting a handover from the intelligence
23 officer?

24 A. I used to be the battlegroup intelligence officer whilst
25 the battalion was at Catterick. I was not the

1 battlegroup intelligence officer in Iraq. Because there
2 was nobody within the company who could take on that
3 role, it was agreed with my company commander that
4 I would do both the operations officer role and the
5 intelligence officer role in the initial stages, until
6 we could groom and train a young TA officer to take over
7 the intelligence officer role.

8 Q. Right. So you were going to do the IO job to start off
9 with?

10 A. Correct, yes.

11 Q. In either of those two handovers from those two officers
12 from the Black Watch, was anything said about detainees
13 and how they were to be treated or handled?

14 A. The only advice that I recall was that they had -- that
15 particular company, I believe, but certainly the Black
16 Watch -- one of the companies in the Black Watch had
17 sustained a casualty and I believe that person died
18 because of the stress of being arrested. I am not sure.
19 There was no indication of anything untoward in the
20 treatment of that particular person. However they said
21 that following that incident, the after action review
22 agreed that it would be in the best interest -- they
23 advised us strongly to put a tent near a guard room and
24 detainees would remain there and would be seen by
25 a medic to reassure them -- reassure us more than -- as

1 well as them that they were okay and to calm them down
2 before we proceeded with any sort of investigation or
3 questioning.

4 Q. Which of the officers was it who was giving you that
5 part of the handover?

6 A. I don't specifically remember which person advised on
7 that, but it would have been one of two officers
8 I mentioned.

9 Q. The ops officer, can you remember his name?

10 A. I don't, I am afraid.

11 Q. Was anything said to you about whether or not that
12 detainee who died in the custody of the Black Watch had
13 been hooded?

14 A. No.

15 Q. When you say "no", does that mean that you are confident
16 that that was not mentioned?

17 A. I am confident that that wasn't mentioned.

18 Q. Is there anything else at all in relation to the
19 handovers, other than that matter about the medical side
20 of things and the tent and the check -- was there
21 anything else at all in relation to prisoner-handling
22 that you can remember from the handover from the
23 Black Watch?

24 A. No.

25 Q. Now, your role, as you have told us, was as 2IC of

1 Anzio Company, but also, as I understood it, as the
2 company's ops officer. Is that right?

3 A. Correct.

4 Q. In essence, just shortly, tell us what that role
5 entailed.

6 A. I was --

7 THE CHAIRMAN: You can do it very shortly. I think I have
8 some idea about what it entails.

9 A. Okay. I was responsible for tasking all the multiples,
10 ie all the troops in the company, for deployment on
11 operations across Iraq under the direction of my company
12 commander. I would spend 90 per cent of my entire time
13 in this operations room, supervising two radio nets,
14 a company net and a battlegroup net.

15 MR MOSS: So it is very much a job where you are based
16 pretty firmly at Camp Stephen for a large majority of
17 the time?

18 A. Correct, yes.

19 Q. You list multiple commanders that you say you were
20 responsible for. I just want to ask you about two of
21 them if I may: Lieutenant Rodgers, as he was then, and
22 Colour Sergeant Hollender. How well did you know the
23 two of them?

24 A. Reasonably well, particularly Lieutenant Rodgers.

25 Q. What was your impression of Rodgers as an officer?

1 A. He was a fit, dare I say, likeable -- for me, as
2 a captain, I saw it as my sort of responsibility to give
3 him advice as someone who could -- who had recently been
4 in his shoes, obviously not on operations, but to help
5 guide him as a young officer in leadership of
6 a multiple, which I had experienced.

7 Q. Did he need more or less guidance than would be expected
8 of a lieutenant in that sort of position or about
9 average?

10 A. About average. He was -- as I recall, he was a very
11 keen young officer.

12 Q. Did you have any concerns about him?

13 A. No.

14 Q. What about Colour Sergeant Hollender who also was
15 a multiple commander?

16 A. I believe he was a very competent multiple commander and
17 I had quite a lot of respect for the man.

18 Q. Did you have any concerns about him?

19 A. No.

20 Q. The OC at the time of deployment, was that Major Davis?

21 A. It was, sir, yes.

22 Q. How well did you know the OC?

23 A. I knew him reasonably well, yes.

24 Q. In soldiering terms, what was your impression of him?

25 A. Because I was new to his company, I got to know him very

1 quickly in the first few weeks and he and I got to get
2 to work quite well together. So I believe we got on
3 quite well and liked each other.

4 Q. In terms of discipline, did you have any particular
5 experience of how he maintained discipline within the
6 company?

7 A. I believe he was a firm but fair man and, if discipline
8 was required, the company sergeant major would action
9 it.

10 Q. Before we come on to detainees and how they were treated
11 and handled, in particular at Camp Stephen, can I ask
12 you this: you have told us about the handover and the
13 Black Watch concern about the casualty that they had
14 had. Did you do anything as a result of that early on
15 in your tour?

16 A. Sorry, as a result of what they told me or --

17 Q. Yes.

18 A. -- as a result of that particular incident?

19 Q. Did you institute any systems within Anzio Company?

20 A. We were actually quite ill-prepared right at the
21 beginning, so we took that as part of the advice, and
22 I believe, right from the beginning, we continued doing
23 their standard operating procedure of the tent and the
24 medic seeing detainees very soon after they arrived at
25 Camp Stephen.

1 Q. So, what, are you saying that there would always be
2 a medical check on a detainee on arrival at
3 Camp Stephen --

4 A. That was the agreed procedure, yes.

5 Q. Who did you discuss that with?

6 A. This would have been with Major Davis.

7 Q. Would you have cascaded it down to anybody?

8 A. I believe it would have actually been him who would have
9 actually enforced this and ensured that all the multiple
10 commanders, all the senior managers or leaders of the
11 company, were aware of procedure, yes.

12 Q. So it wouldn't have been you who discussed that with all
13 of the multiple commanders?

14 A. I may have discussed it with them because I was always
15 made aware of when detainees had arrived at the camp.

16 Q. Let us just have a look at paragraph 69 of your
17 statement, if we may, BMI01174. At paragraph 69 you
18 seem to be suggesting in terms that the practice -- take
19 it from me, the preceding paragraphs have talked about
20 the handover and medical checks and so on. You say:

21 "I do not remember discussing this practice with any
22 of my senior officers but I did discuss this with all
23 the multiple commanders under my command to ensure that
24 they were aware of the policy and that it was fed down
25 the chain of command to the rest of the troops."

1 A. Yes, I stand by that statement that I would have
2 discussed it to make sure -- certainly in the very early
3 phase when we were establishing our procedures. So it
4 would have been discussed -- I would have discussed it
5 with the multiple commanders.

6 Q. That's not, perhaps it might be thought, quite how you
7 put it to me a moment ago. How clear is your
8 recollection of this?

9 A. Reasonably well. I don't recall a specific occasion
10 where that was briefed, but I am confident that that, in
11 paragraph 69, is what happened.

12 Q. The company medics, do you remember who they were?

13 A. I believe there was initially two medics and I think, on
14 one occasion, we went down to one medic. I do not
15 recall their names.

16 Q. Do the names "Baxter" or "Martin" mean anything to you?

17 A. No.

18 Q. There is some evidence from those witnesses who say they
19 were medics for Anzio Company broadly to the effect that
20 they don't recall detainees -- they certainly don't
21 recall doing medical examinations on detainees at
22 Camp Stephen at all. Might it be that the medical
23 examinations were done at BG Main once detainees had
24 been transferred there?

25 A. They may have done medical checks at BG Main, but my

1 understanding was that the agreed practice was that at
2 Camp Stephen a medic would have a look or certainly
3 conduct an examination on every single detainee that
4 arrived at Camp Stephen.

5 Q. When detainees did arrive at Camp Stephen, then, did you
6 have any particular responsibility for them?

7 A. No.

8 Q. Who, as you understand it, had the responsibility once
9 prisoners arrived at Camp Stephen?

10 A. This was usually referred straight to the two regimental
11 policemen who were based at Camp Stephen at that time.

12 Q. Lance Corporal Nelson and Corporal Kerrigan, would that
13 be right?

14 A. That's correct, yes.

15 Q. Do you have any recollection of the CQMS, Colour
16 Sergeant Maycock, having an early responsibility for
17 receiving prisoners at the camp?

18 A. No.

19 Q. He has told the Inquiry that he had such responsibility.
20 Do you have any reason to doubt it?

21 A. I don't doubt it, no.

22 Q. How often would you, yourself, actually see prisoners
23 once they had arrived at Camp Stephen?

24 A. Extremely rarely. The reason for that would be that
25 I spent 90 per cent of my entire time at Anzio in the

1 operations centre and my accommodation was in the same
2 building, so I rarely went outside. In the early days
3 of the -- of our tour, I was part of the quest -- my
4 role would be to photograph people that we detained in
5 order to create a photograph montage board of people we
6 had detained and released, but my role quickly faded
7 after it was established that the Military Police would
8 lead on all the investigations thereafter.

9 Q. So the process you describe today and you have described
10 in your statement of prisoners being taken straight to
11 the RMP, how did you come to understand that that was
12 the process that was involved?

13 A. We would have discussed that with the RMP, and I take
14 some consolation from the fact that they were the right
15 people to ask the questions and the authority to advise
16 us what we should do with the detainees.

17 Q. Were you ever aware of the company sergeant major asking
18 the questions of some detainees rather than the RMP?

19 A. There were occasions where the OC or the company
20 sergeant major would have asked questions, yes. I'm
21 aware of that.

22 Q. Are you aware of that because of statements that you
23 have read recently?

24 A. I have seen it in statements recently or via the
25 website, but I was -- attended at least one occasion

1 where the sergeant major and the OC were present and
2 asked a number of questions, but I believe the RMP were
3 also at that. I believe this was also right at the
4 beginning of the tour, before we had sort of settled
5 into a proper standard operating procedure of how the
6 questioning would take place.

7 Q. So that we are clear, are you saying that the OC and CSM
8 were there present with RMP as well --

9 A. Correct.

10 Q. -- when you have a recollection of it being done?

11 A. On at least one occasion, yes.

12 Q. Once things had bedded down a little bit, do you
13 remember the CSM or the OC sometimes continuing to play
14 a part in questioning prisoners at Camp Stephen?

15 A. I don't recall. They may have done, but I would not
16 have attended those particular questionings if they did
17 decide to do that.

18 Q. Might it have been the case that the RMP became involved
19 in circumstances where it was clear that the prisoners
20 who had been taken were, if I can use the phrase, only
21 involved in criminality and not with insurgency or
22 terrorism?

23 A. My understanding is that every detainee would have
24 been -- should have been seen by the RMP.

25 Q. Now, against the background that you have told us about

1 that you in fact rarely saw detainees yourself, on the
2 occasions when you did see detainees in Camp Stephen,
3 did you ever see them with sandbags on their heads?
4 A. No.
5 Q. Did you ever see them plasticuffed?
6 A. No.
7 Q. Did you ever see them being held in any stress position?
8 A. No, I didn't, no.
9 Q. Did you see them being asked to take up a position that
10 might be thought to be something short of a stress
11 position, but perhaps with hands on heads for a short
12 period, anything like that?
13 A. No.
14 Q. You said you had not seen them with sandbags on their
15 heads. Did you see them being deprived of their sight
16 in any other way?
17 A. No.
18 Q. When you did see prisoners then on the camp, how
19 physically were they being treated?
20 A. They were being treated well.
21 Q. Did you ever see any force being used on a prisoner in
22 any way at all --
23 A. No.
24 Q. -- or any ill-treatment or treatment that concerned you?
25 A. No, not at all.

1 Q. I just ask for your help with a couple of photographs
2 that we have seen from a tour magazine which, on any
3 view, appears to relate to Anzio Company. LCY000040,
4 please. A photograph on the left-hand side. It has
5 been suggested that those two prisoners might be sitting
6 on a step. Whether or not that's the case, did you see
7 prisoners being made to take up that sort of position?

8 A. No, I didn't, no.

9 THE CHAIRMAN: Have you seen that photograph before?

10 A. I may have done, sir, yes, but certainly after my tour
11 in Iraq.

12 THE CHAIRMAN: I see.

13 MR MOSS: Can we just have the full page, if it matters, the
14 bottom left. I am just asked to indicate a picture of
15 you. Is that right?

16 A. That is me, yes.

17 Q. But not apparently linked to the photograph that
18 I showed you a moment ago.

19 THE CHAIRMAN: I can't actually see what the temptation is.
20 Is that money?

21 A. It is, sir, yes.

22 MR MOSS: LCY000042, please. To similar effect, the bottom
23 right. Again, a shirt lifted up over the head, hands
24 held on top of the head, with two soldiers standing over
25 that prisoner. You just didn't see anything like that,

1 is that what you are saying?

2 A. No, I didn't, sir, no.

3 Q. Not at Camp Stephen anyway?

4 A. No.

5 Q. You will forgive me if it is my ignorance and timing
6 that I should understand better, but were you still in
7 A Company when there was the changeover from Major Davis
8 to Major Englefield?

9 A. No, I left before that.

10 Q. Were you ever aware of a time when there came to be
11 a change in procedure of how prisoners were being dealt
12 with at Camp Stephen, whereby the arresting platoons had
13 a greater role in custody at Camp Stephen of those they
14 detained?

15 A. I was aware that at a moment during the tour the
16 arresting multiples would bring the detainees to the RMP
17 and they would make a decision whether to -- would
18 decide whether to release them with a warning, a verbal
19 warning, or whether we would take them to a local Iraqi
20 police station to hand the matter over to them, or if it
21 was, for example, a possible insurgency issue or other
22 serious offence that we believed they had been arrested
23 for, they would be taken to BG Main, after some
24 consultation on whether they would accept them and carry
25 on the process.

1 Q. Are you saying that it was your understanding that the
2 arresting multiple always had a role in that, in
3 escorting the prisoners if they needed to be taken off
4 to one of those different places?

5 A. It was usually the arresting multiple, yes.

6 Q. Did there come a time when officers in Anzio Company
7 were told that a decision had been made that the time
8 had come for prisoners to be treated more robustly?

9 A. No, I don't recall that, no.

10 Q. You didn't hear anything along those lines?

11 A. No.

12 Q. Or prisoners to be treated more roughly?

13 A. No.

14 Q. I would like to come, then, if I may, to a specific
15 incident involving a detainee with an injured wrist.
16 You know the incident of which I speak?

17 A. I do, yes.

18 Q. This was still in the period when you were Anzio Company
19 2IC, is that right?

20 A. Correct, sir, yes.

21 Q. Help us with this to start off with then: what was your
22 first involvement in this incident? How did you come to
23 know about a possible injury to a prisoner?

24 A. I was in my operations room one evening -- I am not
25 aware of exactly when in the time period that was -- and

1 a soldier, who I understood was from the guard, the duty
2 guard that evening, came to me, asking me to come and
3 have a look at a detainee who, in his words, he said,
4 "may have had a broken wrist".

5 Q. I am just going to pause you there, if I may. The
6 soldier who came to you, you say you understood that he
7 was in the guard. At the time, did you know the soldier
8 by name?

9 A. No.

10 Q. Does it follow that you still don't know who it was?

11 A. I don't recall, sir, no.

12 Q. Did you know which multiple or platoon he was from?

13 A. No.

14 Q. When this matter was reported to you, the soldier who
15 was reporting it, did he give you any indication of how
16 the injury had been sustained?

17 A. My understanding is that whilst an arrest and restraint
18 technique had been used, I believe, in his words, that
19 one of the members of the guard had used this technique
20 too roughly and had caused this injury.

21 Q. Just look at MOD030337. This is a statement, I think
22 not signed in handwriting by you, but I am sure you have
23 been looking at over recent days or weeks. Is it
24 familiar to you?

25 A. It is, sir, yes.

1 Q. It is not dated. Do you remember whenabouts you
2 provided this witness statement?

3 A. I believe in 2005.

4 Q. If I tell you -- we don't perhaps need to turn it up --
5 that there is a case file diary from the Military Police
6 that indicates that a statement was emailed from you on
7 30 August 2005, does that sound about right?

8 A. It does, yes.

9 Q. Look at paragraph 3. You were saying at the time that
10 the detainee, name unknown, had suffered an injured
11 wrist as a result of a member of the guard being too
12 rough with him. Is that right?

13 A. Correct.

14 Q. You don't mention there, I think, that it was in the
15 course of arrest and restraint techniques being used at
16 the point of capture. Is that now your understanding?

17 A. I believe it is, yes. There was nothing untoward -- you
18 know, the prima facie evidence at the time was that
19 there was nothing untoward other, than the fact that
20 this detainee had been handled by a member of the guard.
21 I am not aware of the facts of how that happened, but
22 I believe it was through an arrest and restraint
23 technique, where perhaps that little bit extra force had
24 been used. But there was nothing about it that
25 suggested that he had been assaulted in any particular

1 way in order to deliberately cause harm to the man.

2 Q. No, but you had been told in terms by the soldier who
3 was reporting it that the other soldier involved had
4 been too rough.

5 A. He would have -- I can only assume that was the case
6 because the stated injury of a broken wrist was reported
7 to me at that stage.

8 Q. You wouldn't have known, at that stage, whether it was
9 deliberate or otherwise, would you?

10 A. No.

11 Q. The timing of this, just help with that. Do you have an
12 independent recollection now of what sort of time of
13 day, if it matters, that this was reported to you?

14 A. I believe that this was in the late hours of the
15 evening.

16 Q. Can we just -- I'm sorry it is my fault -- have that
17 more contemporaneous statement on the screen again and
18 if we look at paragraph 2. Are you able to help us with
19 how, in August 2005, you were able to say, as you did in
20 paragraph 2, "The incident in question took place at
21 night between the hours of 2100-2359 hrs, exact date and
22 time is unknown"?

23 A. It was certainly late at night because there was no
24 movement or activity in the camp, so I can only assume
25 it was actually quite late in that day. So those

1 timings are probably realistic.

2 Q. I don't mean this to sound in any way offensive, but is

3 the reality that that was somewhat military speak for

4 "I think it happened some time between 9 and 12 because

5 it was pretty quiet at the time"?

6 A. It was certainly very late.

7 Q. You didn't have any access to any log or anything like

8 that as to where you were or anything like that?

9 A. No, I didn't, no.

10 Q. The date when it happened -- you tell us in your

11 statement between June and July 2003 -- are you able to

12 narrow it down for us any more than that?

13 A. I am not, sir, sorry.

14 Q. So you received a report of this injury. What, if

15 anything, did you do as a result?

16 A. I went immediately to the guard room with the guard

17 member who had informed me of this matter. I asked to

18 see the detainee straightaway. I then immediately

19 requested for the medic, the company medic, to examine

20 this person. I don't recall exactly where that was, but

21 the medic arrived within about five minutes of me asking

22 for him.

23 Q. I am just go to pause there, if I may. Do you mean by

24 the answer you have just given that you went to see the

25 detainee, you had him in front of you and then you

1 called for the medic?

2 A. Correct.

3 Q. When you had the detainee in front of you and the medic
4 had not yet arrived, did you yourself take a look at his
5 wrist or what did you do?

6 A. I could see that he was holding his wrist, hence why
7 I asked for the medic to come. I would have asked for
8 the medic anyway, but I could see that he looked in
9 discomfort and pain.

10 Q. Did the soldier who reported the incident to you
11 recommend that the medic ought to attend?

12 A. Yes.

13 Q. At that stage, was there, before the medic arrived, an
14 interpreter present?

15 A. There may have been. We did have interpreters at that
16 time of day so there may have been an interpreter, but
17 I don't recall if he was there or not.

18 Q. Whether or not it was before or after the medic had
19 arrived, did you, from speaking to the prisoner, get an
20 explanation from him as to how it came to be that he had
21 been injured?

22 A. No, I don't recall speaking to the detainee.

23 Q. So you call for a medic and the medic presumably
24 arrives, is that right?

25 A. Yes.

1 Q. Do you know who the medic was?

2 A. I would recognise him if I was to see his picture or to
3 see him by sight, but I do not recall his name.

4 Q. In your statement you gave a physical description.
5 I just want to check that it remains your recollection:
6 6 foot, with light brown hair, medium build, with no
7 distinguishing marks. Is that right?

8 A. That's correct, sir, yes.

9 Q. Again, the names that I mentioned to you earlier on in
10 a different context, Baxter and Martin, might it have
11 been one of them or can you rule them out or are you
12 just not sure or you don't know?

13 A. I am not sure, sorry.

14 Q. Did the medic then examine the man?

15 A. He did, yes.

16 Q. What assessment did the medic make?

17 A. He very quickly -- I actually saw the examination take
18 place -- I was keen to find out very quickly what the
19 nature of his injury was and it was the medic's opinion
20 that it was, at worst, a sprained wrist. It was
21 certainly not broken because he had dexterity in his
22 fingers and could move his wrist. He decided to issue
23 him some painkillers. I think it was two paracetamol
24 type tablets to the man. At that moment, I was
25 convinced that -- because of the description of the

1 broken wrist -- this was a matter, in my opinion, that
2 was not what it seemed at first sight, so, from that
3 point of view, I then took the following action of
4 informing the sergeant major --

5 Q. We will come on to that in a moment. Let's just stick
6 with the examination by the medic for the moment if we
7 may. The phrase you used in your answer a moment ago
8 was "at worst, a sprained wrist". Is that really right?

9 A. It was, yes.

10 Q. "At worst, a sprained wrist"?

11 A. It was, yes.

12 Q. Didn't he tell you that the wrist had been sprained?

13 A. There was -- it was -- he said that he could not see or
14 identify any physical injury with the man. There was no
15 bruising or swelling.

16 Q. Look at that statement you gave at the time,
17 paragraph 4.

18 "The company medic (Corporal D?) was called to
19 attend the injured man and I asked him to make
20 an assessment of his injury. A quick examination by the
21 company medic confirmed that the wrist was only sprained
22 and not broken."

23 You were not saying back in August 2005 "at worst,
24 sprained", were you?

25 A. No.

1 Q. I should not comment, but it may be that everyone will
2 understand the difference in seriousness between
3 a sprained and a broken wrist. But might it be that you
4 are slightly trying to downplay this now?

5 A. No, not at all.

6 Q. You have seen the prisoner holding the wrist, haven't
7 you?

8 A. Yes.

9 Q. And it was subsequently put in that sling, wasn't it?

10 A. That's correct, yes.

11 Q. And the medic had thought it right to give paracetamol,
12 at least, or a paracetamol type painkiller?

13 A. Yes.

14 Q. You say that you didn't get from the prisoner himself an
15 explanation of how the injury had come about. Do I
16 understand you correctly?

17 A. Correct. I don't recall asking him how the injury had
18 occurred.

19 Q. Did you sit in subsequently when that prisoner was
20 interviewed by the RMP?

21 A. I did, yes.

22 Q. Did he seem to you to continue to be in at least some
23 pain from his injured wrist?

24 A. No. In fact I could actually see that he still had full
25 dexterity and movement of his wrist and was actually

1 able to write and sign some paperwork which the RMP had
2 given him.

3 Q. Did he say anything about how his wrist felt during the
4 course of the interview by the RMP?

5 A. I believe he was asked -- possibly by me, I am not
6 sure -- but I believe he was asked at that interview how
7 his wrist was.

8 Q. Yes.

9 A. I believe he replied that it was still slightly painful
10 but okay.

11 Q. Okay, but still painful?

12 A. Correct.

13 Q. At that time, was there any particular in-theatre, if
14 you like, process for investigating injuries that
15 detainees might have sustained?

16 A. No.

17 Q. So what was the course that you chose to adopt, having
18 received an account that this had been suffered by rough
19 treatment or by a guard being too rough?

20 A. Because it was a member of guard, the guard was
21 technically owned, from a management perspective, by the
22 company sergeant major, and because of my need to get
23 back to the operations room, which was particularly busy
24 at that time of the day, I believed it was a matter for
25 the company sergeant major to deal with.

1 Q. How seriously did you view it in the light of the fact
2 that you had been told that, as you have explained it
3 now, the soldier involved in the arrest had been too
4 rough?

5 A. Sorry, can you repeat the question?

6 Q. Yes. How seriously did you view this incident in the
7 light of the fact that you had received a report that
8 the arresting soldier had been too rough?

9 A. I believed that this was not a serious matter as it had
10 been a mistake by the soldier. I just believed he just
11 applied just that little bit extra too much force in an
12 arrest -- possibly an arrest and restraint technique to
13 cause that injury. It may be possible that that man
14 already had an injury which, through the normal course
15 of handling him, may have exacerbated that injury.

16 Q. Let me pause you there. Two parts to your answer. Can
17 I take the last point first? You said that it was
18 possible that the man already had an injury. Where do
19 you get that from?

20 A. Well there was a possibility.

21 THE CHAIRMAN: That is pure speculation.

22 A. It is, Sir, yes.

23 THE CHAIRMAN: We need not go any further than that.

24 MR MOSS: You said also, in the first part of your answer,
25 "... little bit extra too much force in an arrest". How

1 did you know that?

2 A. Not -- I believe that the actual incident took place
3 within the walls of Camp Stephen, not during the arrest
4 itself.

5 Q. It may be my fault, but I thought earlier on you were
6 indicating that it was your understanding that this had
7 been in a restraint position.

8 A. Yes, yes.

9 Q. You are saying not at the point of capture, but within
10 Camp Stephen itself?

11 A. Correct. If a member of the guard needed to move
12 a detainee from a particular place, ie -- I'm not sure.
13 If he needed to use a restraint technique, if a detainee
14 would not do as they were asked -- this is again
15 speculation -- then they would be within their rights to
16 use a restraint technique to move them from A to B, and
17 I can only assume that that was how this injury had
18 occurred.

19 Q. But that was an assumption on your part?

20 A. Yes, it was, yes.

21 Q. At the time it was equally possible, was it not, that
22 a member of the guard had deliberately used excessive
23 force and been overly rough?

24 A. At the time I don't believe that was the case, but
25 possibly, yes.

1 Q. But it was your assumption that it was a different
2 possibility that had taken place?

3 A. Correct, sir, yes.

4 Q. The final question on that aspect: was there any reason
5 for your assuming it one way rather than the other?

6 A. I believe it's from the conversation I had with the
7 member of the guard who had come to see me, but I don't
8 recall specific details of the conversation we had.

9 Q. In any event, having formed that impression, it was your
10 judgment, was it, that CSM was the right level for that
11 matter to be dealt with?

12 A. Correct, yes.

13 Q. If it was more serious, what would the alternative have
14 been?

15 A. I would inform the company commander, Major Davis.

16 Q. So that we have the feel for it, for what sort of
17 offences or reports of misconduct would you have taken
18 the course of going to the OC rather than the CSM?

19 A. If that particular person had a broken wrist or the
20 medic had said "Sir, he has a broken wrist" or I had
21 seen -- or it had been brought to my attention that
22 a soldier had assaulted a detainee, then I would have
23 brought this to the awareness of the company commander
24 straightaway.

25 Q. The company sergeant major, that was Warrant

1 Officer Tomkinson, is that right?

2 A. That's right, sir, yes.

3 Q. He told the Inquiry that he had no recollection of

4 a case of a detainee with an injured wrist, whether

5 sprained or broken, being brought to his attention. How

6 confident are you that you reported this matter to the

7 CSM at all?

8 A. I am reasonably confident that I did mention it to him.

9 Q. Is it possible that you took the view that it was not

10 that serious at all and did not report it at all to the

11 disciplinary chain of command?

12 A. I did report it to the company sergeant major who, from

13 a company perspective, is seen as the first port of call

14 for company discipline.

15 Q. I follow that answer, but the level at which you pitch

16 it, if you like, is that you are reasonably confident

17 that you did so. Is that the case?

18 A. Yes, I am, yes.

19 Q. Would you accept that, in the circumstances that you

20 have explained, you ought to have reported it to the

21 company sergeant major?

22 A. I ought to and I believe I did.

23 Q. Having, on your account, reported it to the CSM, did you

24 hear anything more about this incident at all?

25 A. No.

1 Q. If we just go back to your earlier statement, just help
2 us with the circumstances in which you came to make this
3 statement in the first place.

4 A. I was asked -- whilst working in Iraq for a private
5 security company called Aegis, I received an email from
6 a member of the RMP, I believe from Germany, and I then
7 phoned the point of contact where I had a conversation.
8 He mentioned a Captain MacFarlane and asked if I was
9 aware of an incident of a broken wrist. I recalled the
10 particular incident and I immediately refuted the
11 allegation that this was a broken wrist and I was asked
12 to write this particular statement and I emailed it
13 promptly to the RMP.

14 Q. We have looked at the timing of that. Paragraph 1:
15 "Captain ... MacFarlane was one of the TA officers
16 employed as a watchkeeper. My working relationship with
17 him was amicable during his time with Anzio."
18 That's right?

19 A. That's correct, yes.

20 Q. Did it remain amicable?

21 A. Yes.

22 Q. Did you, at any stage, hear from Captain MacFarlane of
23 concerns that he had first of all about this incident?
24 Did you hear those at the time?

25 A. No.

1 Q. Did you hear any concerns on his part about
2 prisoner-handling at all?

3 A. No, I didn't, no.

4 Q. What do you know about the circumstances in which
5 Captain MacFarlane came to leave Anzio Company?

6 A. I believe that he -- we need to start with how he
7 arrived at Anzio, first.

8 Q. No, deal with my question. What do you know about the
9 circumstances in which Captain MacFarlane came to leave
10 Anzio Company?

11 A. I believe he left from his own request.

12 THE CHAIRMAN: Just tell me, first of all, from whom did you
13 hear anything about how he left?

14 A. I don't recall, sir.

15 THE CHAIRMAN: Not at all?

16 A. No.

17 THE CHAIRMAN: All right.

18 MR MOSS: Sorry, you were going to say. I believe he went
19 to Battlegroup Main as a watchkeeper and I believe that
20 he also went to another battalion as part of the same
21 tour.

22 Q. All right. Do you know what it was that led him to
23 leave Anzio Company?

24 A. No, I don't, no.

25 Q. You didn't hear about a blazing row between him and the

1 OC?

2 A. No.

3 Q. Have you ever heard of that before --

4 A. I haven't, no.

5 Q. -- or of Colour Sergeant Maycock being instructed to

6 physically drive him off the base after such a row?

7 A. No, I don't, no.

8 Q. Thank you. I did interrupt you. Was there anything

9 about the circumstances in which Captain MacFarlane came

10 to Anzio Company that you think are particularly

11 relevant to the Inquiry?

12 A. No, no relevance to the Inquiry, no.

13 Q. Thank you.

14 THE CHAIRMAN: Well, that is a matter necessarily for me

15 whether it is relevant. You seem to be holding

16 something back, Captain Osborne.

17 A. I believe he arrived slightly disillusioned because

18 I think he believed that he was entitled to a particular

19 role within the battalion --

20 THE CHAIRMAN: I see. You think he was disappointed in what

21 he got --

22 A. That would be a better word to use, Sir, yes.

23 MR MOSS: Thank you. Can we turn, then, please, to when you

24 yourself, Mr Osborne, moved posts? Can we start, first

25 of all, with the timing of that? What is your

1 understanding of what led to the change in your role?

2 A. Shortly after -- there's two things that happened.

3 There was the death of Captain Dai Jones and an incident

4 at Battlegroup Main with Lieutenant Ainley.

5 Lieutenant Ainley was -- after an indiscretion on his

6 part -- was recommended to leave Battlegroup Main and

7 was sacked from his post. The only place that he could

8 logically go was back to his old job as the company 2IC

9 of Anzio, and he moved into my role and I moved into

10 a new role with the battlegroup G5 team.

11 Q. So there was a rotation of posts --

12 A. There was a number of rotation of officers, yes.

13 Q. So far as timing is concerned, you are confident, are

14 you, that that was after the murder of your friend,

15 Captain Jones?

16 A. It was, yes.

17 Q. The Inquiry has seen paragraphs 101 and 102 and we will

18 have noted what is there and I don't need to ask you any

19 questions about that. Can I just ask you, though, about

20 the address given by the CO following Dai Jones' death?

21 Do you remember Colonel Mendonca speaking to you all?

22 A. Yes.

23 Q. In your statement, you recall him as saying, "We will

24 capture the people who did this and arrest them" and the

25 emotion of the occasion. Do you remember him saying

1 anything at that stage about how Iraqis should be
2 treated or discipline moving forwards?

3 A. No, I don't, no.

4 Q. Your role in G5, once you were at BG Main: you tell us
5 in your statement, is this right, that you were separate
6 from the rifle companies?

7 A. That's correct, yes.

8 Q. You played no part in day-to-day patrolling --

9 A. That's correct, yes.

10 Q. -- or in other security operations?

11 A. Correct.

12 Q. You were getting on with G5 projects. Is that
13 essentially hearts and minds operations?

14 A. Yes, it is, and local reconstruction projects in Basra.

15 Q. You tell us about one occasion later on involving
16 prisoners, but for the most part does it follow that in
17 that role, when you were out and about on the ground,
18 you wouldn't have been involved directly in
19 prisoner-handling?

20 A. Correct.

21 Q. What proportion of your time in that role did you spend
22 at BG Main and what proportion were you out on the
23 ground in and around Basra?

24 A. We would break the day into two parts. We would usually
25 leave BG Main at 8 o'clock in the morning and we would

1 return, usually for lunch, but occasionally we would
2 stay out and eat out on the ground, and we would also
3 have a second period in the day when we would go to
4 other projects across Basra and would return by roughly
5 4 o'clock in time for the team meeting or O Group that
6 evening.

7 Q. So most of the daytime spent out of camp?

8 A. Correct, yes.

9 Q. Can we look, then, at prisoner-handling at
10 Battlegroup Main? Does it follow, from what you have
11 just told us about, that when you had any involvement
12 with prisoner-handling at BG Main, it was pretty much in
13 passing when you were at the headquarters?

14 A. I would walk past the TDF, but had no -- absolutely no
15 role in the prisoner-handling at all, no.

16 Q. On the one occasion when your team was involved in an
17 arrest during that posting that you had, was that
18 prisoner hooded --

19 A. No.

20 Q. -- or put in stress positions?

21 A. No.

22 Q. Would he have been plasticuffed?

23 A. The incident I particularly remember happened late in
24 the tour in late October/early November, and there were
25 about six people who had looted a facility --

1 THE CHAIRMAN: Could you just answer the question? Would he
2 have been plasticuffed?

3 A. No.

4 THE CHAIRMAN: Thank you.

5 MR MOSS: So more than one prisoner, but this was after
6 Baha Mousa's death in October; is that right?

7 A. I believe it was, yes.

8 Q. Did you see, while out on the ground -- although you
9 weren't taking prisoners yourself, did you, from time to
10 time, see multiples taking prisoners when you were
11 working in G5?

12 A. No.

13 Q. Back at BG Main then, did you ever see prisoners hooded
14 in BG Main?

15 A. I recall one occasion, which I believe is in
16 paragraph 113, when I did see, on that occasion,
17 a number of detainees hooded.

18 Q. I don't mean exactly, but can you remember whenabouts
19 that would have been?

20 A. I don't recall specifically the time of that, no.

21 Q. If we take it that you must have moved at some stage
22 after 14 August 2003 and Baha Mousa's detention was on
23 14 September, is it likely to have been between those
24 two dates or can you not say?

25 A. It is likely to be between those two dates, yes.

1 Q. The prisoners that you saw hooded on that one occasion
2 that you are speaking about, where were the prisoners?

3 A. The prisoners, there were at least five of them, and
4 they were immediately outside the TDF in a line next to
5 the wall of the perimeter of the camp.

6 Q. Roughly speaking, how many prisoners would there have
7 been?

8 THE CHAIRMAN: You said five, is that right?

9 MR MOSS: I am so sorry. I missed it. At least five?

10 A. It was about five, yes. The sighting was a fleeting
11 glance as we drove past them, but I didn't certainly go
12 out of my way to count them but it would have been about
13 five, yes.

14 Q. You say a "fleeting glance" as you went past. Were you
15 walking past or in a vehicle, if it matters?

16 A. My recollection is not absolutely clear, but I believe
17 it is likely that we were driving past them.

18 Q. Those prisoners, were they just sitting in comfort or
19 were they being kept in any sort of position?

20 A. I recall that they were stood up 2 to 3 metres apart and
21 I believe -- I cannot say beyond all reasonable doubt --
22 that they had their arms stretched out in front of them.

23 Q. So like so (indicates)?

24 A. Correct, yes.

25 Q. Plasticuffed or can you not remember?

1 A. I don't remember.

2 Q. Was this the only occasion on which you saw prisoners
3 hooded with sandbags?

4 A. I believe it was, sir, yes.

5 Q. Just look at paragraph 113 of your statement that you
6 referred to. You did say in your statement:

7 "On one or two occasions ... I saw prisoners stood
8 outside the detention facility hooded with sandbags."
9 What was the other occasion?

10 A. I'm not clear on the other occasion, but I believe it --
11 certainly on that one occasion I have just said.

12 Q. You would have understood, when you were being asked to
13 provide this statement, from all that you knew at that
14 time when you were being asked to provide a statement,
15 that this Inquiry was interested in the use of stress
16 positions, wouldn't you?

17 A. Yes.

18 Q. Not just from the circumstances of Baha Mousa's death,
19 but from the questions that you knew were being asked of
20 you to address in your witness statement?

21 A. Correct.

22 Q. In paragraph 37 -- can we have it on the screen, please,
23 BMI01168 -- you said that you had never seen stress
24 positions being used.

25 "... never heard them mentioned either in my

1 training or otherwise during my time in the army,
2 including during Op Telic 2."

3 That is what you were saying in the statement, isn't
4 it?

5 A. Correct. At the time I made that statement, that was my
6 understanding.

7 Q. All right. Let's just take it in stages then. This
8 occasion when you saw prisoners standing with their
9 hands outstretched like that, there is no doubt, is
10 there, that that was being a position, from what you
11 saw, that they were being forced to hold? It's not
12 a natural position, is it?

13 A. No, it's not, sir, no.

14 Q. Did it strike you as curious at the time?

15 A. No, it wasn't, no.

16 Q. Why was it not curious at the time?

17 A. Because I believed it was an authorised practice.

18 Q. Why did you believe it was an authorised practice?

19 A. I understood that the TDF was closely managed by the
20 BGIRO and the TQ team, and any activity that happened
21 with the detainees would be closely authorised or
22 supervised by those officers.

23 Q. It may have been authorised, but this, on your account,
24 was the first time that you had ever seen such a thing,
25 that sort of position being used --

1 A. It was.

2 Q. -- ever in your career in the army.

3 A. Correct.

4 Q. So it must have struck you at least as being unusual.

5 A. Not particularly, no.

6 Q. No?

7 A. No.

8 Q. You didn't question it at the time?

9 A. I didn't, no.

10 Q. And you didn't have any conversations about it? You

11 assumed, because they were close to the TDF and because

12 of the BGIRO and so on, that it must be authorised; is

13 that right?

14 A. Yes.

15 Q. But you did appreciate, authorised or not, that it was

16 a stress position?

17 A. Yes.

18 Q. You knew that full well at the time?

19 A. I did, yes.

20 Q. So how does it come to be that when you signed your

21 witness statement in just June of last year, that you

22 were saying in terms that you had never seen stress

23 positions used?

24 A. My recollection of this incident occurred over the

25 weekend, when I was looking at a number of statements

1 from previous hearings, this Inquiry, and this has
2 prompted my memory. I now recollect this as part of
3 that incident in my statement where it mentions
4 detainees being hooded.

5 Q. What, it just occurred to you, did it, "Maybe I did see
6 something like that" or it actually jogged this
7 recollection of this specific event, did it?

8 A. Correct, yes.

9 Q. It is not the case, is it, that faced with what a number
10 of other witnesses have said, you decided that you had
11 better admit to what you knew all along, which is that
12 you did see stress positions being used on at least one
13 occasion?

14 A. No. There is -- as far as I am aware, from my limited
15 understanding and reading of other statements, that my
16 particular statement here today has not been reflected
17 in any other statement and I have nothing to hide or to
18 gain or protect in raising this today.

19 Q. Do you think, looking back on it, that that is
20 something -- having seen that stress position in use --
21 that you ought to have raised with the chain of command?

22 A. No, because I believed it was an authorised practice.

23 Q. You told us that your understanding of that comes
24 purely, though, from the point of view of where it was
25 occurring and your knowledge that that was overseen by

1 BGIROs, TQers and so on; is that right?

2 A. It was, yes.

3 Q. The hooding of prisoners, however, did you believe that
4 that was authorised?

5 A. I do, yes.

6 Q. What was your understanding of where the authority for
7 the hooding of prisoners came from?

8 A. From the BGIRO.

9 Q. There were two of them. Which one was it that told you
10 about it?

11 A. I'm only familiar with Major Royce as the BGIRO. I am
12 not familiar with any other officer --

13 Q. Not with his successor, Major Peebles?

14 A. No. I believe -- in my understanding Major Peebles was
15 the TQ ...

16 Q. So what had you learnt about hooding from Major Royce?

17 A. I had not heard it expressly from him because my work at
18 that time had nothing to do with prisoner-handling, but
19 that was my understanding from probably conversations
20 with officers at the time.

21 Q. So you had had conversations with officers about
22 hooding?

23 A. No, I understand that hooding was an authorised practice
24 through the course of conversations.

25 Q. If you had understood that hooding was an authorised

1 practice through the course of conversations, does it
2 not follow that you must have had conversations in which
3 hooding was discussed?

4 A. Possibly, yes.

5 Q. Do you know who the conversations were with?

6 A. No.

7 Q. Do you know why it was that you were having
8 conversations that involved hooding?

9 THE CHAIRMAN: I am not sure that is really going to help me
10 very much.

11 MR MOSS: So it was from those types of conversations,
12 though, was it, that you came to, what, a general
13 understanding that there was an authorisation for the
14 use of hoods?

15 A. Correct.

16 Q. Did you understand that there had been any specific
17 order that had permitted the use of hooding?

18 A. I'm aware of an authorisation that had come from brigade
19 to the BGIRO to authorise this practice.

20 Q. How were you aware of that?

21 A. This is all through conversations and indirect
22 discussion that I would have been overhearing.

23 Q. Conversations you say you were having at the time on the
24 tour, is it, or subsequently?

25 A. During the tour.

1 Q. So an authorised practice that had come down from
2 brigade; is that what you say?

3 A. That was my understanding, sir, yes.

4 Q. Look at paragraph 115 of your statement, BMI01181. You
5 are telling the Inquiry in June of last year that:
6 "I believed that hooding with sandbags had been
7 authorised via an order and I understood it to be
8 a permitted practice. However, I cannot remember when
9 such an order was given or anything more about its
10 content."
11 I do not think you were saying in June of last year
12 that this was something that had been authorised by
13 brigade, were you?

14 A. No, this was subsequent to the tour in Iraq. That was
15 clear. So at the time I am not sure exactly when
16 I would have learnt about the brigade authorisation, but
17 that is my understanding today of how that order came
18 about. But at the time I believe it was permitted
19 practice certainly through the BGIRO.

20 Q. I did ask you a moment ago about whether your
21 understanding about this came from conversations that
22 you had at the time and I thought you were saying that
23 it was.

24 A. It was at the time, yes.

25 Q. So the suggestion that the authorisation or the

1 permission came from brigade is something you have
2 learnt since June of last year, is it?

3 A. I am not entirely sure exactly when I would have known
4 that.

5 Q. Does it follow from what you say that you had never seen
6 any kind of written order permitting the use of hooding?

7 A. I don't recall seeing any written order.

8 Q. Do you have any recollection of being present in any
9 sort of O Group or other briefing where such an order
10 was passed on verbally?

11 A. No.

12 Q. You mentioned conversations about where hooding was
13 mentioned and that that's where your understanding that
14 it was permitted practice came from. Were there similar
15 conversations about the use of stress positions?

16 A. No.

17 Q. How sure of that are you?

18 A. Very.

19 Q. Just this, then, next: you refer to a recollection in
20 your statement about a letter that was distributed by
21 Colonel Mendonca about the treatment of detainees.
22 That's right?

23 A. Yes.

24 Q. The timing of that, can you recall now whether that was
25 before or after Baha Mousa's death --

1 A. I don't recall a specific date in terms of the proximity
2 of that event, no.

3 Q. -- or what may have prompted the letter?

4 A. I believe in all likelihood it was probably after the
5 death of Baha Mousa.

6 Q. Do you recall, other than that letter, anything in
7 writing giving details on how prisoners should be
8 handled?

9 A. No.

10 Q. Just a few matters then, generally, if I may, about your
11 understanding about general responsibilities, guarding
12 duties and the like. May I ask you about tactical
13 questioners --

14 THE CHAIRMAN: Could I just ask him first: have you ever had
15 anything to do with guarding prisoners or tactical
16 questioning?

17 A. No, I haven't, sir, no.

18 THE CHAIRMAN: It is of limited value, Mr Moss.

19 MR MOSS: Sir, I am seeking to cover, as you will
20 understand, some questions that have been indicated by
21 core participants, so I go to it very briefly and only
22 to certain passages.

23 THE CHAIRMAN: All right.

24 MR MOSS: Can you look at paragraph 126?
25 "The tactical questioners were not involved in

1 guarding the detainees and they did not give orders
2 about what happened to them except to ask for them to be
3 brought for questioning within a specific time period."

4 May I just ask, what was the source of your
5 understanding about that?

6 A. My understanding is there are two parts to this. There
7 is the BGIRO, who would have given -- and the RSM, who
8 would have given orders to the provost staff or anybody
9 guarding detainees at BG Main. The TQers were only
10 questioners and would not -- my understanding is that
11 they would not have any direct influence in how the
12 detainees would have been managed or treated.

13 Q. Is that just a general understanding --

14 A. Yes, it is, yes.

15 Q. -- from being around at the time, not from any briefings
16 or any involvement that you had?

17 A. Not from any briefings. That was my understanding.

18 Q. Just one other matter on this, similarly briefly,
19 I hope. You deal in the previous paragraph -- we still
20 have it on the screen -- about the reasons as to whether
21 detainees would be taken to BG Main or to company
22 locations. Again, was that just your general
23 understanding?

24 A. No, this was an SOP that I was very familiar with.

25 Q. If it had been a battlegroup level arrest operation,

1 where would detainees normally be taken to?

2 A. They may be taken either to the company location first
3 and clarity is sought as to whether the BG Main would
4 take them to the next stage -- ie to the BGIRO -- and
5 decide whether to process them further along the chain
6 or whether they would advise us to release -- or the RMP
7 would advise us to release -- it would depend on the
8 nature of the offence.

9 Q. So it was your understanding, was it, that even if it
10 was a large-scale operation involving the battlegroup,
11 that a company, a sub-unit involved, might, in some
12 circumstances, nevertheless, bring the prisoners back to
13 a company location?

14 A. They could do, yes.

15 Q. Can I move on then, please, to that period of 14 to
16 16 September and Baha Mousa and the detainees who are
17 the subject of this Inquiry. Did you yourself, during
18 the course of their detention, go into the temporary
19 detention facility itself?

20 A. No, I didn't.

21 Q. Do you remember having any conversations with anybody in
22 or around that area between the accommodation block and
23 the TDF?

24 A. Yes.

25 Q. Who do you recall speaking to?

1 A. I recall speaking to a Sergeant Goulding.

2 Q. Did you know him?

3 A. Yes, I did, yes.

4 Q. How well did you know him? Was he a friend of yours?

5 A. He was someone I had worked with previously at the

6 Infantry Training Centre, although we were not directly

7 sort of linked in a working capacity, but we knew of

8 each other, yes.

9 Q. Whereabouts was the conversation?

10 A. I believe it was on the footpath, just outside the

11 high-rise accommodation block, as I described in my

12 statement, where the officers and other ranks would

13 live.

14 Q. Do you remember anything that was said between the two

15 of you on that occasion?

16 A. I do. I believe this is the first time I learnt from

17 him that the detainees that were being held inside the

18 TDF were an IED cell that had been arrested recently and

19 were the people who had killed Captain Dai Jones.

20 Q. Previously to that, had you known at least that there

21 were some prisoners being held at that stage in the TDF?

22 A. There had -- I was aware that other prisoners had in the

23 past been held in the TDF, yes.

24 Q. Forgive me. It is my fault. You say this is when you

25 learned about the suggested connection with the killing

1 of Dai Jones.

2 A. Correct, yes.

3 Q. Did you know before then that these detainees had been
4 held in the TDF?

5 A. No.

6 Q. So your conversation with Sergeant Goulding was the
7 first time that you understood that these prisoners were
8 being held and you learned that they were suspected of
9 being involved in the killing of Dai Jones; is that
10 right?

11 A. Correct, yes.

12 Q. How confident are you, first of all, that you did indeed
13 meet Sergeant Goulding, as you described?

14 A. I am very confident.

15 Q. How confident are you that it was he who told you about
16 a suspected link to the killing of Dai Jones?

17 A. Extremely confident.

18 Q. You tell us a little bit later on in your statement of
19 a feeling of relief about the arrest. What did you mean
20 by that?

21 A. We had a limited time before the end of the tour, and
22 with the words of the commanding officer that, in the
23 time that we had available, it would be our intent to
24 try to arrest those responsible -- so it was a relief
25 from my point of view that we seemingly had arrested an

1 IED cell, with the specific intelligence behind it that
2 these were the right people.

3 Q. Was there anything that perhaps led you to think that
4 some of the soldiers there -- you speak about other
5 soldiers who were around from the multiple -- is there
6 anything that led you to think they might be excited or
7 excitable about the arrests?

8 A. No, no.

9 Q. Anything that struck you as in any way unprofessional
10 about the way they were conducting themselves outside?

11 A. No, not at all.

12 Q. Did you have any reason to think that the detainees were
13 being mistreated?

14 A. No, I didn't.

15 Q. Did you hear any shouting, either then or subsequently
16 over the next 48 hours or so --

17 A. No, I did not.

18 Q. Had you ever heard shouting or screaming coming from
19 prisoners held within the TDF?

20 A. No.

21 Q. Can I just, finally, then, ask you this: I think it
22 follows, Mr Osborne, from answers that you gave me
23 earlier on, that back in the time when you were on Anzio
24 Company lines, you simply had no experience of improper
25 violence being used on prisoners. Is that right?

1 A. Correct.

2 Q. There is evidence to the Inquiry -- what might be called
3 "casual violence" -- of slaps and the like being used on
4 prisoners. Are you sure that that was not something
5 that reached your ears?

6 A. No, it wasn't. I didn't see anything or hear anything
7 like that.

8 Q. Or of prisoners being roughed up when they were
9 arrested?

10 A. No, again, I didn't hear anything about that.

11 Q. Did you hear about an incident in which members of
12 Captain Rodgers' multiple swam into a sewer and detained
13 a prisoner?

14 A. No.

15 Q. Was that not the sort of event that might be spoken
16 about around the camp?

17 A. It is the first I have heard about it --

18 Q. And that that prisoner was then roughed up by members of
19 that multiple?

20 A. I have not heard this before, no.

21 MR MOSS: Those are my questions. Would that be
22 a convenient moment?

23 THE CHAIRMAN: Yes, very convenient. 2 o'clock please. We
24 break off for lunch now, please, Mr Osborne. Please do
25 not talk to anybody about your evidence over the break

1 and be ready to start promptly at 2 o'clock. Thank you.

2 (1.00 pm)

3 (The short adjournment)

4 (2.00 pm)

5 THE CHAIRMAN: You are now going to be asked questions by
6 other counsel, Mr Osborne.

7 Yes, Ms Hetherington.

8 Questions by MS HETHERINGTON

9 MS HETHERINGTON: Thank you, Sir. Mr Osborne, just to start
10 to pick up on something you said about the destination
11 of prisoners when they were arrested out on the ground
12 in Basra. You said to Mr Moss that even on a battalion
13 operation, it was possible that arrested civilians might
14 be taken to a company location, depending on the type of
15 offence. Is that right?

16 A. That's correct.

17 Q. If the arrested persons were suspected of some kind of
18 link to insurgency or an IED cell, where would they be
19 taken?

20 A. I would assume in all cases they would go straight to
21 Battlegroup Main.

22 Q. In terms of the medical assessments following your
23 handover with the Black Watch officers, you said that
24 you thought you had discussed that procedure with the OC
25 and the multiple commanders. Can you recall discussing

1 it with the medics themselves?

2 A. I don't directly recall speaking to the medics, but

3 they -- I assume that they would have been part of that

4 discussion, whether it was me or another member of the

5 hierarchy informing them to do that.

6 Q. Did you subsequently make any check to see whether

7 medical assessments were in fact being done of

8 detainees?

9 A. No.

10 Q. Dealing with the incident with the detainee with the

11 injured wrist, you say in your witness statement that

12 this was between June and July. There is some evidence

13 before the Inquiry suggesting that an incident relating

14 to an injured wrist happened on or around 8 July. Does

15 that sound about right?

16 A. I can't comment on that, sorry.

17 Q. The medic who saw the detainee -- I appreciate that the

18 names "Baxter" and "Martin" don't mean anything to you.

19 In fact both of those men had nicknames, so if I could

20 just try those to see if they ring any bells. "JB"?

21 A. No.

22 Q. "Buzz"?

23 A. No.

24 Q. "Moomin"?

25 A. "Moomin" is familiar to me.

1 Q. Is it familiar as being the medic involved in this case
2 or just generally?

3 A. I am familiar with the name, but I can't put a face to
4 that nickname.

5 Q. When the medic saw this detainee, did he just examine
6 his wrist or did he examine him all over?

7 A. I think he just examined his wrist.

8 Q. Don't you think that it would have been sensible for him
9 to have checked the rest of the detainee, given that the
10 guard was saying they had been too rough with him?

11 A. He was only asked to look at the wrist, and if he deemed
12 it necessary to conduct a further evaluation of that
13 detainee, then I would assume that he would have done
14 that. It was not for me to ask him to do anything other
15 than look at the wrist.

16 Q. Even though you knew that the guard was saying that they
17 had been too rough with him?

18 A. Yes.

19 Q. I think you said -- correct me if I am wrong -- that no
20 questions were asked of the detainee, either then or in
21 his later interview, about what had happened to him.

22 A. I don't recall us asking him the question. We may have
23 done or someone may have asked him, but I don't recall
24 that being asked of him.

25 Q. Do you think it is a question that should have been

1 asked of him?

2 A. Yes.

3 Q. I think we established, through Mr Moss, that your

4 understanding that this injury occurred during

5 a restraint incident, where a little bit too much force

6 might have been used, was just your assumption; is that

7 right?

8 A. Correct, yes.

9 Q. Did you ever take any steps to find out whether your

10 assumption was in fact correct?

11 A. No.

12 Q. Do you think your conduct in relation to this incident

13 was acceptable?

14 A. I do in terms of highlighting it to the company sergeant

15 major that at least he would investigate that further.

16 Q. You did not think that it was imperative that you, as

17 company 2IC, made sure that this type of behaviour was

18 stamped out?

19 A. I didn't view it as behaviour. I believe it was an

20 accident that had happened --

21 Q. That was just your assumption, wasn't it?

22 A. It was, yes.

23 THE CHAIRMAN: Please do not interrupt him.

24 MS HETHERINGTON: I apologise. Moving then to BG Main, you

25 said that you understood that hooding was authorised.

1 Can I ask, what did you understand the purpose of
2 hooding at BG Main to be?

3 A. I believe it would be to disorientate, but I am not
4 aware of any particular effect or impact they would have
5 sought to have done through that.

6 Q. Thank you. Dealing with the question of stress
7 positions, if we can look at paragraph 37 of your
8 witness statement, on page BMI01168, you give there some
9 examples of stress positions. You say:

10 "... would be placing someone with their back
11 against a wall and their knees bent at a 90 degree
12 angle; placing someone with their hands on heads; or
13 positioning someone next to a radiator."

14 The first two examples may be thought of as quite
15 common examples of stress positions; the last, placing
16 someone next to a radiator, was perhaps a more unusual
17 suggestion. Was that something you had ever seen
18 before?

19 A. No. I, with that particular example, refer to someone
20 like Terry Waite, in terms of stress positions for
21 long-term holding against something that is
22 uncomfortable, like a radiator.

23 Q. I see. Had you ever seen detainees at BG Main kept near
24 the generators behind the headquarters building?

25 A. No.

1 MR MOSS: Sir, I am so sorry to interrupt. We have had
2 three or four occasions of some interference with the
3 audio system, which is normally an indication that
4 somebody has got a mobile phone left on. I don't
5 suppose you are looking for confessions, but if we could
6 we just check that nobody has a phone on because it does
7 create interference.

8 THE CHAIRMAN: I will just check to see.

9

10 Do you have a mobile phone?

11 A. Yes.

12 THE CHAIRMAN: A smart piece of detection work done by my
13 clerk.

14 A. It is off. Apologies.

15 MS HETHERINGTON: You said that you understood that the
16 purpose of hooding was to disorientate prisoners. What
17 did you understand the purposes of the stress positions
18 that you saw by the TDF to be?

19 A. I can't ascertain as to what the purpose of that would
20 be on that particular occasion. I would not -- I have
21 no part or understanding of why they were put in that
22 position.

23 Q. It was not something that you thought about at the time?

24 A. No.

25 Q. Did you have any understanding that prisoners who were

1 to be tactically questioned at BG Main were being
2 conditioned?

3 A. No, I didn't, no.

4 Q. That's not a phrase you have heard?

5 A. I am aware of what "conditioning" is, but I am not aware
6 of any particular agenda of conditioning prisoners at
7 BG Main, no.

8 Q. Lastly this: if we could just have paragraph 126 of your
9 witness statement up. It is page BMI01183. This is
10 a paragraph that we have looked at already.

11 Where you say, "The tactical questioners were not
12 involved in guarding the detainees and they did not give
13 orders about what happened to them except to ask for
14 them to be brought for questioning ...", I just wanted
15 to clarify something because earlier in your evidence,
16 when you were asked about seeing the stress positions by
17 the TDF, you said this -- the reference is page 105,
18 line 19:

19 "I understood that the TDF was closely managed by
20 the BGIRO and the TQ team, and any activity that
21 happened with the detainees would be closely authorised
22 or supervised by those officers."

23 Can you just clarify which it is? Were the tactical
24 questioners not giving any orders or were they closely
25 managing and supervising what happened to the detainees?

1 THE CHAIRMAN: I think I mentioned this before. For myself,
2 I do not really see the value of (a) what is in his
3 statement or (b) what he is going to tell me because he
4 is not concerned with tactical questioners.

5 MS HETHERINGTON: No, sir, but he must have come upon this
6 information somehow.

7 THE CHAIRMAN: Frankly, I do not think it is of any enormous
8 value.

9 MS HETHERINGTON: I leave it there if that is the case.

10 THE CHAIRMAN: I do not mean to be rude to you about it,
11 Mr Osborne, but you didn't have anything to do with
12 tactical questioners, did you?

13 A. No, Sir, I didn't.

14 THE CHAIRMAN: Well, there we are.

15 MS HETHERINGTON: Thank you, Sir.

16 THE CHAIRMAN: Yes, Mr Dingemans.

17 Questions by MR DINGEMANS

18 MR DINGEMANS: You mentioned a tent that 1 Black Watch had
19 told you about. Was there a tent erected for detainees
20 throughout the period of time that you were at Anzio
21 Company?

22 A. I believe so, yes.

23 Q. Secondly, the tactical questioning that was carried out
24 at Anzio Company was carried out by the RMPs embedded
25 with the Anzio Company itself?

1 A. Correct, sir, yes.

2 Q. Thirdly, as far as the broken wrist or rumour of the
3 broken wrist was concerned, were you aware that there
4 was a rumour going around Anzio Company that someone had
5 broken a wrist?

6 A. No.

7 Q. So far as the time of your investigation into whether
8 the risk was broken or sprained, was that at about the
9 time that MacFarlane left Anzio Company?

10 A. I am not quite sure of the proximity of the incident and
11 Captain MacFarlane leaving, no.

12 Q. So far as Captain MacFarlane was concerned, is this
13 fair, that he was a careful and diligent officer?

14 A. I believe he was, yes.

15 Q. So far as Lieutenant Rodgers was concerned -- you have
16 been asked a bit about him -- you said you provided
17 advice to him. He was a person who listened to the
18 advice you provided?

19 A. Generally, yes.

20 Q. And he was an effective and efficient officer?

21 A. Yes.

22 Q. Can I just ask you about the day that you spoke to
23 Sergeant Goulding outside the TDF. You believe that was
24 the day on which these detainees were arrested or was it
25 the next day?

1 A. I'm not sure of the actual time of Op Salerno, but this
2 was during daylight hours.

3 Q. It was during daylight hours. Who was it there? You
4 have talked about members of the multiple. Was that
5 members of Lieutenant Rodgers' multiple?

6 A. I believe it was, sir, yes.

7 Q. And during daylight?

8 A. I recall that it was actually in the evening, but it was
9 still daylight.

10 Q. In the evening. Do you recall whether it was after --
11 sorry to be specific on timings, but I imagine that you
12 going to BG Main was not a regular occurrence. Were you
13 going for an O Group or anything like that? Are you
14 able to time your discussion with Sergeant Goulding?

15 A. At that time I was already located at BG Main. I was
16 actually accommodated there and working from there.

17 Q. So you can't help what time, apart from the evening?

18 A. I am pretty -- I am confident that it was in the evening
19 when I spoke to Sergeant Goulding and
20 Lieutenant Rodgers' multiple were parked with their
21 Saxons in the vicinity of where I was sat next to
22 Sergeant Goulding.

23 Q. Did you see Lieutenant Rodgers there?

24 A. No.

25 Q. You just spoke to some members of his multiple?

1 A. I was aware of his multiple, based on who I identified
2 at that time.

3 Q. And you saw no mistreatment of the detainees by any
4 members of his multiple?

5 A. Absolutely not.

6 MR DINGEMANS: Thank you very much.

7 THE CHAIRMAN: Yes, Mr Garnham.

8 Questions by MR GARNHAM

9 MR GARNHAM: Thank you, Sir. Just two matters please.

10 First, you referred, in answer to Mr Moss, to the death
11 of the detainee whilst Black Watch were in theatre.

12 A. Yes.

13 Q. What were you told or what did you understand had been
14 the circumstances of that detainee's death?

15 A. I believe that due to the particular nature of the camp,
16 the local Iraqis would have associated that particular
17 sight with the Baath Party and there was a local fear of
18 that location, rather than who was actually operating in
19 it.

20 Q. You misunderstand me. Were you told how he died?

21 A. No.

22 Q. You told us about an incident you observed involving
23 stress positions outside the TDF at Battlegroup Main.

24 A. Yes.

25 Q. Were those stress positions being adopted openly or

1 THE CHAIRMAN: No, no, I am referring to all statements,
2 because that is what the evidence shows. I am simply
3 suggesting that you must have known that, mustn't you?
4 You must by now know that.

5 A. I do know that now, Sir, yes.

6 THE CHAIRMAN: Would you have expected Mr Rodgers to have
7 gone to see his multiple in their guard duties
8 throughout the time that they were guarding?

9 A. Yes, sir.

10 THE CHAIRMAN: How often?

11 A. Is this at BG Main, Sir --

12 THE CHAIRMAN: Yes.

13 A. -- or at Anzio? At BG Main -- if he was at BG Main, he
14 would have been with his multiple. There's no reason
15 for him to be anywhere else --

16 THE CHAIRMAN: I can see that.

17 A. -- unless he is visiting other officers.

18 THE CHAIRMAN: But would he not also need to go there --
19 regardless of who is in charge of the guards or not, it
20 is his multiple, would you not expect him to go and know
21 exactly what his multiple was up to?

22 A. Yes, Sir.

23 THE CHAIRMAN: Very well. Thank you.

24 MR DINGEMANS: May I ask one question arising out of that,
25 Sir?

1 THE CHAIRMAN: Of course.

2 Further questions by MR DINGEMANS

3 MR DINGEMANS: You were the ops officer for Anzio Company,
4 weren't you?

5 A. Yes.

6 Q. You were aware of Operation Salerno, the operation on
7 which these detainees were arrested?

8 A. Not at the time, sir, no.

9 Q. Were you also aware of Operation Centurion?

10 A. No, sir.

11 Q. If you were a multiple commander and indeed other
12 members of the multiple were out on another operation at
13 the time, you would not then expect the multiple
14 commander to be dropping back and seeing how his troops
15 were getting on, would you?

16 A. If they were deployed, yes.

17 Q. Even if you were on another operation at the time? How
18 can you be in two places at the same time is really the
19 short question I am asking you.

20 A. I am not quite sure I understand the question.

21 THE CHAIRMAN: I think I do and I think I have the point.

22 MR DINGEMANS: Thank you, Sir.

23 THE CHAIRMAN: Very well. That is all the questions you are
24 going to be asked, Mr Osborne. I am grateful to you for
25 coming to the Inquiry. You are now free to go.

1 A. Thank you, Sir.

2 THE CHAIRMAN: Thank you.

3 Yes, well that is all we have for today, isn't it?

4 MR MOSS: Sir, there is one witness whose evidence is to be
5 read and then I hope to just give a brief update on the
6 timetable for tomorrow.

7 Mr Halliday will deal with it.

8 THE CHAIRMAN: Now Mr Halliday.

9 Summary of witness statement of PETER BEAUMONT

10 MR HALLIDAY: Yes, sir. The name of that witness is
11 Peter Beaumont and he was a captain in September 2003.
12 He was attached to 1 QLR for Op Telic 2. He was
13 a battlegroup engineer and a member of the Civil
14 Military Communication Team. He was based at BG Main,
15 but tells us that his role did not involve any
16 responsibility for prisoner-handling. He saw detainees
17 hooded during the tour, but did not witness the use of
18 stress positions, he tells us. He regularly attended
19 the CO's O Groups, but does not recall there being any
20 discussion about Baha Mousa's death at these meetings.

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Witness statement of PETER BEAUMONT

Witness Name: Peter Beaumont

Statement No: 1

Exhibits:

Dated: 2-06-09

THE BAHA MOUSA PUBLIC INQUIRY

Witness Statement of PETER BEAUMONT

1 1. I make this statement in response to the
2 Inquiry's Rule 9 Request dated 24 April 2009. I have
3 read this Request, and I seek here to cover everything
4 that it raises to the best of my ability and
5 recollection.

6 Rank and role

7 2. I am currently serving in the British Army as
8 a Major in the Royal Engineers. I am a professionally
9 qualified engineer specialising in military and civilian
10 infrastructure.

11 3. I joined the Army in 1999 as a commissioned
12 officer. I undertook basic training at Sandhurst.
13 I subsequently served with 58 Field Squadron (Explosive
14 Ordnance Disposal) and then 11 Field Squadron Royal
15 Engineers. I was serving with 11 Fd Sqn over the period
16 of Op TELIC II, but for the duration of that operation
17 I was detached to join 1st Battalion The Queen's
18 Lancashire Regiment ('1 QLR'). During the past two
19 years I have completed a Masters degree and an eighteen
20 month civilian attachment.

21 4. During Op TELIC II, I was a Battle Group
22 Engineer, part of the Civil Military Communication team
23 ('CIMIC'). The team consisted of Capt Wakefield, the
24 Officer Commanding CIMIC, myself, Maj Quegan (a TA
25 officer) a Colour Sergeant (whose name I cannot now

1 recall), my driver (whose name I cannot now recall) and
2 a number of other junior soldiers. There were also nine
3 or ten American soldiers who were attached to the team.

4 5. The CIMIC team worked as part of the Battalion
5 HQ Company and we would be tasked with particular jobs
6 in line with the Battalion's intent. For example, we
7 worked with civilians to resolve particular problems
8 relating to infrastructure. During fuel shortages we
9 would look to source fuel and transfer it to petrol
10 stations. I also had other military engineering roles
11 which included the fortification of defences and which
12 involved interaction with each of the Battalion's
13 Companies.

14 6. CIMIC was based in BG Main. I was ranked
15 Captain at the time and reported directly to Capt James
16 Wakefield. In turn Capt Wakefield was answerable to Col
17 Mendonca, the Commanding Officer ('CO') of 1QLR.

18 Training, guidance, instructions, orders

19 7. There was no particular training about the
20 handling of detainees during my basic training at
21 Sandhurst. I did learn about the Geneva Convention and
22 there was and is an annual video presentation shown
23 concerning the Law of Armed Conflict. This includes
24 guidance on what is a legitimate target and the
25 responsibilities of soldiers to civilians.

1 8. Before deploying to Iraq I completed Individual
2 Training Directives ('ITDs'). These are compulsory
3 training courses which have since been superseded by
4 Mandatory Annual Training Tests ('MATTs'). I have been
5 in a civilian role for the past two years so I do not
6 have any personal experience of MATTs, but I believe
7 that the generic annual scheme includes training and
8 tests in: weapons handling, fitness, nuclear, biological
9 and chemical warfare ('NBC') and the Law of Armed
10 Conflict, in addition to others which I cannot recall.

11 9. In addition to ITDs I undertook a Pre Deployment
12 Training (PDT) Package prior to deployment to Iraq.

13 10. From a military engineer's perspective I had
14 some guidance about how detainees and prisoners should
15 be accommodated. Men and women should be accommodated
16 separately, infants should be kept with the women, and
17 there should be provision for ablutions and feeding.
18 There are generic designs for detention facilities for
19 military prisoners of war. However, these generic
20 designs are suitable for holding large numbers (100+) of
21 military detainees in the context of major combat
22 operations and have no relevance to small scale
23 facilities used in operations other than war, such as
24 OP TELIC II.

25 11. I do not know what training infantry soldiers

1 would have received prior to deployment but as an
2 engineer my training included: a six month Troop
3 Commanders course, which was designed to prepare
4 individuals for the handling of major combat operations;
5 bomb disposal and search; and a Battle Group Engineering
6 Course. None of these courses contained anything of
7 relevance to the handling and treatment of detainees.

8 Pre-deployment training

9 12. I was stationed in the Falkland Islands
10 immediately before deployment to Iraq. I think that
11 I went through a week's OPTAG training and so would have
12 received ITDs, in-theatre briefings, some Arabic
13 language training, and training on the Rules of
14 Engagement.

15 13. The Battle Group spent 10 days in Kuwait before
16 arriving in Iraq. We acclimatised, did PT in the
17 morning, and as I was new to the battalion I did spend
18 a lot of time introducing myself to the others.
19 I remember there was a brief on health threats and the
20 Black Watch (from whom 1QLR took over) talked through
21 specific scenarios, for example on firing situations and
22 the rules of engagement.

23 14. I do not recall whether the Royal Military
24 Police ('RMP') gave any briefing. I do not remember any
25 briefing from Military Corrective Training or Physical

1 Training staff.

2 15. While in Kuwait the Battalion received
3 equipment purchased as urgent operational requirements
4 (UORs), and spent a considerable amount of time in
5 Kuwait training on this equipment. None of this
6 equipment was relevant to the taking of prisoners,
7 handling of detainees or tactical questioning. There
8 were aide memoires provided in respect of the rules of
9 engagement, but not, as I remember, on prisoner
10 handling.

11 Treatment of detainees

12 16. On Op TELIC II I understood that detainees were
13 detained in respect of civilian offences. They were not
14 prisoners of war as we were not in a state of war. I do
15 not now what rules were in place about how they were
16 looked after during their detention and when they should
17 be passed elsewhere. I think that Patrol Commanders
18 would organise guards until the detainees were moved on.
19 There were no full time detention staff.

20 17. I recall that the detention facility was
21 a small building. I think it consisted of three rooms.
22 I entered the building on occasion but never when
23 detainees were there. In my engineering role I was
24 responsible for the camp's infrastructure and so on
25 a number of occasions I would have entered the building

1 to check the condition of the building and check the
2 perimeter defences from the roof. I can't recall if
3 there was electric light as well as natural light in the
4 building. It had the musty smell of an old building.

5 18. I received no guidance or training in respect
6 of the hooding of detainees. I was never called upon to
7 hood detainees myself. There were occasions when I saw
8 detainees hooded while in Iraq and with 1QLR. I saw
9 hooded detainees outside of the detention centre and
10 walking along the road at Battle Group Main ('BG Main').
11 I considered the use of hooding in those circumstances
12 to be permitted. I can't say why I thought this except
13 that hooded detainees were in full view of everyone. I
14 don't recall ever seeing detainees wearing black
15 goggles.

16 19. My understanding of stress positions is that
17 these are uncomfortable positions used to induce
18 a person to talk. I have never been trained or taught
19 about the use of stress positions but have received this
20 understanding from their depiction in videos and movies.
21 I never witnessed prisoners being placed in a stress
22 position.

23 20. I am aware of the concept of exposing people to
24 white noise, because I would say that it is common
25 knowledge within the armed forces and, perhaps outside

1 them, that [redacted] resistance-to-capture training
2 involves exposure to white noise, in order to prepare
3 them for capture by enemy forces.

4 21. Those detained by 1QLR in Iraq were never, to
5 my knowledge, deprived of food, water and/or sleep.

6 22. I was not issued with plasticuffs because they
7 were not ordinarily required in my role as an engineer.
8 I have never received any particular training on their
9 use and I never had call to use them myself.

10 Tactical questioning

11 23. As far as I am aware, tactical questioning was
12 conducted by specialists and not members of the Battle
13 Group. I remember that on Op TELIC II when detainees
14 were to be questioned, a Major would be brought in from
15 Brigade HQ. I do not know his name but I think he wore
16 a red beret, as a member of the Parachute Regiment, and
17 I think I was told that he was a human intelligence
18 specialist, presumably a tactical questioner. I believe
19 that he was a Brigade level asset.

20 Chain of command responsibility for treatment of
21 detainees

22 24. In terms of responsibility for ensuring the
23 proper treatment of those detained by the Battle Group,
24 my understanding was that the CO had ultimate
25 responsibility for the conduct of the Battalion. I do

1 not know what responsibility, if any, the 2iC had.

2 25. Similarly, I do not know what role the Adjutant
3 had. At the time of Baha Mousa's death I understood
4 that Maj Peebles had oversight of the detention facility
5 and that he had recently taken this role over from
6 Maj Royce. As indicated above, my understanding was
7 that tactical questioners would rarely be brought in but
8 they were a Brigade level asset, but I do not recall
9 ever being briefed individually or as part of the
10 Battalion about any particular arrangements for tactical
11 questioning.

12 26. I do not know what the roles of the RSM and
13 CSMs were in respect of detainees.

14 27. I was not familiar with the term Battle Group
15 Internment Review Officer ('BGIRO') during Op TELIC II
16 and I do not know who that was or what the role
17 involved.

18 28. I do not know what role the Provost Sergeant
19 and Corporal had in ensuring the proper treatment of
20 detainees.

21 29. I did not get involved in the guarding or
22 handling of detainees and nobody within my group, CIMIC,
23 had formal or routine roles in guarding detainees. None
24 of the individual's under my command guarded or handled
25 detainees.

1 14-16 September 2003

2 30. I did not visit the TDF during the time that
3 Baha Mousa and the other detainees were being detained.
4 As I have stated above, I never went inside the TDF
5 while detainees were there.

6 31. I do not remember stopping in the vicinity or
7 outside the TDF during this period. Nor do I remember
8 hearing and shouting or screaming between
9 14-16 September 2003.

10 Subsequent events

11 32. I am not sure when I heard of the death of
12 Baha Mousa, nor how I came to learn of it - all
13 I remember hearing is that a detainee had died from
14 natural causes, namely a heart attack.

15 33. I did attend daily Order ('O') Group meetings,
16 along with Maj Quegan, Capt Wakefield from CIMIC, other
17 officers and the CO, Col Mendonca.

18 34. I do not remember there ever being any
19 discussion, at these meetings or otherwise, concerning
20 any aspects of the detention of Baha Mousa and the
21 detainees with him, or of Baha Mousa's death. Nor do
22 I remember talking to anyone who was involved in or had
23 witnessed the treatment of the detainees.

24 35. I was not interviewed by the Special
25 Investigation Branch, nor was I ever asked to give any

1 statement to them.

2 Press accounts

3 36. I have never given any statements to or had
4 interviews with the press or the media in respect of
5 matters relevant to this Inquiry's terms of reference.

6 Statement of Truth

7 I believe that the facts stated in this witness
8 statement are true.

9 Signed: Peter Beaumont.

10 Dated: 2 June 2009.

11 THE CHAIRMAN: Very good. Thank you very much.

12 Now, tomorrow, Mr Moss?

13 MR MOSS: Yes, Mr Moutarde is a fixture for tomorrow.

14 THE CHAIRMAN: Yes.

15 MR MOSS: We are seeing whether it is going to be possible
16 for us to hear from Mr MacFarlane tomorrow. There is
17 some prospect that that may be possible, but we are not
18 sure. We will make a decision by 5 o'clock and let the
19 core participants know by then. If we take
20 Mr MacFarlane, it is likely that we will want to take
21 his evidence first because the links to where he is are
22 far more difficult, so we want to seize the opportunity
23 while he's available.

24 THE CHAIRMAN: Mr Moutarde is giving his evidence by
25 videolink as well, is he?

1 MR MOSS: He is, but it is more reliable and it is easier to
2 go back and re-arrange. So we will take Mr MacFarlane
3 first, if he is available, but we will update by
4 5 o'clock this afternoon.

5 THE CHAIRMAN: All right. If he is not there, Mr Moutarde
6 is the only witness or is there --

7 MR MOSS: He is the only witness. Obviously there is quite
8 a lot to his evidence, in any event, but the two
9 witnesses would fit within the day, we think.

10 THE CHAIRMAN: Very well. 10 o'clock tomorrow morning,
11 then. Thank you very much.

12 (2.19 pm)

13 (The Inquiry adjourned until 10.00 am, Thursday,
14 28 January 2010)

15 Opening Remarks1
16 MICHAEL MARTIN GIBLIN (affirmed)3
17 Questions by MS HETHERINGTON42
18 Questions by MR DINGEMANS45
19 Questions by MS EDINGTON47
20 Questions by MR EVANS50
21 RICHARD CHARLES ANDREW OSBORNE53
22 (affirmed)
23 Questions by MR MOSS54
24 Questions by MS HETHERINGTON119
25 Questions by MR DINGEMANS126

1	Questions by MR GARNHAM	129
2	Questions by THE CHAIRMAN	130
3	Summary of witness statement of	133
	PETER BEAUMONT	
4	Witness statement of PETER BEAUMONT	133
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

