

Wednesday, 2 June 2010

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

(10.00 am)
THE CHAIRMAN: Good morning, Mr Elias. Good morning, ladies and gentlemen. I hope it is not tempting providence too much to say that we are starting the last lap of the evidence. I hope it is the last lap.

Yes.

MR ELIAS: Thank you, Sir. May I call Adam Ingram, please?
Mr Ingram, please.

THE CHAIRMAN: Yes. Mr Ingram, I wonder if I might ask you to stand up to take the oath, please.

ADAM PATERSON INGRAM (affirmed)

THE CHAIRMAN: Thank you. If I could ask you, please, to keep as close as you reasonably can -- I think it is not all that comfortable -- you have a fairly loud voice, if I may say so, so I am sure we will have no trouble in hearing you.

Questions by MR ELIAS

MR ELIAS: Please give the Inquiry your full name.

A. Yes, my full name is Adam Paterson Ingram.

Q. You made a statement to this Inquiry, Mr Ingram, which I hope is in a folder to your right hand. Please have a look at a copy of that statement and go to your last page, if you will, BMI08386. Does that have your signature above the date of 20 May of this year? That

1 is very recently.

2 A. It does, yes.

3 Q. When you signed that statement to this Inquiry, were you
4 attesting that the contents of it were true to the best
5 of your knowledge and belief?

6 A. I was.

7 Q. Thank you. I am not going to ask you about every dot
8 and comma, as it were, in that statement. You
9 understand that the content of that statement and the
10 detail of it form part of your evidence to this Inquiry?

11 A. I do.

12 Q. I am going to ask you, where it may be that you can help
13 us further, to expand upon one or two aspects of that
14 statement.

15 May I begin by looking at your role so far as it is
16 relevant to this Inquiry anyway? You do not tell us in
17 your statement, but perhaps I may adduce this from you.
18 You were an MP from 1987?

19 A. That's correct.

20 Q. You remained in Parliament and, on 12 June 2001, you
21 were appointed Minister of State at the Ministry of
22 Defence, responsible for the armed forces.

23 A. I was, yes.

24 Q. And that was a post that you held, you tell us, until
25 29 June 2007?

1 A. That's correct.

2 Q. It follows that you were in that office during
3 Op Telic 1 and Op Telic 2 and, indeed, in the spring of
4 2004, when abuse allegations, particularly relating to
5 Iraq, surfaced in the media.

6 A. I was, yes.

7 Q. Just to record, as you tell us in your statement, you
8 gave evidence to the Joint Committee on Human Rights
9 twice in June 2004 and again in March of 2006.

10 A. Yes, I did. The first, I think, was a written
11 submission and the second was in person.

12 Q. Thank you.

13 Minister of State for the Armed Forces, can you just
14 help us with what that involved in terms of your
15 responsibility? First of all you tell us you were
16 subordinate and answerable to the Secretary of State for
17 Defence.

18 A. I was. I was -- the Minister of State -- there was only
19 one Minister of State in a department. There was a
20 Secretary of State, there was myself as Minister of
21 State and two Parliamentary Under-Secretaries of State,
22 and I was responsible across a range of issues,
23 initially for all personnel matters, for all operational
24 matters, for a wide range of activities which are set
25 out in my statement and for matters which I haven't

1 referred to in my statement -- indeed responsibility for
2 the Defence Logistic Organisation and much of the
3 organisational structure of the Ministry of Defence as
4 well. It was a very busy post.

5 Q. Just to put your workload, if you like, in context,
6 perhaps we should just look at paragraph 3 of your
7 statement at BMI08373 please. You say in the fourth
8 line that your responsibilities included, amongst other
9 things, "... all matters regarding regular and reserve
10 armed forces, operations including Iraq, Afghanistan,
11 counter-terrorism, UK operations, Northern Ireland and
12 the Balkans, bilateral defence relations outside the
13 NATO/Europe area, inquiries, boards of inquiry and
14 inquests".

15 A. That's correct, yes.

16 Q. Throughout your period as Secretary of State the
17 minister was Geoff Hoon?

18 A. It was, yes.

19 Q. You go on say in paragraph 3 that the post was a very
20 busy post and your involvement in the events which
21 concern this Inquiry has to be seen in that light.

22 A. I do, yes.

23 Q. May I just pick that up at the very beginning? Do you
24 mean by that that the events which this Inquiry is
25 particularly concerned with -- that is the detention of

1 Baha Mousa and those who were detained with him and the
2 treatment of them -- do you mean by that that that would
3 have been a matter, so far as you were concerned, of
4 particularly low priority?

5 A. I would not have viewed any of my areas of
6 responsibility as low priority. The level of priority
7 would be determined by the attention being given to it
8 both within a department and externally, whether through
9 Parliamentary scrutiny or any other form of scrutiny.
10 The point I am making was that it would not have been
11 the only issue, albeit it may have been the highest
12 priority at that time that I would have been dealing
13 with it on any day or at any particular period. There
14 was a whole lot of other issues I had to be attending
15 to.

16 Q. I understand. You tell us in paragraph 4 that your key
17 advisers and officers during these times were your
18 military assistant -- and we see him referred to as the
19 "MA", don't we, in correspondence, emails and matters of
20 that kind and circulation lists -- and your private
21 secretary, the PS, similarly. It would be right to say,
22 would it, that, to an extent anyway, Mr Ingram, you
23 relied upon the military assistant and your private
24 secretary to put matters in front of you which they felt
25 needed your attention?

1 A. They also were very busy people because of the nature of
2 the volume of work coming through the private office.
3 Their job would have been to absorb the content of any
4 documents that I was required to see or to sign off, to
5 draw my attention to matters of particular interest,
6 such as maybe noting it, be aware or to note or
7 whatever, to try to give some direction so that we could
8 get a proper balance to the work-flow and speak of
9 getting decisions out of the office.

10 Q. You tell us that advice submissions and information for
11 you would have been generated within the Ministry of
12 Defence. If we look at paragraph 5, please, you say:
13 "... (primarily at PJHQ) and forwarded [either] to
14 my MA or PS in order to inform me of what was happening
15 or for the purpose of briefing me for Parliamentary
16 questions."

17 A. That would be correct, yes.

18 Q. And you go on to say in that paragraph that you would
19 have regular meetings -- "not uncommon" for you to have
20 meetings is how you put it. There were presumably
21 regular meetings, were there, about issues that were
22 raised?

23 A. There were innumerable meetings, sometimes ad hoc
24 meetings, sometimes pre-planned meetings.

25 Q. You say in paragraph 5:

1 "It was usual for a lawyer to be present and
2 I recall many meetings with Martin Hemming, an MoD
3 lawyer."

4 A. Where there was a requirement. Perhaps I should have
5 said "where there was a requirement for such advice to
6 be present".

7 Q. Where it was felt there might be some legal aspect for
8 which legal advice input was needed?

9 A. Correct, yes.

10 Q. I follow.

11 I want to move on, please, to ask you about your
12 state of knowledge about certain aspects of soldiers'
13 practice which this Inquiry is particularly concerned
14 with -- your state of knowledge at the time, if you
15 like, of the planning for the war in Iraq.

16 First of all, to ask you please about hoods, hooding
17 or deprivation of sight. Did you have any knowledge, at
18 the time of planning for Iraq, as to whether it was or
19 was not proper or appropriate for soldiers to hood or
20 deprive of sight prisoners that they may take?

21 A. No, I wouldn't have any more than I would have had
22 a close intimate knowledge of other operational
23 requirements placed upon military personnel such as
24 rules of engagement. I would have seen such things, but
25 since I was not a military person, I would not have been

1 able to cast a military eye over it in that sense. So
2 it wouldn't have been something which particularly was
3 brought to my attention, but would have been part of
4 a generality of matters that I would have taken to be
5 operational -- matters that were properly being dealt
6 with by the armed forces.

7 Q. Just probing that a little more, if I may, are you
8 telling the Inquiry, to the best of your recollection,
9 that the issue of hooding was, one, something that was
10 never discussed with you prior to deployment to Iraq?

11 A. I would -- that would be accurate, yes.

12 Q. And, two, not an issue which in any event you had any
13 view about because you had never thought about it or had
14 it discussed with you?

15 A. It had never been brought to my attention as a matter of
16 concern to the best of my recollection.

17 Q. Had you, at that time, casting your mind back to the
18 planning phase, if you like, for Op Telic and the war in
19 Iraq, any knowledge of what is sometimes called the
20 "Heath ruling"?

21 A. I had no knowledge of the Heath ruling. To the best of
22 my recollection it was never brought to my attention.

23 Q. You know now what it is?

24 A. I know now what it is.

25 Q. The statement to Parliament made by Prime Minister Heath

1 in 1972.

2 A. Correct, yes.

3 Q. Just looking at that and knowing what it is now,
4 Mr Ingram, as Minister of State for the Armed Forces, if
5 that were a ruling which were still extant in 2003, do
6 you think that is something that you ought to have known
7 about in the sense that it should have been brought to
8 your attention in preparation for what was to happen?

9 A. Probably not any more than any other operational matter.
10 My view would have been that armed forces would have
11 operated in full conformity with the law and their
12 operational procedures, which would have been determined
13 by the military chain of command.

14 Q. I am going to ask you this question or something like it
15 perhaps a number of times. Let me ask you for the first
16 time now: your position, of course, in taking on the
17 responsibilities that you were as Minister of State,
18 meant, of course, that you had responsibility for these
19 areas, but you also had, didn't you, a duty, as it were,
20 to be answerable to Parliament and through them to the
21 public --

22 A. That is correct, yes.

23 Q. -- so it might be said that you did need to know about
24 certain matters where it was likely to be a matter that
25 become public through the media or otherwise so that you

1 could deal with it and answer questions, either in
2 Parliament or outside Parliament, appropriately, fully
3 and accurately.

4 A. Well, I would have been dependent upon the advice being
5 forwarded to me through the Department from the
6 specialists areas of the Department and to deal with any
7 particular line of inquiry or questioning, and I would
8 have to be dependent upon the quality of that advice as
9 being accurate and honest.

10 Q. Can we look at paragraph 10? I am moving on now,
11 please, to look at prisoner handling issues. I am going
12 to try to take matters chronologically, issues that
13 appear to have arisen, as it were, in your time. Can we
14 look at paragraph 10 where you refer to planning and/or
15 policy formation? This would be in the early stages --

16 A. Yes.

17 Q. -- that you are referring to in paragraph 10, planning,
18 if you like, for the war. That's correct, isn't it?

19 A. That's correct, yes.

20 Q. You say this:

21 "I do not recall any particular involvement in the
22 planning and/or policy formulation relating to the
23 physical aspect of handling of enemy prisoners of war,
24 detainees and/or internees, including the tactical
25 questioning and/or interrogation. Nor do I recall

1 having any concerns or being aware of any concerns of
2 others in this respect."

3 A. That's an accurate statement.

4 Q. So should the Inquiry understand from that that in the
5 planning and policy formulation stage the question of
6 prisoner handling and how, for example -- to take one
7 small example -- detainees might be dealt with was not
8 an issue raised with you at any time?

9 A. I don't recollect any particular involvement. I am not
10 saying that this is not something that would have been
11 passed to me by way of documentation, that these are
12 matters -- these are the range of issues that would be
13 applied as we moved into the conflict. But I don't have
14 any recollection of it being brought particularly to my
15 attention.

16 Q. You go on in that paragraph to say that it didn't occur
17 to you that the armed forces would be acting in any way
18 unlawfully. That I understand.

19 A. Absolutely. I mean I would take the view that all
20 military planning would have been done in full
21 conformity with both domestic and international law.

22 Q. Do you recall that prior to deployment soldiers were
23 involved in what I think was called Operation Fresco?
24 That is --

25 A. I do remember that.

1 Q. -- taking over the fire-fighting duties from striking
2 firemen.

3 A. I remember it well, yes.

4 Q. Do you recall that impacting or any concern that you had
5 about whether that might impact upon the readiness of
6 soldiers or their training or any other aspects of that
7 kind?

8 A. I think if we go back to the initial deployment into
9 Iraq, there were 45,000 members of HM Armed Forces
10 deployed into the initial stages of the conflict. That
11 certainly -- that was a quarter of total resource. That
12 of itself put huge strains on the way in which
13 particular aspects and particular people within the
14 armed forces could be available for other duties over
15 time because of the way the various deployment and
16 training and roulement and rest periods came into play.

17 Fresco, of course -- Operation Fresco was not part
18 of future planning. It was something that then
19 happened -- it happened twice -- and there is no
20 question at all that taking some key personnel out,
21 mainly highly specialist fire-fighters from both the RAF
22 and from the Royal Navy and from the army, would have
23 affected some of the operational capabilities, and then
24 of course the large numbers of support personnel would
25 have put strain on the system.

1 Q. Obviously you would have known about that at the time.

2 A. Certainly because I was very much involved in having to
3 deal with that as Minister for the Armed Forces and
4 across Government, trying to explain to the rest of
5 Government why it should not have been a matter for the
6 armed forces to be fire-fighters.

7 Q. A number of soldiers on the ground, as it were in Iraq,
8 have already told this Inquiry -- that is to say
9 soldiers in positions of command -- in various different
10 ways that one of their concerns was to win the hearts
11 and minds battle in Iraq with the population there and
12 that, therefore, the sensitive handling of detainees of
13 Iraqi civilians in particular was obviously an important
14 aspect of the job that they were called upon to perform.
15 Would you have been aware of that at the time of this
16 planning, of that sort of thought?

17 A. In any post-conflict situation, the whole question of
18 how you approach stabilisation and approaching normalcy
19 as best one in difficult environments is something which
20 would be a high priority. This creates huge
21 difficulties for the armed forces, for them to have been
22 in Northern Ireland, Bosnia, Iraq, Afghanistan,
23 different theatres, different demands, and requiring a
24 high level of awareness and intelligence and commitment
25 from the armed forces so deployed -- not an easy task

1 for them.

2 Q. So coming back to my question, in Iraq and in this
3 pre-planning policy-making phase, you would have been
4 aware, would you, of the sensitivity and the need for
5 such an approach?

6 A. Yes. I mean that would have been the underlying and
7 underwritten approach that we would have expected of all
8 forces, to be sensitive to the needs of the local
9 population: don't make enemies, make friends.

10 Q. It may be said in that context then, Mr Ingram -- you
11 being the minister, you appreciating the sensitive
12 nature of a task of this kind -- that you might have
13 been most proactive in finding out, if you didn't know,
14 how detainees in Iraq were going to be treated, were
15 going to be physically handled.

16 A. Well, I would have viewed it as being an operational
17 matter and I would have trusted in the judgment and the
18 quality of commanding officers and also in the training
19 which personnel would have received and the way in which
20 they would have approached that. But I was also
21 a realist to understand and accept that, no matter how
22 much one is trained, things can go wrong in difficult
23 circumstances.

24 Q. Does it mean that your approach then, as it were, to
25 leave things in the hands of those on the ground and

1 those commanding on the basis that they were going to
2 follow the law -- does it mean that you would have
3 regarded your involvement in these areas as only arising
4 if and when something went wrong?

5 A. No, I think it would have been a case of mutual respect
6 between ministers, between the centre -- if that is the
7 way the MoD had to be described -- and those in the hot
8 position in the front-line, and there had to be honesty
9 at all levels in that. It would be why myself and the
10 Secretary of State and other ministers would have
11 visited the theatre, the country and the area, to glean
12 best information, best appreciation of the difficulties
13 and to see what more we could do to help our personnel
14 in those circumstances. So it wasn't a case of waiting
15 for a problem and then reacting, but it was also a case
16 of being proactive. It had to be, in a sense, meeting
17 it on the way because we couldn't be predictive in terms
18 of every eventuality.

19 Q. Your phrase "honesty at all levels", what does that
20 really imply? You and indeed others, but you being told
21 what was going on in terms that were entirely open,
22 honest and truthful?

23 A. If I was made aware of a particular problem, then there
24 would be an obligation on trying to find a resolution
25 to it if that was possible and I could arrange across

1 equipment to other matters.

2 Q. But you used the phrase "honesty at all levels". I just
3 want to understand what you meant by that.

4 A. Well, it would be that. There would have to be people
5 telling you -- the phrase that would have been used
6 would have been people telling you ground truth. There
7 was no point trying to obscure or dissemble or to deny
8 reality.

9 Q. I think you will know that the Inquiry has been made
10 aware that the ICRC made a complaint or raised issues in
11 relation to the handling of prisoners -- hoods, being
12 left out in the sun, the possibility at least of stress
13 positions being used by our forces -- in late March or
14 thereabouts 2003. Did you know about that complaint at
15 the time?

16 A. I have no recollection of being aware of it at the time,
17 but in relation to ICRC reports, the practice would have
18 been that any matters of immediate concern that the ICRC
19 wanted to draw to the attention of those who were
20 involved in carrying out the operations, they would draw
21 it to their attention. The way in which this would then
22 be handled was that if it was something that could be
23 addressed immediately, it would be addressed immediately
24 and therefore it would no longer be a problem to be sent
25 up as a matter of concern because it had, in a sense,

1 been fixed.

2 If there was a requirement for further action, then
3 clearly it would surface as a report through the system
4 and it may or may not have ended on a minister's desk.

5 If I had been in theatre at the time when this was
6 happening, then it may have been reported to me at that
7 time, but I have no recollection of that being the case
8 at that time.

9 Q. And you are likely to have a recollection, if indeed you
10 were told, of an ICRC complaint about hooding prisoners
11 at a relatively early stage, are you not?

12 A. Well, I think my political antennae would have been
13 alert enough in that sense to have been made aware that
14 I was being told something that I should be aware of it,
15 and if it was a request for action on my part, then
16 I would have addressed that.

17 Q. I understand what you say about that. If there was
18 a need for action, obviously the matter had to come to
19 you. Wasn't there also -- and wasn't this perhaps one
20 of those issues -- information which you, as a
21 Member of Parliament, in the way that we were discussing
22 a few minutes ago, simply needed to know about, lest the
23 matter was raised more publicly?

24 A. I don't know what you mean "more publicly".

25 Q. Well, raised in Parliament or raised through the media,

1 for example, as we know happened in May 2004.

2 A. Well, that's precisely what I am saying. I think that
3 the ICRC, which operated in strict confidence with our
4 personnel on the ground and with governments, would have
5 reported the matters immediately that they identified
6 the problem. Those who had the responsibility on the
7 ground to deal with that, if it was within their
8 capacity to do so, would have corrected any failings
9 that had been brought to their attention -- end of
10 story, it was no longer a problem, and the ICRC would
11 have then been satisfied that the matter had been dealt
12 with.

13 If there was a continuing problem, then, of course,
14 it then became subject to a detailed report by the ICRC
15 and that would have then been communicated through the
16 appropriate mechanisms with the Government.

17 Q. If we have a look, please, at a document, because I am
18 going to suggest, Mr Ingram, this is perhaps one of the
19 difficulties that arises if you are not, as it were, put
20 fully in the picture. If we look at MOD050331,
21 please -- you will be very familiar with these letters
22 and indeed the Inquiry is getting quite familiar with
23 them, Mr Ingram, where you are responding to an MP no
24 doubt raising a matter on behalf of a constituent.

25 A. Yes, I am aware of that, yes.

1 Q. This is May 2003. I don't think it is an issue that the
2 ICRC had raised their complaint in March/April 2003, do
3 you follow? If we look at the last paragraph of this
4 letter, going out in your name to Michael Foster MP, you
5 say this at the third line:

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

9 That's information that you would have accepted in
10 a draft before you signed this letter, is it?

11 A. There would have been a full background paper attached
12 to these individual letters and it may well be that you
13 have those background papers --

14 Q. Yes.

15 A. -- which will set out the nature of what was happening
16 on the ground, what action had been taken, which would
17 have then been made available to me before that letter
18 was signed off. So it wasn't just a case of being given
19 a draft letter and signing it off. There would be
20 a full explanation as to the content of that letter
21 coming from those who had responsibility to properly
22 report to me on this.

23 Q. And indeed the Inquiry has seen examples of the
24 background briefing note, if you like. But the letter
25 would also have been drafted for you, would it?

1 A. That's correct, yes.

2 Q. If we read on in that last paragraph, please:

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

8 Had you known that the ICRC had raised a complaint
9 in March/April, corroborated indeed by soldiers who have
10 given evidence to this Inquiry, that prisoners were
11 hooded, left out in the sun, query stress positions,
12 could you have said that in this letter?

13 A. It would have depended upon the nature of what the
14 originating complaint was. We would have operated on
15 the basis that: try and give as much information, always
16 make the information as honest as possible, but try and
17 address the nature of the inquiry. So the letters would
18 be specific to what was being asked for in the inquiry
19 letter.

20 Of course, these letters were probably -- and
21 I think I would be accurate in saying been generated --
22 because of letter-writing campaigns being generated by
23 anti-war groups, by Amnesty International and by a range
24 of other organisations.

25 Q. Well, that's as may be, but it is the fact, isn't it,

1 that if is right that there was a complaint by ICRC and
2 if it is right that prisoners were hooded, were left out
3 in sun for hours, hooded, query put in stress positions,
4 it would not have been entirely accurate -- forget the
5 honesty bit -- to say, "The ICRC have expressed
6 themselves content with the way we have treated the
7 prisoners and detainees throughout the conflict". That
8 simply would not have been accurate, would it?

9 A. Without accessing the background note, I don't know
10 whether it referred to the specific complaint that you
11 have noted and whether that would have been brought to
12 my attention, whether I would have had a knowledge of
13 that. I need to see the background note. I would then
14 need to judge why I would not have included that in the
15 draft letter that had been presented to me.

16 Q. I am not, for the moment, attributing, as it were, any
17 fault to you. Obviously if you had seen a background
18 note that contained that information, that would have
19 been a different thing and you would then have been
20 saying in the letter something that did not reflect the
21 background note.

22 But if you did not have a background note which said
23 any more than is said in this letter and accepting the
24 fact, as I have put it to you, of a complaint in
25 March/April, this letter, putting it neutrally, would

1 not appear to have been telling accurately the ICRC
2 position and the British Government's position
3 throughout the conflict, would it?

4 A. Well, I would need to see just what the ICRC complaint
5 was and I have no recollection of that specifically
6 being brought to my attention. If those who were
7 raising the issues by way of the letter or by referring
8 to -- in Parliament had said there was a specific
9 incident to which the -- about which the ICRC had made
10 the comment, then we would have had to have commented on
11 that.

12 So, one, I have no recollection of being aware of
13 it. The very fact that the phrase that "The ICRC were
14 content ..." I think is broadly in line with what
15 I said, that if the ICRC made observations about
16 failings or things that need to be attended to and then
17 they were attended to, then they would express
18 themselves being content and the matter had been
19 addressed. That would be my understanding about the
20 relationship between the open access and unrestricted
21 access that ICRC would have had to all our facilities
22 and to be able to comment in a confidential way upon
23 this.

24 So I don't think it is -- if I am interpreting the
25 question correctly -- inconsistent with what I said

1 earlier. The use of the phrase and actually commenting
2 about the ICRC's point of view, in hindsight it would
3 have been an unusual phrase to use because we tended not
4 to comment about the ICRC, but I do recollect that was
5 a phrase that was within the background note and
6 therefore that's why probably it appeared in that
7 letter.

8 Q. I am not disputing that it may have been within the
9 background note and I am certainly not imputing any
10 fault to you, Mr Ingram, on this occasion. May I just
11 ask this one last time and I shall then move on. The
12 last two lines of the letter:

13 "The ICRC, who have expressed themselves content
14 with the way we have treated prisoners and detainees
15 throughout the conflict ..."

16 Would you have put your signature to that if you had
17 known that, a month or so earlier, there had been
18 a complaint made by the ICRC which, in fact, complained
19 that prisoners were hooded, left in the sun and possibly
20 left in stress positions? Would you have put your
21 signature to the letter as it is there drafted?

22 A. I would have probably tried to establish ground truth
23 and examined the words probably and whether there were
24 stress positions. I would have probably asked about
25 that if it had been brought to my attention. Looking at

1 that particular phrase in that letter which appeared in
2 a number of letters, I say that -- you know, it is
3 unusual to have commented about the ICRC at all, but
4 probably consistent with the views -- it would not have
5 been -- I would take this view and an honest view that
6 it would not have been reported to me unless it had been
7 said by the ICRC in theatre to those who had drafted
8 those documents because there was no -- nothing to be
9 gained from people telling something that wasn't true
10 because the truth would always surface.

11 Q. Then one final question on the ICRC issue: if it be the
12 case that you didn't know about the ICRC complaint at
13 the time that you were writing this letter, given that
14 this was the very thing that you were almost bound to do
15 as a minister for Parliament, should you not have been
16 made aware of the fact that the ICRC had made
17 a complaint about the treatment of detainees?

18 A. I would have operated on the basis in the way in which
19 I answered earlier, that I would have taken the view
20 that our people in theatre at all levels -- the
21 political advisers, the military personnel who had
22 responsibility -- would have taken on board any
23 criticism, implied or otherwise, from the ICRC, that if
24 it was something where they felt they had to -- felt it
25 was something which they had to address, they would have

1 addressed it because it goes back to an earlier
2 discussion we had about winning hearts and minds. It
3 was about making friends with the wider community, not
4 making enemies, and anything that went into the enemy
5 category, creating a hostility, would have been
6 contrary -- would have been working against all that we
7 were trying to achieve.

8 So my view on this would have been that how you are
9 operatives in the field -- military or civilian -- would
10 have an onus upon them to correct anything that was
11 brought to their attention. So I would not have been
12 informed of every minutiae, big as some of them may well
13 be in terms of individual incidents, that had happened
14 on the ground. So I don't think it was a denial of
15 honesty. I think it was dealing with the ground truth
16 at that point in time and correcting any feelings that
17 may have arisen.

18 Q. That doesn't quite address my question, Mr Ingram, which
19 is really this: we know what you did write, we know what
20 you signed because it is there in black and white.
21 Looking back even with hindsight, in 2010, if you like,
22 do you think now, given that you were going to be
23 writing letters of that kind, it would have been better
24 had you been told in March or April 2003 that the ICRC
25 have made a serious complaint about the way prisoners

1 are being handled?

2 A. Without seeing the nature of what the ICRC has said,
3 I don't know whether it was serious or not. I don't
4 know whether it was one incident or it was symptomatic
5 of systemic failings on the part of the way detainees
6 were being handled. I can't answer that question
7 without knowing the specifics.

8 Q. Then I will move on.

9 You tell us in your statement that you didn't see
10 the Sky News footage, I think broadcast in April 2003,
11 of Iraqi detainees hooded.

12 A. I would need to see where I say that. Maybe I have said
13 that I don't recollect seeing it.

14 Q. Paragraph 20.

15 A. Yes. I do not recall seeing the footage. You know,
16 I do not recall that, but it's -- I may not have been in
17 the country.

18 Q. Again, if you had seen that, would it not have shocked
19 you?

20 A. I think it would have done, yes.

21 Q. If you had seen it, wouldn't it have been something that
22 caused you to make some inquiry?

23 A. There's no evidence that I didn't make an inquiry.

24 Q. And I am not --

25 A. I am trying to say to that -- that if something did

1 shock me, then I would have wanted to know more
2 about it. It may have been -- there may be something
3 that's been reported immediately to ministers.

4 As I say in my statement, there were many meetings
5 that took place and a lot of information would have
6 flowed between those who were advising about events on
7 the ground to ministers and what could happen is that
8 this matter has now been investigated. There may well,
9 in some occasions, have been a police investigation
10 which had been immediately embarked upon and that would
11 be a matter then for the SIB or the Royal Military
12 Police to conduct their proper inquiries into this, not
13 for a minister.

14 Q. But, of course, that would not have prevented you from,
15 if you had seen fit, calling for a review of the
16 circumstances generally in which, for example, hoods
17 were used, would it?

18 A. Well, I have no recollection of seeing that, so
19 I therefore don't know what action I did or did not take
20 in response to it. My inclination would have always
21 have been to try and establish what was happening.

22 Q. If you didn't see it, which is your recollection, at the
23 time, do you not find it astonishing that the fact that
24 there was such footage was not brought to your
25 attention, the minister?

1 A. Well it may have been, but I don't recollect that
2 being -- I go back to my earlier comments. I was
3 involved in that whole range of different issues.
4 I would need to look at my diary to know whether I was
5 in the country at the time, what I was doing, whether
6 I was actually -- had direct responsibility at that
7 moment in time or whether it was something the Secretary
8 of State or another minister was dealing with, so we
9 would have to set it against the context of a minister
10 who wasn't always sitting behind a desk waiting for
11 things to be reported to him. So --

12 Q. Understanding that, isn't it surprising, nonetheless,
13 that at some stage within succeeding days, if you were
14 out of the country, for example, or elsewhere or engaged
15 on other matters, that at some stage this wasn't brought
16 to your attention, if that be the case?

17 A. Well, I have no recollection of it being brought to my
18 attention, but I wouldn't disagree with the premise of
19 your question there. But I have no recollection of that
20 happening.

21 Q. Can I move on, then, please? Still looking at your
22 state of knowledge, if you like, Baha Mousa's death, do
23 you recall being told of his death?

24 A. I remember seeing -- I have seen the briefing note that
25 came up that referred to two incidents. One was his

1 death; another one was the injury to a child.

2 Q. You say in your statement to this Inquiry that when you
3 heard of the death of Baha Mousa, as I understand it,
4 you recall being shocked.

5 A. Yes, I do, yes.

6 Q. What was it that shocked you, do you remember?

7 A. Well there were two elements to that. One was the
8 injury to the child and the death of someone in
9 detention. It is not something which should have
10 happened.

11 Q. Can we have a look at a document at MOD048699, please?
12 This would appear, would it, to be a briefing note to
13 the Permanent Secretary, the Secretary of State, copied
14 to you and your private secretary.

15 A. Correct, yes, yes.

16 Q. "Minister AF". We can see its heading, "Op Telic: death
17 of one detainee while in UK custody and one Iraqi child
18 seriously injured after a negligent discharge". Would
19 you have read this document, Mr Ingram?

20 A. I would have read everything that was brought in front
21 of me, yes.

22 Q. In relation to an issue as serious as this presumably?

23 A. All documents which would have been submitted to me
24 I would have read, and certainly this one would have
25 been -- clearly I was part of the circulation list of

1 it.

2 Q. We are looking at your state of knowledge, if you like,
3 therefore. It is dated 16 September 2003. The issue in
4 paragraph 1:

5 "Death of an Iraqi detainee while in UK custody and
6 serious injury to a ... child ..."

7 If we go over the page, please, there is reference
8 at paragraphs 4 and 5 to the detainee. In paragraph 5,
9 the detail that you were given in this document:

10 "Although the individual did not need to be forcibly
11 restrained on arrest, advice from theatre suggests that
12 he consistently struggled with his cuffs and hood during
13 the day, repeatedly tried to escape and also allegedly
14 lashed out at guards. At 18.40 [Iraqi time] the
15 individual slipped his hood. Two members of the guard
16 restrained him and replaced his hood. His pulse was
17 also apparently checked at this time. Three minutes
18 later the guard suspected that he might not be
19 breathing. Cardio-pulmonary resuscitation and exhaled
20 air resuscitation were immediately administered and the
21 [RMO] ... was called. This treatment continued for
22 20 minutes."

23 Pausing there, that, therefore, was telling you,
24 wasn't it, that a detainee had been hooded perhaps
25 within minutes of his collapsing and subsequently dying?

1 A. That's correct.

2 Q. It goes on:

3 "The detainee was declared dead at 1905 hours."

4 Then you are given this additional information:

5 "At this point the individual had been in custody
6 for a total of 36 hours. He had spent 23 hours and 40
7 minutes of this hooded, albeit not continually. We are
8 continuing to investigate the circumstances surrounding
9 the incident and will provide further information when
10 we have it."

11 If we look, please, at MOD048704, now 18 September,
12 a similar updated briefing note; correct?

13 A. Yes.

14 Q. You can see in the top right-hand corner a handwritten
15 note. It seems to be addressed, doesn't it, to the
16 Secretary of State, but the handwritten note says this,
17 doesn't it?

18 "This could be very messy. 2 soldiers have been
19 arrested. Minister (AF) ..."

20 That would be you.

21 A. Yes, that's correct.

22 Q. "... will deal as lead minister."

23 A. Correct, yes.

24 Q. Although it is blanked out, do you know who the
25 Permanent Secretary was then to the Secretary of State?

1 A. Not off the top of my head I don't.

2 Q. All right. It may not for the moment matter.

3 What you are told on 18 September to add to the
4 earlier information we find, don't we, at 2(b):

5 "... in addition to the death of one Iraqi detainee
6 already reported ... there are also two other Iraqis who
7 have sustained injuries while in the custody of UK
8 forces."

9 Over the page, please, at paragraph 5 on the
10 "Medical update":

11 "One of the individuals who had been detained died
12 on the night of 15 September whilst still in the custody
13 of 1 QLR."

14 Then about halfway through the paragraph, do you see
15 the reference:

16 "A second individual was admitted to 33 Field
17 Hospital at Shaibah ..."

18 A. I do, yes.

19 Q. "... on 16 September with acute renal failure, believed
20 to be as a result of trauma. He required emergency ...
21 [treatment and so on] ... the prognosis was very poor."

22 Then at the bottom:

23 "A third individual was taken to 33 Field Hospital
24 on 16 September with circumferential soft issue injuries
25 to the abdomen with some blistering. The individual has

1 been treated and is now mobile."

2 So, again, that was what you were being told and
3 what you would have read at this time.

4 A. Yes.

5 Q. If you go over the page, please, to paragraph 7, you
6 were given this information too, Mr Ingram, weren't you?

7 "In this instance the Tactical Questioning of the
8 suspects was conducted by two Intelligence Corps Staff
9 Sergeants, both fully trained in [tactical questioning].
10 It would appear that the hooding of the suspects took
11 place on the advice of one of the staff sergeants."

12 That is one of the tactical questioners.

13 "However, there is currently no documentation in
14 theatre covering [tactical questioning] procedures.
15 MND(SE) are reviewing this urgently."

16 A. Yes.

17 Q. So again you were clearly told there, if it be true,
18 that on the face of it a staff sergeant involved in
19 tactical questioning had indicated that hooding of the
20 suspects should take place.

21 A. Correct, yes.

22 Q. At paragraph 8, you were then told about subsequent
23 brigade action at 15.00 hours on 17 September, the
24 second bullet point:

25 "There is to be no hooding or blindfolding although

1 temporary blindfolding will be allowed to deny the
2 detainee ability to see inside the [coalition force]
3 bases.

4 "Medical inspections, by Doctors ... on arrival ..."

5 "TQ [tactical questioning] is to be conducted by
6 fully qualified personnel only."

7 Just, if we may please, to complete the picture, if
8 you like, of your state of knowledge at this time, can
9 we have a look -- forgive me, it is a document we looked
10 at little earlier. I will not take you to that again.

11 Given that information that was given to you,
12 hooding by those responsible for tactical questioning,
13 hooding for very close to 24 hours in a 36-hour period
14 of detention, when that was made known to you through
15 the briefing notes to the Secretary of State, did you
16 think that that was something that ought to be
17 investigated?

18 Let me make it quite clear, not the case itself
19 because that, of course, was already in the hands of the
20 SIB, but the practice, the use of hoods, the
21 circumstances in which they could be used and so on, did
22 you think that that was worthy of investigation or
23 review?

24 A. I think the briefing note told me that was already
25 underway. I think it said that MND South-East were

1 reviewing the matter.

2 Q. Was it not a matter that you, as the responsible
3 minister, ought as it were, to have kept under your
4 domain?

5 A. But there's no evidence that I didn't. I mean, the very
6 fact that it was being reviewed and a subsequent report
7 would be made showed that I was being made aware of the
8 generality of the issues that had now surfaced as well
9 as the specifics, two of which then had to be addressed,
10 and that a review was then underway, from which
11 a report, a subsequent report, would be made to me.

12 So if that information had not been in the
13 background note, then clearly I would have triggered
14 such a review. But a review was then underway as
15 I understood it and to the best of my recollection.

16 Q. You didn't think that this was a review that ought to be
17 carried out, as it were, at ministerial level, under
18 your auspices?

19 A. What -- all matters ensuing from that examination of
20 events would have come back to me or to the Secretary of
21 State, so the work was already underway. What more
22 could I instruct? I couldn't instruct another review
23 because one was already underway, and I was also -- from
24 recollection of the document, I had been informed that
25 they would revert to us in due course in terms of what

1 the outcome of that was.

2 Q. Were you horrified to learn that prisoners were being
3 kept hooded for 24 hours in 36?

4 A. Horrified? Strong word. It does say albeit not
5 continually. I would have wanted to establish what
6 exactly had happened. I wouldn't have put a value
7 judgment on it until I had established best information
8 and ground truth on this.

9 Q. Can I put it this way quite directly? Given this
10 information, you didn't feel this was a matter (a) that
11 you needed to take up with the Secretary of State and
12 (b) that needed some definitive ruling from the very
13 top, "Why are we using hooding, in what circumstances
14 and with what limitations?"

15 A. Well, I would have expected that to have been part of
16 the review that was then underway. I -- in my statement
17 I said that there were many meetings at which legal
18 advisers would have been in attendance. We don't have
19 minutes of any -- or many of those meetings, but there
20 is no doubt in my mind that this is not something that
21 was simply parked and forgotten about it. It would have
22 been a matter that would have been receiving intensive
23 examination within a department and to which there would
24 be subsequent reports to both myself and the Secretary
25 of State.

1 Whether we were horrified or not was one matter; it
2 was trying to establish the truth and was this something
3 that was out of compliance with what we had been
4 informed was correct practice and, therefore, something
5 then had to be done about that. So the whole paper
6 trail of this, the whole examination of this, would have
7 been triggered by the subsequent reporting back on that
8 review and that investigation.

9 Q. I asked you a little earlier, Mr Ingram, you recall,
10 whether, at the time of the planning and policy-making
11 phase, you had given any consideration to hooding and
12 its appropriateness, lawfulness and so on. You gave the
13 answer "no", which we understood --

14 A. I think I said I had no recollection and I think I also
15 said it may have been part of a wider submission to me,
16 but I had no recollection of that being a specific
17 matter.

18 Q. I understand. When these matters were raised with you
19 in this form -- hooding, albeit not constantly, for
20 24 hours; hooding apparently called for by tactical
21 questioners -- did you stop then to think yourself,
22 "Well, is this humane? Is it lawful? Is it a matter
23 about which I need legal advice?"

24 A. And the answer to that would have been "yes" and
25 I probably received that.

1 Q. Can we look, then, at another document please? We are
2 now moving on to October of 2003. We find it at
3 MOD020274. You see the date of October 2003. It is not
4 a letter -- and you tell us in your statement you didn't
5 receive it. It is from General Reith to General Lamb.
6 It is under the heading, as you can see, "The cessation
7 of hooding". I think you will have seen this document
8 in the preparation of your statement because you comment
9 upon it, saying it would not have been sent to you and
10 you would not have read it at the time. I understand
11 that.

12 A. I would not have seen it because it was between two
13 senior officers.

14 Q. I understand. What I want to ask you about, Mr Ingram,
15 is whether you were aware, without seeing the letter, of
16 the content, as it were. Can we look at the middle
17 paragraph on the first page?

18 "Following the death in custody ... it appears
19 hooding may be a re-emerging procedure. This is to stop
20 and you are to direct all under your command to
21 immediately cease the hooding of persons detained."

22 Do you remember being made aware of the
23 suggestion -- I put it no higher than that for the
24 moment -- that hooding was a "re-emerging" procedure?

25 A. I have no recollection of that being brought to my

1 attention.

2 Q. If we go over the page, please, to the last paragraph:

3 "In the light of our experiences during OP TELIC,
4 I feel we need to examine our doctrine and review the
5 training of our forces with regard to [prisoner of war]
6 and detainee handling."

7 Was the fact that maybe there was something, as some
8 witnesses had put it, thin about the written doctrine --
9 inadequate about the written doctrine, if you like --
10 was that fact or the fact that perhaps the training of
11 forces in this area needed to be looked at, was that
12 ever brought to your attention?

13 A. I have no recollection of that being brought to my
14 attention.

15 Q. "The responsibility for both [the letter goes on to say]
16 lies with the CDI and I have written to him explaining
17 the current situation and asking that he reviews them."

18 Again, if there were -- the Inquiry has heard quite
19 a lot of evidence about this -- failings, a thinness of
20 written doctrine, written instruction, if you like,
21 inadequacies in that area and/or inadequacies in
22 relation to training, the clarity of training perhaps
23 for soldiers in the area of prisoner handling, isn't
24 that something about which you ought to have been made
25 aware?

1 A. Well, I have no recollection of being made aware of it,
2 but I return to my earlier comments, that there were
3 many meetings about a wide range of matters related to
4 Iraq and it is probable that these matters would have
5 been drawn to my attention at those meetings. But
6 I have no recollection of the specifics of it and
7 I think, again, going back to an earlier answer, that
8 the operational response of the military chain of
9 command would have been to act correctly at all times.

10 The minute that something was identified that needed
11 to be addressed -- in this case handling of detainees
12 and prisoners of war -- and a shortfall in the training
13 of a personnel, then the way in which the military chain
14 of command would have responded would have been to
15 correct those failings. If there was a requirement for
16 additional resources so to do, then -- and that then
17 required more money or whatever else, engaging
18 additional personnel to go to theatre, then it may
19 become a matter for ministerial decision and indeed
20 Parliamentary notification. So there was a very strong
21 process to deal with matters that were identified.

22 There was a dynamic in place and at all times trying
23 to improve upon the way in which we approached our
24 activities on the ground. Going back to the earlier
25 comment, it was about winning the hearts and minds, in

1 your phrase, making friends and not creating enemies.

2 Q. Dealing with the two specifics, deficiencies, if it be
3 that, in written doctrine, in written instruction, if
4 you like, and defects in training, as the man in charge,
5 as it were, at the top of the tree, should you not have
6 known about those if they were being discussed at the
7 high level that we see in the letter we have just looked
8 at?

9 A. I have no recollection of being made aware of it, but
10 I think I have explained the process by which these
11 matters -- this was something which would have been part
12 of the wider concerns about the conduct of affairs in
13 Iraq and, all matters which were causing concern,
14 whether through Parliamentary questioning or because of
15 a letter from MPs, from their constituents, would then
16 have been attended to. So I am satisfied in my mind
17 that those matters would have been attended to now and
18 it would have been satisfied then.

19 Q. Forgive me, Mr Ingram, it doesn't answer my question.
20 Understanding that you have no recollection of the
21 matters being brought to my attention -- my question is
22 a simple one, no criticism of you -- should they have
23 been brought to your attention, given the nature of
24 them?

25 A. I am not saying they weren't and, therefore, because we

1 don't have the minutes of all of the meetings which
2 would have been taking place at that time and best
3 advice being informed and there may well also have been
4 the ad hoc meetings which may have not been minuted. So
5 what I am saying is I have no recollection, but that's
6 not to say that it wasn't brought to my attention.

7 Q. I understand. What's the answer to me question?

8 A. They should have been.

9 Q. Should it have been brought to your attention?

10 A. The answer to that is "yes".

11 Q. Thank you. Can I move on then, please, to look at
12 paragraphs 30 and 31 of your statement to the Inquiry at
13 BMI08383, please, where you comment on the review of
14 policy on hooding in 2004. You say -- I am not going to
15 take you to the document -- that you have no independent
16 recollection of this or any recollection of the policy
17 review that followed on the question of hooding.

18 In paragraph 31 you have no recollection -- fourth
19 line -- of the matter being drawn to your attention,
20 although you say your military adviser may well have
21 done so. But you don't recall anything, do you, in May
22 2004 about a review on the use of hooding?

23 A. No, I don't recall. But I think, consistent with what
24 I have said earlier, that I would have expected that to
25 have happened and probably did happen.

1 Q. Given what we know was happening in May 2004 -- the
2 allegations of abuse which involved hooding in part at
3 least -- what you knew about what had happened to the
4 Baha Mousa detainees through those ministerial briefings
5 we looked at earlier, ought you not to have been
6 pressing for a review on this issue and, as it were,
7 kept your finger on the pulse that that review was
8 carried out speedily and fully?

9 A. Well, I have no recollection of being advised of it, but
10 I have said that, in terms of the documents which I have
11 seen and that there was a review underway, it would not
12 have been inconsistent with what I would have expected
13 to have happened. The fact that it had immediately been
14 triggered by those who had direct responsibility would
15 have been a sufficiency to me to satisfy my needs that
16 the work was now underway to establish the facts, to
17 look at what needed to be done and then to correct any
18 shortcomings and the shortfalls and in due course
19 a report would have been made to the minister, as I have
20 said in that background note.

21 Q. Do you have any recollection, throughout this period of
22 the Iraq war and the aftermath if you like, of yourself
23 considering whether hooding was indeed humane or
24 inhumane?

25 A. It depends on the circumstances. I was prepared to

1 justify the use of hooding. I was satisfied in my own
2 mind that there were occasions, in terms of the security
3 of our own personnel and also, on occasion, in terms of
4 the security of the person so detained -- there may have
5 been someone who was brought in for questioning who was
6 trying to be helpful to us and would not want their
7 identity released to other people, so hoods could be
8 used in those circumstances, could be used when someone
9 was being detained --

10 Q. Was this something that you were thinking, as it were,
11 at the time? That's rather what I am asking you. Did
12 you give consideration to these issues at the time?

13 A. The answer to that, I would have thought, would have
14 been "yes" because -- I'm saying I am satisfied in my
15 mind that, because of the answers I was giving to
16 Parliamentary colleagues and elsewhere, that hooding in
17 certain circumstances was both desirable, but also
18 legal.

19 Q. Were you ever made aware of what the Inquiry has heard
20 about, if you like, the legal debate in theatre about
21 whether hoods were lawful or not?

22 A. Yes, I think I can recollect quite intensive discussions
23 about the varying interpretations of the
24 Geneva Convention and other parts of international and
25 domestic law about the use of hoods.

1 Q. So did you ever consider, either in discussion with the
2 Secretary of State himself or independently, that this
3 was a matter which might need legal advice from the very
4 highest office?

5 A. The answer to that would have been that the legal
6 process would have given us best advice. There was an
7 intensive debate going on within the Department about
8 the nature of hooding or what type of hooding was being
9 used and the limits of it and the legality of it.
10 Whether it then became a matter for Attorney General
11 I don't recollect.

12 Q. You see, you told us a little earlier on that you were
13 content -- I think I paraphrase what you said
14 correctly -- that MND(SE) were carrying out a review as
15 a result of those papers that were sent up to Geoff Hoon
16 and that you would have, as it were, believed that
17 review would be carried out, you would know about it in
18 due course and there was no need for a second review.
19 But, of course, you had responsibility not only for the
20 Iraq conflict, but for the conduct of soldiers wherever
21 they were deployed throughout the world, didn't you?

22 A. Correct.

23 Q. Did you not consider, when these issues of hooding were
24 being raised in this specific theatre, that what was
25 needed was a clear direction, a clear legal view, if you

1 like?

2 A. But there was a debate about the legal view and my
3 recollection tells me that a similar discussion was
4 taking place in relation to Afghanistan and the handling
5 of detainees, insurgents or whatever else, and how we
6 should deal with them, whether we should turn them
7 over -- in terms of Afghanistan, there was no host
8 country necessarily to hand them over to at that stage,
9 but to another power, whether that was appropriate or
10 whether it was a case of releasing them. There was
11 a lot of discussion about the way in which we dealt with
12 people brought into our area of interest, whether it was
13 a detainee, because of insurgency or because of -- they
14 were prisoners of war. There was intensive discussion
15 going on and I would have been aware of all of that.

16 Q. Given there was that intensive discussion, wasn't it all
17 the more necessary, as I put it, that there should be
18 a definitive view coming down, if you like, from the
19 minister with or without legal advice?

20 A. Certainly not without legal advice. I don't think
21 a minister should have so acted without the proper legal
22 advice.

23 Q. Wasn't this something that cried out for direction from
24 the top?

25 A. There was no evidence that there was no direction from

1 the top.

2 Q. Did you give any on the use of hoods?

3 A. Did I give any on the -- well, I would have to see what
4 the review concluded and I would have to see the paper
5 trail and all. I have no recollection of the
6 follow-through on that, but there would have been clear
7 mandated instructions either reported to me as being the
8 definitive view of the Department as to how this now
9 should be dealt with, which I would then have -- myself
10 and the Secretary of State would then have signed off --
11 or it would have been a matter of mandating it down the
12 way.

13 I don't have the paperwork to prove or disprove that
14 that did or did not happen, but let me assure you that
15 there was intensive discussion going on about the use of
16 hoods and its appropriateness because there were
17 differing legal approaches in all of this.

18 Q. Of which you were aware?

19 A. I certainly was aware of the discussion, but I am not
20 a lawyer. I could not have argued the detail of the
21 Geneva Conventions on the other legal aspects of human
22 rights legislation. I had to depend upon legal advice.

23 Q. I don't misrepresent you, do I, if I say that your
24 evidence is, then, that you have no recollection of
25 taking any proactive step to ascertain a clear line for

1 hooding to be cascaded down from the Ministry?

2 A. I don't accept that there was an omission on my part.
3 Proactive activity could be -- could have been on the
4 basis that waiting for proper advice and then -- if the
5 advice was "This is what we are now going to do,
6 Minister, and will you agree to this?", then the action
7 would have been, dependent upon the advice received,
8 then "Let us now do this".

9 What I am saying is it was dependent upon the
10 determination that was taking place within the chain of
11 command, that they were -- were they correcting the
12 issues which they identified as shortcomings, perhaps in
13 breach of international law, domestic law, and then
14 correcting that. I do not have the paperwork, I do not
15 have the paper trail, to show whether it was proactive
16 or not.

17 Q. Can I then just show you the last two documents, please?
18 Go to MOD051133. We are now into December 2005,
19 Mr Ingram. Do you see?

20 A. I see, yes.

21 Q. You will be very familiar with these, as the Inquiry is
22 becoming: the draft written responses to Parliamentary
23 questions; yes?

24 A. I am, yes.

25 Q. On the first page we can see the minister replying,

1 a third of the way down, the Right Honourable

2 Adam Ingram MP.

3 A. Yes, I do.

4 Q. Over two pages, please, to MOD051135, this is the sort
5 of background note to which you were earlier referring,
6 isn't it?

7 A. Correct, yes.

8 Q. I just want to ask you about the middle paragraph in
9 March 2003. Do you see that paragraph?

10 A. Well --

11 Q. It is two-thirds of the way down the screen now.

12 A. "However the use of hoods ..."?

13 Q. No, the next paragraph please:

14 "... ICRC expressed concerns about the length of
15 time which some prisoners were being hooded for at the
16 Joint Force Intelligence Team (JFIT). General Brims
17 instructed his chief of staff, Brigadier Patrick
18 Marriott to issue a verbal order banning the practice in
19 all circumstances. The decision was made because it was
20 no longer judged to be militarily necessary to continue
21 with the practice."

22 Do you see that?

23 A. I see that, yes.

24 Q. Was that, as you understood it, why hooding was stopped,
25 because it was no longer judged militarily necessary?

1 A. I wouldn't recollect that in detail.

2 Q. You don't remember questioning, do you, what is set out
3 there in the background note to that effect?

4 A. I have no recollection of whether I questioned that or
5 not.

6 Q. Thank you.

7 The other document to similar effect then, please,
8 at MOD050379. Now we have the extract from Hansard,
9 what you actually said in June 2004; do you see?

10 If we go into the right-hand column after the second
11 half under "Interrogation techniques", as a heading.

12 A. I have that, yes.

13 Q. "Mr McNamara: To ask the Secretary of State for Defence
14 when he was first informed that UK forces in Iraq were
15 practising the banned interrogation technique of hooding
16 prisoners; if he will list the regiments in which the
17 practice was identified; and on what date and on whose
18 authority an order was issued to cease the practice."

19 Your answer, June 2004:

20 "We are not aware of any incidents in which
21 United Kingdom interrogators are alleged to have used
22 hooding as an interrogation technique."

23 A. I see that yes.

24 Q. We have also seen, haven't we, the briefing to the
25 Secretary of State copied to you -- which you would have

1 read, you tell us -- which said in terms that a prisoner
2 had been hooded on the orders of a TQer.

3 A. I would need to go back to see that particular because
4 I think it said there were two sergeants, one of whom
5 had instructed or advised on a particular course of
6 action. I need to see the precise term of that
7 background note.

8 Q. That might have affected the way that you answered the
9 question, might it? Might it have affected the way that
10 you answered the question?

11 A. It may have done or may not have done, but since it is
12 something that has been brought to my attention, I think
13 I would need to see precisely what was said in that
14 background note.

15 Q. Can we go back then, please, and look at MOD048706,
16 paragraph 7? It is what you want to look at again,
17 isn't it? This is what you were being told in September
18 2003:

19 "In this instance the tactical questioning of the
20 suspects was conducted by two Intelligence Corps Staff
21 Sergeants, both fully trained in [tactical questioning].
22 It would appear that the hooding of the suspects took
23 place on the advice of one of the staff sergeants."

24 Do you need more?

25 A. No, I think -- yes.

1 Q. So if we go back to your answer at MOD050379, please --
2 appreciating time has moved on and it is now June
3 2004 -- if you had had that in mind, Mr Ingram, would
4 you have answered that question in June 2004 as you in
5 fact did answer it?

6 A. I think in hindsight that it would have been better if
7 the Department had reminded me of all the documentation.
8 It certainly wouldn't have been within my power to have
9 remembered everything that I had been informed in
10 writing or verbally. I would have been wholly dependent
11 upon best advice from the Department on this.

12 Q. That I understand. So does it follow that you would not
13 have answered this question in the way that you did had
14 that document of September 2003, as it were, been put
15 under your nose at the time?

16 A. Well, I think I would then have asked the question
17 whether the use of hoods in relation to that previous
18 background note or that other background note -- whether
19 the interrogation took place while there were hoods on
20 the individual or whether there were hoods in advance of
21 the interrogation. I think it's a bit ambiguous in
22 terms of what that previous comment was.

23 Q. Would you have regarded hooding as a preparation for
24 interrogation then as being acceptable and hooding --

25 A. No, absolutely not, but I think I would have needed more

1 examination and consideration of precisely what I was
2 being told because it was clear in my mind that -- and
3 the way in which I would have been answering questions
4 was that hoods -- the use of hoods was permissible in
5 certain circumstances, but what I later came to know as
6 "the five techniques", then the use of hoods in -- for
7 that type of purpose was wrong. It should not have
8 happened and it would have been inhumane to do so and it
9 would have been out of compliance with international
10 law.

11 Q. Finally from me, anyway, this please: the Inquiry has
12 heard some evidence that after the war-fighting phase
13 and before the stabilisation, as I think you referred to
14 it earlier, the peace-keeping, if you like, there was
15 a significant drawdown of troops from Iraq and that that
16 included a significant drawdown of members of the RMP.
17 Were you aware of that? Would you have been aware of
18 that at the time?

19 A. I would have been aware of that at the time, but
20 I couldn't give you the specifics as to why that
21 happened. The RMP was a small resource, an essential
22 resource, and perhaps there was a need for them to be
23 properly restructured, and that would be why they would
24 have been drawn down, but that's a guess.

25 Q. Do you recall giving any consideration, Mr Ingram, to

1 the effect of withdrawing a significant number of RMP
2 from Iraq, the effect that that might have on prisoner
3 handling in Iraq?

4 A. I don't recollect that in detail.

5 MR ELIAS: Thank you. Thank you, Sir.

6 THE CHAIRMAN: Yes, well, now I suspect there will be one or
7 two more questions. We normally have a break about this
8 time. I think you will probably be a moment or two in
9 any event, Mr Singh. Which is more convenient?

10 MR SINGH: Sir, I am content with either. The witness may
11 appreciate a break now.

12 THE CHAIRMAN: Can you stand a few more questions? We
13 normally have a break now -- not necessarily for you,
14 but for the ladies and gentlemen who have a hard job
15 taking it all down. Let's go on for a moment or two,
16 Mr Singh.

17 Questions by MR SINGH

18 MR SINGH: Mr Ingram, can I ask you first about a document
19 at MOD052867? We may need to look at some particular
20 paragraphs of this in more detail, so in a moment I will
21 ask for particular passages to be highlighted. But
22 can I just start with the date? Do you note that it is
23 13 May 2004?

24 A. I do, yes.

25 Q. It appears to have been copied to your military

1 assistant. Would that be right?

2 A. That's correct.

3 Q. Do you yourself recall reading this at the time?

4 A. No, I don't.

5 Q. It is headed "Parliamentary statement on the hooding of
6 prisoners". That would appear to be consistent with
7 some of the documents Mr Elias has shown you because it
8 was around this time, wasn't it, that there was some
9 Parliamentary interest in the subject?

10 A. There was extensive Parliamentary interest in the
11 subject, yes.

12 Q. The first paragraph helps us to understand what the
13 document is about:

14 "With reference to your correspondence requesting
15 information on the issue of 'hooding'. We are currently
16 collating the audit trail to provide a comprehensive
17 response to your question; on [Secretary of State's]
18 statement suggests that the 'hooding' of prisoners was
19 being practised in Iraq prior to September 03. Is this
20 correct and who gave authority to hood prisoners?"

21 Then moving over to the next paragraph, do you see
22 a sentence which reads, "Hooding of prisoners of war,
23 internees and detainees took place from the start of
24 Op Telic"?

25 A. Yes, I do.

1 Q. It continues in the next paragraph, if I can take the
2 second sentence perhaps:

3 "At the end of April 2003, ICRC advice was that this
4 practice should stop and, other than for particular
5 individual cases, 'hooding' ceased."

6 Just pausing there, Mr Ingram, looking back on that
7 time, does that sentence accord with your understanding
8 of events at the time?

9 A. Well, I have no recollection of that in the precise
10 terms.

11 Q. I see. The document continues:

12 "Following the death in custody of an Iraqi on 15
13 September 2003, it became apparent that hooding had
14 resumed at some point. The Chief Joint Operations then
15 reviewed the use of 'hooding', CJO's staff examined this
16 issue, particularly with legal advice, and in accepting
17 advice CJO decided that the practice of 'hooding' should
18 stop."

19 Do you recall that happening, Mr Ingram?

20 A. No, I don't recall it.

21 Q. "Accordingly, the then GOC MND (South-East) directed
22 troops to immediately cease of 'hooding' of all persons
23 detained for whatever purpose."

24 Then the following paragraph, this reference to
25 blindfolding, that:

1 "... [that] was considered an acceptable alternative
2 to 'hooding' on the basis that it will only be used for
3 the sole purpose of offering:

4 "(a) security to our own forces and locations.

5 "(b) protection to the detainee ..."

6 Finally in citation, can I ask you to look at the
7 last three lines on this page?

8 "This change in practice offers firm protection of
9 the rights of those detained as well as to UK forces,
10 from those who might accuse our troops, singularly or
11 collectively, of carrying out acts which are illegal
12 under Geneva Conventions III and VI."

13 Now you have told the Inquiry that you yourself do
14 not recall seeing this document at the time; is that
15 right?

16 A. That's correct, yes.

17 Q. It appears on the face of it to have gone to your
18 military assistant. Is it the kind of information that,
19 as a minister, you would have expected to be brought to
20 your attention?

21 A. There could be "yes" and "no" to that in the sense that
22 the military assistant may be in the loop of getting
23 information so that he could then advise me. Whether he
24 would then impart the particular document would have
25 been a matter of judgment, but the generality contained

1 with -- or the specifics as well contained within
2 that -- would have been consistent with the type of
3 background note material which would have then appeared
4 if there was a Parliamentary question or some other
5 matter to deal with in relation to this.

6 So I don't recollect seeing that specific letter.
7 I don't know whether it something -- as you note, it is
8 a slightly different circulation list construct than
9 some of the other documents, so, as I say, it may or may
10 not have been brought to my attention.

11 Q. But it would have been certainly the type of
12 information --

13 A. The information would have been brought to my attention,
14 yes.

15 Q. That is helpful, Mr Ingram. Would you agree with me,
16 Mr Ingram, that one thing we can draw from that
17 information is that, at some point in late 2003, the CJO
18 had reviewed the use of hooding and directed its
19 immediate cessation?

20 A. Yes.

21 Q. And that, on the information at least in this document,
22 that blindfolding was considered an acceptable
23 alternative for hooding for security purposes?

24 A. It was, yes.

25 Q. I ask you, just before we move on, to note that date

1 again, May 2004.

2 A. Yes.

3 Q. Can I ask you, please, next to look at your letter to
4 the then chair of the Joint Human Rights Committee on
5 25 June 2004 at MOD050702. At the time the chair of the
6 JCHR was Jean Corston MP, was it not?

7 A. It was, yes.

8 Q. So you are addressing this to "Jean", as you put it
9 there on the first page.

10 This is signed by you, Mr Ingram, is it not, as we
11 see from MOD050704?

12 A. It was signed by me, yes.

13 Q. Thank you. Can you look, please, at one paragraph at
14 page MOD050703? It is the second paragraph which
15 perhaps we can highlight. It begins:

16 "British troops were instructed to stop hooding
17 detainees in September last year, and this remains the
18 case. However, there are some circumstances during
19 initial detention and transit, where for good military
20 reasons, such as to protect sensitive information or to
21 protect the identity of an individual, it is necessary
22 to obscure the vision of the detainees. The UK believes
23 that this is acceptable under the Geneva Conventions but
24 I should make absolutely clear that hooding was only
25 used during the transit of prisoners; it was not used as

1 an interrogation technique."

2 There are a few questions, Mr Ingram, arising from
3 that paragraph. The first is, given the information
4 that we were just looking at by the time this was
5 written, there would not, in fact, have been any
6 security reason to have hooding rather than blindfolding
7 as an acceptable alternative for sight deprivation,
8 would there?

9 A. I wouldn't know the answer to that. Why would I know
10 the answer to that?

11 Q. Because you told us a moment ago that you were privy to
12 the kind of information which said that hooding had
13 ceased.

14 A. In terms of the operational requirement, that would be
15 an operational matter. I may be misinterpreting your
16 question, I am sorry.

17 Q. You, as the minister, did not question advice that you
18 were being given, did you, that for operational reasons
19 hooding might still be required sometimes, even though
20 blindfolding might be an acceptable alternative? Is
21 that what you are telling the Inquiry?

22 A. Well, sorry -- I am not understanding your question,
23 I am sorry.

24 Q. Did you query any advice that you were given to the
25 effect that hooding was still essential in certain

1 circumstances, even though it could be said that
2 blindfolding would be an acceptable alternative for
3 security reasons?

4 A. As I understand it, the blindfolding, as we spoke about,
5 were goggles that could be used --

6 Q. Yes.

7 A. -- as an alternative. Given the timescale of this,
8 I don't know whether such -- and I don't recollect
9 this -- whether the goggles were available at that stage
10 for use, so hooding may still have been something which
11 was still being used for those purposes.

12 Q. Are those the sorts of questions that you asked of those
13 advising you?

14 A. I have no recollection of asking those questions. I am
15 asking on the basis of the information in front of me
16 now as to whether that's the type of thought process
17 I would likely to have gone through.

18 Q. I see. Can I ask you another question arising from the
19 same paragraph, please? In the penultimate lines you
20 said:

21 "I should make absolutely clear that hooding was
22 only used during the transit of prisoners."

23 A. I think that should have been a bit more expansive and
24 said "arrest" as well.

25 Q. What should it have said, Minister?

1 A. Well, I am no longer a minister.

2 Q. When you wrote this as a minister, what should it have
3 said?

4 A. I think it should have been more specific and said, you
5 know, during the -- it says "The UK believes that this
6 is acceptable under the Geneva Convention", but it
7 should make clear -- I should make absolutely clear that
8 the hooding was only used during the transit of
9 prisoners, but it could have been used at -- within an
10 interrogation area for the security of the individual
11 because that individual may be coming in to give
12 evidence. So it is clearly not a very precise term.

13 Q. It is just not accurate, is it?

14 A. That's correct.

15 Q. You knew, by this time, of Baha Mousa having been hooded
16 for something like 24 hours in September 2003, didn't
17 you?

18 A. Albeit not continually.

19 Q. He was not in the process of transit, was he?

20 A. That's correct.

21 Q. You have continued -- this is my last question on this
22 paragraph -- "... not used as an interrogation
23 technique". That is a categorical statement, isn't it?

24 A. Correct, yes.

25 Q. As Mr Elias put to you a moment ago, you were aware,

1 weren't you, that at least one tactical questioner had
2 advised that Baha Mousa should be hooded when in custody
3 at BG Main?

4 A. I think I said I would then have had to have questioned
5 the precise information I was being given in relation to
6 that statement within that background note, whether it
7 was used specifically -- I think what I said was
8 specifically for interrogation purposes and I think
9 there can be some doubt in the way in which that was
10 phrased within that background note.

11 Q. Did you question that, Mr Ingram --

12 A. I have no recollection of questioning it.

13 Q. -- before you made this categorical statement to the
14 chair of the Committee on Human Rights?

15 A. That would have been a document prepared for me by my
16 staff and by those who were drawing together all of the
17 information. I would have relied upon their intensity
18 of scrutiny to make sure that the answers that I was
19 giving would have been accurate at all times. There was
20 also another mechanism within the Department that, if
21 something which was said proved not to be accurate on
22 hindsight, either because someone questioned it or
23 because it became a matter of reflection and therefore
24 reconsideration, then people would be so informed of the
25 inaccuracy. I don't recollect such a correction being

1 made to that document, but there was a mechanism to
2 ensure that at all times we were trying to tell the
3 truth as we knew it at that time.

4 Q. You gave evidence, as we have heard, to the JCHR in
5 March 2006, did you not?

6 A. I did, yes.

7 Q. In the run-up to your giving evidence in person at that,
8 did you raise questions about this to make sure that
9 what you said to the committee was completely accurate?

10 A. I would have received -- and I think it is within the
11 bundle -- a very comprehensive background note as to all
12 matters because this would have been going back over
13 three- or four-year period and whether I questioned
14 details within the background note I don't recollect,
15 but I certainly would have prepared myself for that --
16 for that committee hearing with full vigour and been
17 satisfied within my mind that the answers I was going to
18 give were honest and true.

19 MR SINGH: Can I just ask you about a different document,
20 please?

21 THE CHAIRMAN: Mr Singh, are you going to be much longer
22 because I think we should break off if you are.

23 MR SINGH: Perhaps you should, Sir, yes.

24 THE CHAIRMAN: All right. We will have a ten-minute break.

25 We do about this time. Thank you.

1 (11.33 am)

2 (A short break)

3 (11.42 am)

4 THE CHAIRMAN: Yes, Mr Singh.

5 MR SINGH: Thank you, Sir. Mr Ingram, I would like to ask
6 you some questions about dealings with Amnesty
7 International in June 2004. Can we look, please, at
8 a document at MOD053435?

9 Do you see there, Mr Ingram, a minute dated 3 June
10 2004 addressed to your military assistant?

11 A. I do, yes.

12 Q. There are two paragraphs I would like to look at with
13 you, please. The first paragraph, numbered 1:

14 "Minister Armed Forces and Bill Rammell, FCO
15 Minister for Human Rights, are meeting Kate Allen,
16 Director Amnesty International UK on Monday. We
17 understand Ms Allen will be accompanied by ..."

18 Some names are given which we do not need to go
19 into.

20 The last paragraph on that page, Mr Ingram reads:

21 "Additionally Amnesty wrote to the Prime Minister on
22 14 May 2004 with additional allegations about two
23 incidents not mentioned in previous report. In response
24 Minister Armed Forces ..."

25 That is you, Mr Ingram, isn't it?

1 A. It is, yes.

2 Q. "... has told Amnesty and Parliament that he will
3 provide a consolidated and definitive response to these
4 reports which will be published in the library of the
5 House."

6 Is that accurate? Is that what you were going to
7 do?

8 A. I can only give an answer "yes" to that because that's
9 what I was told was going to happen.

10 Q. And they were working it up and hoped to submit it to
11 ministers before the end of the month.

12 The report, so far as we are aware, which was
13 published is at MOD07522, where we can see the first
14 page, can't we, Mr Ingram? We see the date of it is
15 30 June 2004.

16 A. Yes.

17 Q. There is just one page I would like to go to, please.
18 It is at MOD007530 and it is the bottom half of that
19 page, paragraph 42 and following.

20 "Amnesty has specifically asked for information on
21 the UK's use of hooding. Hooding as a temporary means
22 of detaining and transporting prisoners was used earlier
23 during Operation Telic in Iraq. It has not been used
24 for interrogations."

25 You note, Mr Ingram, that the word "not" has been

1 emphasised in the original text.

2 A. I note that, yes.

3 Q. 43 reads:

4 "The Heath ruling of 2 March 1972 determined that
5 hooding would not be used for the purposes of
6 interrogation. Since then, the training and doctrine of
7 the UK Armed Forces has made clear that the use of
8 hooding during interrogation or tactical questioning is
9 unacceptable. We continue to believe, however, there
10 may be operational circumstances where there are clear
11 military reasons for obscuring detainees' vision and
12 which is fully compatible with the terms of the
13 Geneva Conventions. In September 2003, however, hooding
14 was no longer considered necessary. There is currently
15 no UK operational theatre in which the use of hooding is
16 permitted."

17 Q. Before I ask you some questions about the content of
18 those paragraphs, Mr Ingram, can I ask you first: did
19 you see this in draft at the time?

20 A. The answer to that would have been I would have seen it
21 in advance of the meeting. I don't recollect seeing it
22 in draft for subsequent correction, if you are asking
23 that, would I have seen it in sufficient time to allow
24 me to make any investigations or corrections to it.

25 Q. I understand. Thank you, Mr Ingram.

1 Starting, please, with the last sentence there:

2 "There is currently no UK operational theatre in
3 which the use of hooding is permitted."

4 Mr Ingram, the Inquiry has heard that by the date
5 that this report bears, 30 June 2004, that does appear
6 to have been accurate. But were you aware, Mr Ingram,
7 that hooding had not been banned outside the Iraq
8 theatre at the time it was in October 2003?

9 A. I have no recollection of that.

10 Q. Were you aware, Mr Ingram, that in fact it wasn't banned
11 until well into 2004 in theatres other than Iraq?

12 A. I have no precise recollection of that. I do know there
13 was an issue relating to the special forces --

14 Q. Yes.

15 A. -- and the use by special forces --

16 Q. Yes.

17 A. -- of hooding, as I understood it.

18 Q. Yes, Mr Ingram, the Inquiry has evidence from elsewhere
19 that the ban on special forces using it, as I understand
20 it, even in Iraq, didn't occur until about the middle of
21 May 2004. Were you aware of that at the time?

22 A. I don't recollect being aware of it at the time, but it
23 has certainly been brought to my attention since.

24 Q. Since, I am sorry.

25 Why, Mr Ingram, did you not mention in this report

1 to Parliament and to Amnesty International that in
2 September 2003 Baha Mousa had been hooded?

3 A. I don't have an answer to that, why that was not
4 included within it. I would assume -- and I have no
5 recollection of the detail of the discussion -- that the
6 Baha Mousa indication would probably have been brought
7 up by Amnesty International and it may well have been
8 something that we discussed.

9 Q. This, as we have seen, was a public document to be
10 placed in the library of the House of Commons, wasn't
11 it?

12 A. It was, yes.

13 Q. So even if Amnesty International might be familiar with
14 particular cases, ordinary members of the public,
15 possibly even other Parliamentarians, would not
16 necessarily have been aware of Baha Mousa's case, would
17 they?

18 A. Certainly Parliamentarians were very much aware of the
19 case and were pursuing the details of the case both in
20 specifics and in generality. We have seen that from
21 some of the Parliamentary letters and Parliamentary
22 questions.

23 Q. Can I ask you, Mr Ingram, to look at it back now, if you
24 would, with hindsight? Do you think now that it would
25 have been better if this report had made express

1 reference to Baha Mousa and the fact that he was hooded?

2 A. In hindsight it is probably better to have said
3 everything that was known at the time, yes. But I mean
4 I have no reason -- I have no explanation why we
5 wouldn't have said it at the time. I think we were
6 talking about the precise way in which we approached
7 this in general terms, rather than on the specifics.

8 MR SINGH: Mr Ingram, thank you.

9 Sir, those are my questions.

10 THE CHAIRMAN: Thank you very much.

11 Ms Dobbin, do you want to ask any questions?

12 Questions by MS DOBBIN

13 MS DOBBIN: Yes, please, Sir. Thank you.

14 Mr Ingram, are you able to comment upon the extent
15 to which planning for Telic 2 was premised upon an
16 assumption that it would be a relatively benign
17 environment and that the sort of challenges that would
18 be faced by troops would be the rebuilding of
19 infrastructure, that kind of thing?

20 THE CHAIRMAN: We are getting a little beyond my terms of
21 reference, Ms Dobbin.

22 MS DOBBIN: Well, Sir, you probably understand the point,
23 which is the one that the reality wasn't foreseen, nor
24 was it planned.

25 THE CHAIRMAN: I dare say, yes. Let's see what he answers

1 in any event.

2 A. Can I have the question again?

3 MS DOBBIN: Really what I am interested in, Mr Ingram, is
4 the extent to which the planning for Operation Telic 2
5 was premised on the assumption that British troops would
6 be in a relatively benign environment and that they
7 would be involved in things like rebuilding
8 infrastructure.

9 A. I think we were planning for a lot of unknowns and being
10 prepared to respond to that which became reality. One
11 of the phrases that was used was "catastrophic success",
12 which I think was a phrase because of -- I think because
13 of the rapid collapse of the system, some because of
14 decisions that were taken by the US administrator in
15 terms of the de-Baathification and the removal of all
16 the apparatus of the state, the judicial systems,
17 policing and whatever else.

18 Also, the rapid conclusion to the conflict took
19 everyone by surprise and, if you want, there is a lot of
20 information out there about just what we were planning
21 for and that was the use of chemical weapons against our
22 own personnel. There were hundreds of thousands of body
23 bags put in place because we anticipated that the brutal
24 dictator that Saddam Hussein was would have used
25 chemical weapons, as he had used that against his own

1 people. So a lot of different scenarios were being
2 planned and I think it has been generally accepted --
3 and one that I would ascribe to is that we did not plan
4 in sufficient depth for the reconstruction of Iraq and
5 that was not the failing of the Ministry of Defence.

6 THE CHAIRMAN: That does go outside what I am required to --

7 MS DOBBIN: I do understand that, Sir. It really was the
8 planning that I was interested in.

9 One of the witnesses before the Inquiry has said of
10 the situation in 2003 that the British Army essentially
11 faced an impossible task because of the limitations in
12 troop numbers. Was that something that you were very
13 aware of during Operation Telic 2?

14 A. At the time we are talking about, 55,000 -- I said
15 earlier 45,000 had been involved across all of Her
16 Majesty's Armed Forces in the initial conflict. Within
17 a year about 55,000 had been engaged in that process.
18 How people could say that we had not put a sufficiency
19 of numbers into the theatre of conflict -- I don't know
20 whether there are military commentators or whatever, but
21 I would ask them just to reflect on that figure from my
22 recollection.

23 Q. I understand your point. I think what this witness and
24 what other witnesses have reflected is the drawdown in
25 troops that took place over the course of --

1 A. Because of Op Fresco, yes.

2 Q. Not because of Operation Fresco, but just generally --

3 THE CHAIRMAN: Can we get a bit clearer to something which

4 is a little closer, if I may say, to the heart of this?

5 Op Telic 1 had, you said, 45,000 troops.

6 A. Military personnel, not troops.

7 THE CHAIRMAN: I know from other evidence that in Op Telic 2

8 there was a substantial drawdown of troops.

9 A. Yes.

10 THE CHAIRMAN: I am told -- and you can help me if you can

11 with whether it is right or wrong -- that 10,000 was the

12 number in Op Telic 2 after the drawdown.

13 A. That was the objective, yes.

14 THE CHAIRMAN: Yes. I think what is at the heart of this

15 question is whether you appreciated that that drawdown

16 might cause difficulties to those who were trying to

17 keep control and rebuild the infrastructure of, for

18 instance, Basra.

19 A. I was certainly aware of it and I would have been part

20 of cross-Government discussions about the need for

21 others to fill that particular vacuum. This was not --

22 we talk about the relationship between the military

23 through the political and social aspects of

24 stabilisation. At some stage others have to then

25 provide what would be considered to be the normal

1 apparatus of a functioning state. That is not
2 a military function.

3 That was where the gap was because of failings
4 elsewhere because of lack of attention to a commitment
5 to deliver resources on the ground from other
6 departments and the military was having to backfill and
7 undertake roles it would not normally be for them to
8 undertake. I don't know if that answers the question.

9 THE CHAIRMAN: For my part, that goes as far as I think it
10 is proper and necessary, Ms Dobbin.

11 MS DOBBIN: Yes, I think I can draw the conclusions that
12 need to be drawn. Thank you, Sir.

13 THE CHAIRMAN: Yes. Mr Evans?

14 Questions by MR EVANS

15 MR EVANS: Thank you, Sir. In respect of the legal debate
16 surrounding the use of hoods, Mr Ingram, can I invite
17 you to look at a document which is at MOD 054195? Thank
18 you.

19 That is an email to the CDS, a draft submission to
20 CDS, in August 2004, attaching a background policy paper
21 outlining the arguments and concerns over the practice
22 of hooding. Can I just take you to a passage in that
23 document, please, at page MOD054204 of the document?

24 This is the policy paper which is attached. You
25 will see from that document that, in paragraphs 12, 13

1 and 14, the legal debate is summarised as to hooding in
2 August 2004. It is explained in some detail there.

3 First of all, just familiarise yourself with those
4 paragraphs and then I want to ask you one question about
5 them.

6 A. Okay.

7 Q. My question really is this: do the sentiments expressed
8 there accord with your understanding of the debate that
9 was going on as to the legality of hooding, the
10 intensive debate as you put it, at the time?

11 A. Well, I couldn't say to the actual specifics, but in
12 terms of the range of issues which were being addressed,
13 this would not surprise me.

14 Q. Thank you. Can I next, please, have a look at
15 MOD048706, a document you have already been taken to,
16 and paragraph 7 at the top of the page, which you will
17 recall looking at earlier with Mr Elias. It refers to
18 the tactical questioning of suspects conducted by two
19 intelligence corps sergeants both fully trained in TQ.
20 It would appear that the hooding of the suspects took
21 place on the advice of one of the staff sergeants.

22 My one question is this: did that document indicate
23 to you the purpose for which hooding had been used,
24 ie whether it was for security reasons or for
25 interrogation purposes?

1 A. No, it doesn't. That's why I kept returning to it in
2 earlier questions. I think there is some dubiety about
3 whether it was used specifically for interrogation
4 purposes and therefore it would need to be examined in
5 detail.

6 Q. Yes, thank you. You told us that you acted on your
7 background or briefing notes when you wrote
8 correspondence or responded to Parliamentary questions
9 and matters of that kind. Would it be routine for you
10 to follow very closely the briefing note or background
11 note that you had been given by the civil servants?

12 A. By and large, yes, unless there was something which
13 triggered something in my mind that would have said
14 "More information please" or "This is not very precise".
15 I mean it would be -- in the main I had confidence in
16 the quality of the advice that would come forward,
17 I could rely upon it. And given the nature of the
18 volume that was coming across my desk and the need to
19 get answers out, whether it was Parliamentary question
20 or whatever, as rapidly as possible, it was always
21 a rule of mine to make sure that we had a quick
22 turnaround, but it had to be an accurate turnaround.

23 But it wasn't just a case of me operating as
24 a cipher. I would use my experience, my knowledge,
25 sometimes my memory, which could be flawed, to call into

1 question some of the statements contained within
2 a Parliamentary answer, and I think there is some
3 evidence that ministers would operate in that way, where
4 corrections would be made.

5 Q. Yes. Perhaps I will put the question in a different
6 way. In reality, absent an obvious contradiction that
7 you would see on the face of the advice that you were
8 given, would it have been practicable for you to have
9 queried all the advice that you were being given by
10 civil servants on a daily basis?

11 A. Absolutely not, because you would need to have an
12 encyclopaedic knowledge and a brain like Einstein to be
13 able to have remembered everything.

14 Q. You mentioned the volume of documents passing over your
15 desk. Can you give us, as a matter of context, an idea
16 of how many documents would pass over your desk which
17 you would have to review on a daily basis?

18 A. There was no typical day, but I mean a weekend box would
19 be a very good -- well, I would -- I could have maybe
20 say, four, five, six meetings in a day, interspersed by
21 time to have coffee, perhaps, a short lunch, meanwhile
22 my in-tray would be filling up and that could be three
23 or four inches deep; trying to rapidly assess this,
24 trying to sign off letters, sign off whatever else is
25 required to be signed off, putting queries in and

1 having -- and being reliant to a great extent on the
2 quality of the professionalism of my outer office, which
3 was always of a very high standard, that they would draw
4 my attention to something to be aware of. If it was
5 a "Be aware, Minister" or maybe more explanation, you
6 would lay that aside so you could give that further
7 consideration. So it was a very busy high-volume day
8 seven days a week.

9 Q. Finally this: did you have any reason to doubt the
10 quality of the staff who were providing you with the
11 advice that you had to use and rely upon on a daily
12 basis?

13 A. Absolutely not. I saw them as people with the utmost
14 integrity and commitment to their task at hand.

15 MR EVANS: Yes, thank you very much, Mr Ingram.

16 Further questions by MR ELIAS

17 MR ELIAS: Mr Ingram, you obviously could not question
18 everything that came across your desk. That would have
19 been more than a full-time job in itself. But
20 presumably, if you read something which you wanted to
21 query, you were entirely at liberty so to do.

22 A. No question about that. I think there are some
23 documents in the bundle where I would have put notes on
24 documents to say "More information please" or whatever.

25 MR ELIAS: Thank you. Thank you, Sir.

1 Questions by THE CHAIRMAN

2 THE CHAIRMAN: Yes. Mr Ingram, I fear I need to return
3 briefly to a topic which you have been asked about.
4 MOD048706, paragraph 7 which you have been asked about
5 and given answers. That appears to be -- if we look at
6 the date, 18 September 2003 -- a reference there to
7 tactical questioners, saying that a suspect was hooded,
8 and it refers to the Baha Mousa incident, does it not?

9 A. It does, yes.

10 THE CHAIRMAN: It would appear to indicate that the tactical
11 questioners had asked for Mr Baha Mousa to be hooded for
12 the purposes of interrogation. That would seem to be
13 a fair reading of that paragraph 7.

14 A. With respect, Sir, I don't necessarily read it that way.

15 THE CHAIRMAN: You don't? Just tell me because I want to
16 know what way you read it.

17 A. Well, it said that it would appear that the hooding of
18 the suspects took place on the advice of one of the
19 staff sergeants.

20 THE CHAIRMAN: Correct.

21 A. So there is no certainty as to what happened first of
22 all. Then it says that the suspects were -- let's see:

23 "It would appear that the hooding of the suspects
24 took place on the advice of one of the staff sergeants."

25 So the word "appear" means that it hasn't been

1 confirmed in my mind.

2 Secondly, this would have been the subject of an SIB
3 investigation at this stage --

4 THE CHAIRMAN: Yes.

5 A. -- so I would not have wanted to intrude into a police
6 investigation --

7 THE CHAIRMAN: I quite understand that.

8 A. So that would have been something that would have been
9 part of my way of approaching all of this. And I do
10 recollect, also, it said that while he was hooded it was
11 albeit not continually. So therefore I would have --
12 I could have then reflected and said, "Well, they may
13 have said 'After interrogation put the hood back on'".
14 Whether that was a conditioning technique would have
15 been a matter for someone else to consider in terms of
16 the legality of it.

17 THE CHAIRMAN: Yes. I understand all that. I suppose it
18 could be said at least that it was raised, the question
19 of whether he was being hooded for interrogation, as
20 part of interrogation techniques.

21 A. I think that could be one interpretation, yes.

22 THE CHAIRMAN: Yes. That is back in September 2003. If we
23 go on to June 2004 and other dates in the questions that
24 you were asked, the letter of 25 June 2004, MOD050699,
25 would that have been drafted by you or by one of your

1 officials?

2 A. It would have been drafted by an official.

3 THE CHAIRMAN: It would have been drafted by a military
4 assistant or another assistant --

5 A. It would not have been drafted by my outer office.

6 THE CHAIRMAN: It come from an official in the Department,
7 but not your private office?

8 A. I don't recollect which part of the Department would
9 have done this, but there would have been a part of the
10 Department dealing specifically with that particular
11 committee and it would have been their responsibility to
12 collate all the various information which was around on
13 the issue and put it into the form of this letter for me
14 to sign.

15 THE CHAIRMAN: Yes. There, as has been pointed out to you,
16 and in your other references, at the second page of
17 that, in the second paragraph:

18 "The UK believes that it is acceptable under the
19 Geneva Conventions, but I should make absolutely clear
20 that hooding was only used during the transit of
21 prisoners ..."

22 You are talking there about in the past, presumably.

23 A. I think so, without reading the whole length again,
24 yes --

25 THE CHAIRMAN: That's what it seems to be.

1 A. It certainly wouldn't be futuristic because I was
2 addressing their questions which they were raising about
3 the past.

4 THE CHAIRMAN: It goes on:

5 "It was not used as an interrogation technique."

6 Now the real question I need to ask you is this: did
7 that not ring bells in your mind about the Baha Mousa
8 incident?

9 A. I don't recollect whether it did or not. I just don't
10 recollect that.

11 THE CHAIRMAN: If it had, would you not then have
12 appreciated that that was a rather bold statement to
13 make?

14 A. Well, you are asking me to speculate a bit about it and
15 I would then have to consider what other phrase would
16 have been used and there was probably still the police
17 investigation underway at that stage. So it may not
18 have been established at that point that hooding had
19 been used for interrogation in relation to Baha Mousa.

20 THE CHAIRMAN: That is perfectly true, but that's not quite
21 what it says. It says affirmatively "It was not used as
22 an interrogation technique".

23 A. Well, it had not been proved that it had been.

24 THE CHAIRMAN: Sorry?

25 A. It had not been proved that it had been. That could be

1 one interpretation of that at that stage. And I don't
2 know what the outcome of the Baha Mousa trial says
3 specifically on that.

4 THE CHAIRMAN: Yes, well, I mean it seems to be a positive
5 assertion that hooding was not used as an interrogation
6 technique -- and I can understand that being made --
7 apart from the Baha Mousa incident about which you have
8 been asked a number of questions.

9 A. Well, with respect, Sir, I don't know whether it is
10 a proven fact that Baha Mousa was subjected to
11 interrogation with hoods on. I don't know what the
12 outcome of that trial concluded or the investigation.

13 THE CHAIRMAN: All right.

14 A. So I think it has to be based upon the fact, was there
15 a fact that that was the case and, if so, then that
16 becomes an erroneous statement.

17 THE CHAIRMAN: All right. Now if I could ask you just,
18 please, to look at something you have been asked again
19 to look at, but not quite the same. You were asked
20 about your answer to a Parliamentary question by
21 Mr McNamara. That is at MOD050379. The background note
22 we have is MOD050381, if you could put that up on the
23 screen.

24 Unfortunately, the handwriting is not complete on
25 this photocopy. First of all, can you remember --

1 because this handwriting, take it from me, appears on
2 a number of documents -- whose handwriting that is?
3 A. I think it was my military assistant, but I would --
4 THE CHAIRMAN: Who would have been ...?
5 A. Would have been Colonel Mark van der Lande.
6 THE CHAIRMAN: I see. Are you able to read his handwriting?
7 A. I think it says:
8 "This is quite stark ...", ie it was a one-sentence
9 response.
10 THE CHAIRMAN: Yes.
11 A. "... but question ..."
12 I can't make out that last word.
13 THE CHAIRMAN: I think it is "... confuses ..."
14 A. "... but question confuses interrogation with capture",
15 yes.
16 THE CHAIRMAN: "Rules about ..."
17 A. "... hooding in interrogation very clear and adhered
18 to."
19 So looking back on this, what my military assistant
20 would be saying -- and that's what I said to an earlier
21 question -- that you would sometimes get the alerts put
22 onto the documents to draw your attention to get to you
23 to reflect on something you were doing.
24 THE CHAIRMAN: So what he then really appears to be pointing
25 out to you is that the question asks about interrogation

1 and you do not need to answer about using hooding for
2 security purposes.

3 A. Correct, yes. I think that's why he said that this is
4 quite stark. He is more or less saying don't
5 elaborate --

6 THE CHAIRMAN: Because otherwise you may get into problems
7 over hooding in transit or you may have to speak about
8 that; is that right?

9 A. I don't think into problems --

10 THE CHAIRMAN: I say "problems". You may have to explain.

11 A. Why impart information that is not being sought would be
12 the approach.

13 THE CHAIRMAN: I follow. Thank you very much. Those are
14 all the questions that you are going to be asked by the
15 Inquiry. I am very grateful to you for sparing the time
16 to come and give evidence and answer questions and, as
17 far as I am concerned, you are now free to go. Thank
18 you very much.

19 A. Thank you very much.

20 MR ELIAS: Sir, the next witness is Peter Anthony Wall,
21 General Wall, please.

22 THE CHAIRMAN: Yes.

23 General, may I ask you to remain standing for
24 a moment, then I will ask for you to be sworn.

25

1 PETER ANTHONY WALL (sworn)

2 THE CHAIRMAN: Thank you. Please sit down. If I may ask
3 you to get as close as you reasonably can -- although it
4 is not, I gather, very comfortable there -- to the
5 microphone, then we will all be able to hear.

6 A. Is that all right?

7 THE CHAIRMAN: That is fine. Thank you.

8 Questions by MR ELIAS

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

11 A. Peter Anthony Wall.

12 Q. You made a statement to this Inquiry -- it is
13 General Wall, isn't it?

14 A. It is, yes.

15 Q. You made a statement to this Inquiry -- would you look
16 please to a folder to your right hand and find a copy of
17 your statement there which you have signed? It is our
18 BMI04527. Could you confirm, please, that on the last
19 page, above the date of 22 September of last year,
20 appears your signature?

21 A. It does.

22 Q. When you signed that statement, were you attesting that
23 the contents of it were true to the best of your
24 knowledge and belief?

25 A. Yes.

1 Q. Thank you. I am not going to ask you about every aspect
2 of the statement. As you know, I think your statement
3 stands, in part anyway, as your evidence to this
4 Inquiry. I am going to ask you, if I may, about certain
5 aspects of it where it may be you can help the Inquiry
6 further.

7 General Wall, let me just deal very briefly your
8 career history, which you set out again briefly at
9 paragraph 2 of your statement. I don't need it up.

10 You joined the army, you tell us, in 1974.

11 A. Yes.

12 Q. You served early service in the Royal Engineers,
13 Staff College in 1987 and, as you say, you have served
14 in a variety of staff and command roles subsequently,
15 including deputy chief of the defence staff operations
16 in the MoD.

17 A. Yes.

18 Q. It is in relation to Op Telic, of course, that I want to
19 ask you particular questions. You tell us that in the
20 run-up to Op Telic 1 you were serving as a brigadier at
21 PJHQ, as the chief of joint force operations. In
22 January 2003, I think you began, did you, service with
23 Air Marshal Burrige, the NCC commander, serving as his
24 chief of staff in the headquarters, you tell us, of some
25 350 people?

1 A. We had actually started to form this headquarters from
2 the previous September to participate in an exercise
3 called "Internal look", which took place in Qatar and
4 was essentially an American-led mission rehearsal
5 exercise for what followed. But of course it was done
6 with no UK commitment that we would participate in the
7 operation itself.

8 Q. So just for the moment to get the background, the
9 framework, if you like, you were promoted to major
10 general, you acted as Air Marshal Burridge's chief of
11 staff at HQ through until, you tell us, about mid-April.

12 A. Yes.

13 Q. At that stage you left theatre, did you?

14 A. Yes, I did. I came back to the UK for three weeks.

15 Q. And then you were posted back to theatre, assuming
16 command, as you tell us, of 1 (UK) Armoured Division,
17 taking over from General Brims.

18 A. Correct.

19 Q. So you were then, as you put it in your statement,
20 effectively the UK lead for the role of occupying power
21 in Iraq in the provinces of Basra and Maysan?

22 A. Yes, and subsequently expanding that to two more
23 provinces as we handed over, Dhi Qar and Muthana to the
24 west of Basra.

25 Q. You started on 12 May, you tell us, and so remained as

1 GOC, did you, until 12 July, when you handed over to
2 Major General Lamb?

3 A. Correct.

4 Q. If I just ask you a little about your training prior to
5 deployment to Iraq. You had obviously had training in
6 the Law of Armed Conflict through your army career.

7 A. Yes.

8 Q. I don't need to go into any detail as to that. Had you
9 received any specific training that you now recall prior
10 to deployment to Iraq on the use of or nonuse of, for
11 that matter, hoods or deprivation of sight of prisoners?

12 A. No. When we were training for our role in Qatar, our
13 activities were pitched a level above tactical, and the
14 law of armed conflict issues that we concentrated upon
15 were much more to do with deliberate targeting than the
16 tactical procedures of handling internees, detainees or
17 prisoners of war. That focus was, at the time, at the
18 divisional level.

19 Q. By "deliberate targeting", you are referring to the
20 targeting, are you, of buildings and things of that
21 kind?

22 A. Military targets --

23 Q. Yes.

24 A. -- to be engaged primarily by air.

25 Q. That was, if you like, your major concern at that stage?

1 A. It was one of several key concerns.

2 Q. So just coming back to the question of training and
3 teaching prior to deployment to Iraq, no teaching or
4 training in relation to the use or non-use of hooding or
5 deprivation of sight?

6 A. No.

7 Q. Were you given any teaching that you recall in relation
8 to the use of what are sometimes called "the five
9 techniques": conditioning techniques, stress positions,
10 deprivation of sleep, matters of that kind?

11 A. No, I have only become aware of the significance of
12 those techniques since the Baha Mousa incident and what
13 has unfolded since.

14 Q. You tell us, I think, in your statement that had you
15 been asked about the use of techniques -- conditioning
16 techniques -- at that time, your inclination would have
17 been to say that they were not to be used, that they
18 were unlawful.

19 A. Yes, I wouldn't -- I don't think I would have known
20 about the -- whether they were unlawful or not. But
21 I certainly would have thought they were entirely
22 inappropriate in the context in which we were going into
23 Iraq as a liberating force.

24 Q. The hearts and minds issue, putting it in a nutshell?

25 A. I think it is more than hearts and minds.

1 Q. How would you describe it?

2 A. I think it is about the proper respect for a society
3 that we had gone to help. It wasn't an information
4 operation; it was an absolute.

5 Q. When in Iraq, were you aware that hooding was being used
6 by soldiers on ground, in either of your roles, if you
7 like?

8 A. I became aware that hooding was being used as
9 a consequence of the warning that was received in the
10 National Contingent Headquarters from the ICRC.

11 Q. What, that was the first time that you became aware that
12 hooding was being used, the ICRC complaint --

13 A. It was the only time that I became aware that it was
14 being used.

15 Q. When you learnt that hooding was being used, what was
16 your reaction to it?

17 A. I don't recall the sequence of these sort of thoughts
18 and issues unfolding, but I do recall discussions about
19 the extent to which hooding might be applicable and
20 appropriate where it was necessary to preserve the
21 identity of people who were being detained from other
22 detainees -- that was a significant theme -- and also
23 where not necessarily hooding, but blindfolding might
24 preserve the security of our arrangements for limited
25 periods while people were being moved in and out of

1 facilities.

2 Q. If it be the case -- and the Inquiry has heard quite
3 a lot of evidence that it appears to be so -- that
4 hooding was regarded by quite a number of soldiers on
5 the ground at the point of arrest, if you like -- those
6 who were handling, physically handling, detainees at the
7 point of arrest and thereafter -- if it be the case that
8 hooding was regarded as an SOP, a standard operating
9 procedure, at that stage by a number of soldiers would
10 that have surprised you?

11 A. Which stage are we talking about, Mr Elias?

12 Q. We are talking about through the war-fighting phase and
13 into the stabilisation or peace-keeping phase.

14 A. Well, I would like to talk about those periods
15 separately because I had different jobs and different
16 impressions and different responsibilities.

17 Q. Well, let's deal with them separately.

18 If you had understood that in the war-fighting phase
19 prisoners were being hooded as an SOP, would that have
20 surprised you or would you have sought --

21 A. Yes it would have surprised me, but I don't think it was
22 very long for to us contemplate that because, as soon as
23 we had become aware of it, both General Brims and
24 Air Marshal Burrige decreed that it was inappropriate
25 with the tone of our mission and it would stop.

1 Q. If it had happened in the stabilisation or peace-keeping
2 phase?

3 A. I think that would have been even more surprising, but
4 I was never aware that it was going on.

5 Q. So if it were happening in both phases, up until anyway
6 the ICRC complaint, you were never aware of it and it
7 was never brought to your attention?

8 A. Well, it only came to my attention because of the ICRC's
9 advice, which was an informal complaint, and I think it
10 is fair to say that, because we took very quick action,
11 it didn't materialise as a formal complaint.

12 Q. When you say that it was an "informal complaint", in
13 what sense do you mean that?

14 A. I think it's the case that the ICRC -- whom we had
15 invited into a partnership and explained our plans in
16 outline before the invasion occurred as a deliberate
17 measure to ensure that they were aware of our sort of
18 bona fide intentions on getting detention of and
19 prisoner handling right -- they actually responded to
20 that by notifying some of the NCC staff that they had
21 witnessed things that were inappropriate and they
22 thought we should take action to stop.

23 Q. Were you ever aware that General Brims himself had seen
24 prisoners hooded in circumstances that he thought
25 inappropriate?

1 A. I don't recall knowing that at the time. Of course,
2 having read the bundles, I am aware of it now.

3 Q. When you say "informal", are you drawing the distinction
4 between, for example, the complaint that might have been
5 sent up the chain to the Ministry or to the Government
6 that would make it formal, as opposed to a complaint
7 that was dealt with on the ground being therefore an
8 informal complaint? Is that the sort --

9 A. Yes, I don't think it ever appeared in writing.
10 I haven't seen it in writing.

11 Q. Can we just have a look at paragraph 53 of your
12 statement to this Inquiry, BMI04522, where you quote
13 from the original operational order. You are writing
14 the statement of intent and you quote from page 3 of it.
15 I just want to go eight or nine lines down, just below
16 halfway down the quote:

17 "Firm leadership, underpinned by our authority as
18 the Occupying Power, will earn respect from a society
19 that is numbed from a generation of tyranny and is
20 understandably apprehensive of the future."

21 That is what we have talked about just a little
22 a few minutes ago. That's you had in mind as the
23 background, if you like, against which you were
24 operating, the need to earn respect from a generation
25 that had gone through all that apparently they had gone

1 through?

2 A. Yes. I think, if I can elaborate briefly, we recognised
3 that it didn't exist when we got there and that,
4 I think, was a surprise. So we recognised that, you
5 know, we had to work hard to establish the confidence of
6 this society whose participation was essential to
7 success.

8 Q. In that regard, General, would it have been any part of
9 your task or responsibility, if you like, to ascertain
10 how prisoners were being treated on the ground?

11 A. My assumption was that we didn't have a problem with our
12 prisoner handling. Our focus was in trying to inculcate
13 the right procedures in the Iraq prisons that we had
14 assumed responsibility for, the Iraqi civil prisons
15 which were being renovated by us and into which we had
16 put the military provost service from Colchester who had
17 deployed out specifically to educate the Iraqi Prison
18 Service, such as it was -- I can't remember precisely
19 what it was called -- into how to do this for
20 themselves. Suffice it to say that required a lot of
21 close scrutiny. The assumption at the time was that our
22 own act was in order.

23 Q. You say that a number of times in your statement, if
24 I may say so. I am not sure it entirely answers the
25 questions that I was putting to you. Was it any part of

1 your responsibility, given, if you like, the sensitive
2 nature of this issue, what I have called the "hearts and
3 minds" and you have developed that -- was it any part of
4 your responsibility to ascertain what actually was going
5 on on the ground in relation to the handling of
6 prisoners?

7 A. Well, it was my -- what was going on was my
8 responsibility, whether it was correct or incorrect, and
9 I didn't devote attention to that because my priorities
10 were elsewhere.

11 Q. If it be the case -- and the Inquiry has heard much
12 evidence about it, as you will appreciate -- that
13 prisoners were being routinely hooded, ought you to have
14 known about that?

15 A. I have absolutely no evidence that during the period
16 that I was there, with the balance of the 1st Armoured
17 Division that I inherited from General Brims, which
18 included elements of 16 Air Assault Brigade, 7 Armoured
19 Brigade, principally in Basra, and 102 Logistics
20 Brigade, that there was any hooding going on.

21 I did spend quite a lot of time out on the ground,
22 as did my subordinate commanders, being people like
23 Brigadier Bradshaw, visiting battlegroup HQs, brigade
24 headquarters, companies on the ground, going on patrols,
25 and I did not, at any stage, witness any hooding or

1 anticipate that this was going on.

2 Q. If it was going on with the Black Watch -- and the
3 Inquiry has heard quite a lot of evidence about that --
4 hooding even up to the time of handover to 1 QLR, ought
5 you to have known about that?

6 A. Well, I didn't know about it and I suspect one of the
7 reasons for that is because I was pre-occupied with
8 issues well above the tactical level, primarily to do
9 with getting southern Iraq onto a working footing in the
10 absence of any Iraqi participation as a consequence of
11 de-Baathification.

12 Q. We will come back to that just a little later on, if
13 we may.

14 Can I just move on then, please, on the question of
15 hooding and your knowledge of it or issues arising from
16 it perhaps? You tell us that you were aware of the ICRC
17 complaint, "informal" as you describe it. Were you also
18 aware of the legal -- sometimes described as the "legal
19 debate" in theatre about the rights and wrongs of
20 hooding, as to whether it should be permitted or not?

21 A. Well, I knew that a discussion had been ongoing.
22 I wasn't aware to the extent that I am now, having read
23 the bundle, of the disparate views of the legal adviser
24 fraternity. But these were all over-ridden by the very
25 clear direction at about the same time and possibly in

1 a related way between Messrs Burridge and Brims.

2 Q. What the order banning, you mean?

3 A. Yes. At which point -- and that was not done for legal
4 reasons. That was done for reasons of proper behaviour,
5 the tone of the mission and their belief that it was
6 wrong.

7 Q. But were you aware that Colonel Mercer, for example,
8 took a strong view that hooding was not appropriate and
9 perhaps not lawful in any circumstances?

10 A. I have only become aware of that from reading the
11 bundle.

12 Q. You say that the issue was overtaken by events,
13 paraphrasing what you said. Did you ever consider that
14 perhaps, since the legality of hooding was being called
15 into question, this was something that should be staffed
16 up perhaps as far as the Ministry if necessary?

17 A. No. I think essentially we were in the position in the
18 National Contingent Headquarters of supporting
19 General Brims' direction on that. He was on the ground,
20 he was much better placed than we were to assess the
21 applicability of those techniques and he decided they
22 were inappropriate. Coincidentally and perhaps in
23 a related way -- I can't remember -- Air Marshal
24 Burridge opined at a meeting in the corridor outside his
25 office, at which a number of us were present, that that

1 was to be the case.

2 So which came first, I don't recall. I know there
3 is the question of how orders were communicated between
4 Qatar and Kuwait, which is where I think they were at
5 the time, but the fact is that it was clear at the
6 three-star command level and the two-star command level
7 that this was to stop. And at that point the sort
8 of -- the legality of it was not really an issue for us
9 to consider.

10 THE CHAIRMAN: Mr Elias, can we pause there in case I forget
11 the question that I want to ask you about, General.

12 You talk about a meeting in a corridor outside
13 Air Marshal Burrridge's office with you and others. Was
14 the POLAD, if I may so describe her, there at that
15 meeting?

16 A. Yes.

17 THE CHAIRMAN: Yes, I see. The reason I ask is that, so far
18 as I can recollect, she is the only person up to now who
19 has actually spoken about him opining, as you put it,
20 that hooding should cease. Nobody else seems to have
21 a recollection of that. You are confident that that did
22 happen?

23 A. I am confident, yes.

24 THE CHAIRMAN: What form did it take? A direction, an order
25 or what?

1 A. Yes, it was a direction.

2 THE CHAIRMAN: To whom?

3 A. To us as the staff, that we were to make it clear to the
4 division that this was to stop.

5 THE CHAIRMAN: I follow. Thank you.

6 MR ELIAS: That is right, General, is it? It was
7 Air Marshal Burridge who issued the order?

8 A. He issued an order to that effect, yes.

9 Q. It couldn't be, could it, that Air Marshal Burridge
10 might have made his view known, but the matter was left
11 to the discretion of General Brims as to whether an
12 order was issued or not?

13 A. I don't recall it that way.

14 Q. So if it were Air Marshal Burridge who issued the order,
15 can you recall the terms of it?

16 A. I recall it in terms of a discussion that led to him
17 saying, "We must stop hooding of prisoners of war,
18 detainees, internees, these sorts of people".

19 Q. The POLAD was present?

20 A. Yes. I think the legal adviser was probably present.

21 Q. And emanating, what, from the discussion there emerged
22 an order?

23 A. I'm sorry?

24 Q. Emanating from that discussion there emerged an order,
25 did there?

1 A. I don't recall how the order was passed, but I do now
2 know that at about the same time General Brims issued
3 the same order effectively to his people, which is the
4 conduit through which Air Marshal Burrridge's order would
5 have reached folks on the ground.

6 Q. If Air Marshal Burrridge issued the order, as his chief
7 of staff, did you have responsibility for cascading it?

8 A. Yes.

9 Q. Did you do that?

10 A. I can't remember how I did it, but it could have
11 happened in a number of ways.

12 Q. Was anything ever put in writing --

13 A. No, I don't think it was, but oral orders and oral
14 direction were very much part of our business.

15 Q. But here was obviously an order that was born of
16 something that was concerning to Air Marshal Burrridge
17 and indeed to General Brims, as we shall hear no doubt,
18 and it may have been something which was changing an
19 operating procedure for soldiers; a standard operating
20 procedure, according to quite a lot of the evidence the
21 Inquiry has heard. In those circumstances, shouldn't
22 this order have been in writing?

23 A. Not necessarily, and it may well have been reflected in
24 some of the operational logs as an order passed
25 verbally.

1 Q. Would it have been desirable to have it in writing?

2 A. Well, I think in hindsight it certainly appears so, but
3 it didn't necessarily merit that sort of treatment at
4 the time. We, as a matter of habit, do an awful lot of
5 our direction by word of mouth, conference calls and
6 phone calls and so on and so forth.

7 Q. If, to take an example, 1 Black Watch went on using
8 hoods, perhaps because they didn't know of the order,
9 whose responsibility would that be?

10 A. Well, our responsibility in the National Contingent
11 Headquarters would be to pass orders to our subordinate
12 formations. They would then pass those onto their
13 subordinate organisations and the first plan of the
14 Black Watch or the Black Watch battlegroup was three
15 levels below us.

16 Q. So it was someone else's responsibility --

17 A. So had we put it on paper, that would not have been
18 addressed to 1 Black Watch battlegroup. It would have
19 reached them through the division, then 7 Armoured
20 Brigade, and that would be the conduit for that order to
21 them.

22 Q. But if in writing, perhaps you would agree, more
23 likely -- or less likely, if you like, that it might
24 have been mislaid and not passed through?

25 A. I am not sure that is relevant because General Brims had

1 articulated the order himself.

2 Q. Were you aware of General Brims' articulating the order
3 at the time that he did?

4 A. I can't recall, I am afraid.

5 Q. When you took over as the GOC from General Brims, do you
6 recall any issues being raised with you relating to
7 prisoner handling?

8 A. No, I don't.

9 Q. Is it your recollection that none were raised?

10 A. Yes, it is my recollection, yes, and I can recall the
11 sorts of things we did and the sorts of discussions they
12 had -- that we had -- and they were in a completely
13 different sphere from tactical procedures on anything
14 even as significant as handling of detainees, which, of
15 course, was critical to us operating legally, but also
16 setting the right tone in the context of our
17 relationship with Basrari society.

18 Q. Do you remember at the time of your handover or at any
19 time before -- that is the time of your taking over from
20 General Brims or at any time before that -- being aware
21 of any deaths in custody of Iraqi detainees?

22 A. I recall, shortly after arriving, hearing some
23 allegations about some people who drowned in the process
24 of being arrested. That's my only recollection of any
25 such incident, which I believe was being investigated by

1 the SIB.

2 Q. So if it be the case -- and I stress "if" -- you weren't
3 aware of any suggestion that any death of a detainee in
4 custody may have been caused or contributed to by the
5 fact that that detainee had been hooded prior to death?

6 A. I wasn't aware of any people dying in custody and
7 I certainly, therefore, was not aware that it was
8 a possibility that hooding might have contributed to any
9 such tragedy.

10 Q. Can I ask you, then, please, a little in general terms
11 about prisoner handling and what you say at paragraph 20
12 of your statement to this Inquiry? Thank you very much.

13 You say here that:

14 "Considerable emphasis was put on ensuring detainees
15 were properly handled."

16 What did you mean by that?

17 A. Well, first of all, what I inherited in terms of the
18 spirit in which our operation was to be conducted --
19 what I inherited from General Brims -- who was
20 meticulous in his articulation of intent and modified it
21 regularly -- in fact I think there were about five or
22 six different articulations of intent very precisely
23 adjusted as the operation unfolded -- and my sentiments,
24 unsurprisingly, having tracked what had gone on from my
25 previous job and spoken to him most days -- my

1 interpretation of the way we should be conducting our
2 business chimed extremely closely with his, if not
3 identically so.

4 So I was really extrapolating from the tone that had
5 he set in his intent in terms of the way that we would
6 interact and behave properly towards the Iraq operation.
7 So that's the start point. That's where everybody get
8 the big idea from. They then develop that through staff
9 procedures and there are a number of fragmentary orders
10 which refer to the way in which this business is to be
11 conducted, which were delivered through the energy of
12 Colonel Mercer and the then Colonel Forster-Knight, the
13 provost marshal.

14 Q. Just to interrupt you, by that you mean references to
15 humane treatment, references to Geneva Conventions and
16 things of that kind?

17 A. And the procedures to be adopted that were articulated
18 in these particular FRAGOs that were --

19 Q. I follow.

20 A. -- cascaded from division to brigade and then issued by
21 brigade to battlegroup, normally verbatim, but that's
22 the procedure. So I think that that gives us a clear
23 audit trail of the emphasis we were putting at the
24 command and staff level on the proper conduct of these
25 sorts of operations. That sits alongside also the tone

1 we were trying to set with the Iraqis in the
2 establishment of their prison service, which is also
3 quite well documented, and a place we used to take
4 visitors to because it is such a clear articulation of
5 the tone we wanted to set in relation to the way we were
6 relating to the Basrari people, who we had come to help,
7 not lock up.

8 Q. If you look further down paragraph 20 -- seven or eight
9 lines down, the sentence which begins "In particular
10 ...". Do you see that?

11 "I remember that their initiative to put RMP senior
12 NCOs into temporary detention facilities at battlegroup
13 level sought to ensure that the correct procedures were
14 applied and to minimise any risk of improper behaviour."

15 So what you are saying there, General, as
16 I understand it, is that putting RMP senior NCOs into
17 temporary detention facilities at battlegroup level
18 ensured -- reduced anyway -- the risk of detainees being
19 assaulted or otherwise improperly treated?

20 A. Yes, I think being properly handled in accordance with
21 our legal requirements, legal responsibilities.

22 Q. Did you regard that as an important safeguard?

23 A. Well, I didn't have any evidence that we were
24 maltreating people, but we were keen to use the
25 resources that we had to get this right. So it seemed

1 to be a sensible thing to do whilst those people were
2 available. Of course we weren't able to sustain that
3 that level of effort thereafter --

4 Q. I will come to that in a moment, if I may. That is the
5 resources issues, isn't it? We will come back to that
6 if we may. Can we then go on to look at paragraph 31 of
7 the statement, at BMI04516, where you say:

8 "Detention procedures at grass roots level were led
9 by the Royal Military Police as I have explained above."

10 That is your understanding of how the system
11 operated, correct?

12 A. Yes.

13 Q. "In general we sought to minimise any risks to detainees
14 at battlegroup level by handing over prisoners to the
15 RMP as quickly as possible."

16 What risks were you envisaging which were minimised
17 by this process?

18 A. I am talking about risks of not handling them in
19 accordance with our procedure.

20 Q. Did you consider, for example -- again the Inquiry has
21 heard some evidence about this -- that it may be
22 undesirable for an arresting battlegroup, particularly
23 if there has been a violent arrest, to be placed
24 guarding those self-same prisoners for a period of time
25 before handover? Did you consider that aspect of

1 matters and the risk of retaliation in those
2 circumstances?

3 A. We were not thankfully, at that time, engaged in many
4 such operations, but it is certainly a feature of all of
5 our understanding of this and it has grown admittedly
6 since things did start to turn a bit --

7 Q. You are just dropping your voice a bit, General, if you
8 will forgive me.

9 A. Yes, sorry. At the time in Basra we were not
10 experiencing those sorts of detention scenarios, but
11 there is always the -- and we are taught this, you know,
12 from our early service -- the extent to which the
13 administrative burden of properly looking after
14 detainees, even in small numbers, distracts battalions,
15 for example, from concentrating on their ongoing
16 operation and, in that sense, poses a risk to the
17 outcome in addition to the handling challenge of
18 detainees.

19 So it is not just as a consequence of our
20 interpretation of the risks at the time, but part of our
21 general approach that we want to offload such people
22 from a battalion, where there is a potential for a high
23 intensity operation -- high tempo operation.

24 Q. I understand that. But paragraph 31 on the screen
25 refers specifically to "any risk to detainees at

1 battlegroup level". I understand there may be many
2 other reasons why it would be desirable, but the risks
3 to detainees would include, would they, the sort of
4 risks that I outlined to you a moment or so ago, the
5 arresting force not being left with the prisoners for
6 longer than was absolutely necessary?

7 A. Yes.

8 THE CHAIRMAN: Is it your phrase, "potential for high
9 intensity", to mean that feelings between prisoner and
10 soldier might be running high?

11 A. I'm sorry, Sir, that was not my intention, no. I was
12 really talking about the intensity of the military
13 practical activity and perhaps "tempo" would be a better
14 word.

15 THE CHAIRMAN: Yes, I see. Thank you.

16 MR ELIAS: Just to finish this point, General, if we may.
17 Could we look at paragraph 32, where in the fourth line
18 you say this:

19 "The emphasis was on handing prisoners to those with
20 proper expertise as quickly as practicable."

21 Hand them over to the RMP, they know what they are
22 doing?

23 A. RMP or other people who had been particularly trained,
24 yes.

25 Q. Military provost staff and things of that kind?

1 A. Yes.

2 Q. Thank you.

3 I want to ask you, please, just a little about
4 FRAGO 152. Can we just see what you say about that
5 beginning at paragraph 45? I think we are all familiar
6 with it, so I am not, at the moment, going to put it up
7 for you. But you say about it that it clearly sets out
8 the appropriate standards for the treatment of
9 prisoners; you don't remember the FRAGO at all. It was
10 issued a week after you arrived in theatre and was
11 drafted by Lieutenant Colonel Mercer. You note that it
12 makes reference to deaths in custody, but you go on to
13 say that you were not aware of any deaths in custody
14 during your time as GOC.

15 A. Correct.

16 Q. If there were deaths in custody during your time as GOC,
17 should you have been made aware of it?

18 A. Yes, most certainly.

19 Q. In paragraph 46 you say that you don't recall
20 a discussion about the banning of hoods prior to the
21 preparation of this FRAGO and you don't recall the
22 suggestion that hooding might lead to impairment of
23 breathing, but you say this:

24 "However, if I had been asked whether it should be
25 banned [that's hooding], I would have asked what the

1 medical policy and legal advice was for and against the
2 proposition."

3 That, you think, would have been your stance, do you
4 in 2003?

5 A. I think it's my stance on most issues that require
6 a command decision. What are the factors that bear on
7 the decision that one should take? Clearly there are
8 practical reasons why people might cite the utility of
9 hooding and we have discussed those earlier and there
10 are very clear -- or they were becoming clearer -- legal
11 reasons why it wasn't appropriate. But we were really,
12 at this point, reinforcing what General Brims had
13 already invoked about a month and a half beforehand.

14 Q. So, as you go on to cite it -- and I think everyone will
15 recall it without putting the FRAGO up itself -- in
16 paragraph 47, the phrase "Under no circumstances should
17 their face be covered as this may impair breathing" you
18 say is self-explanatory.

19 Do you read that -- or did you read it when you
20 first saw it -- as being a ban on hooding?

21 A. It includes a ban on hooding.

22 Q. So those words "Under no circumstances should their face
23 be covered as this may impair breathing" would include
24 a ban on hooding, would it? That's how you would
25 interpret it?

1 A. Indeed.

2 Q. But might include, what, any other --

3 A. Things other than hoods that would, you know, impair
4 breathing.

5 Q. Can you bring anything to mind that might?

6 A. No, I mean, there was the discussion about whether, as
7 an alternative to hooding, we might use a blindfold, and
8 I imagine that this is perhaps seeking to draw
9 a distinction between the two acts and methods.

10 Q. You go on over the page in this paragraph 47 to say
11 this:

12 "I don't remember being made aware that FRAGO 152
13 purported to ban hooding."

14 That is because, as you say, you didn't see it, as
15 you recall.

16 A. I don't recall it. I may have seen it, but I don't
17 recall it.

18 Q. "It is likely I was focused on other issues. If I had
19 been asked about it, I would probably have supported
20 such a ban because a ban on hooding was consistent with
21 our philosophy at the time, since to my mind, it sent
22 the wrong message for the mission."

23 That is coming back to the point that you made
24 earlier.

25 A. Yes.

1 Q. You can't, therefore, can you, help the Inquiry as to
2 why, if there were already an order, as it were, in
3 being banning hooding, there should have been yet
4 a further one conveyed in this FRAGO?

5 A. Well, I think on issues of this sort of gravity
6 reiterating policy is perfectly acceptable.

7 Q. And the banning of hooding would have been an issue of
8 real gravity, would it?

9 A. Yes.

10 Q. May I move on, please, to ask you about FRAGO 29? You
11 deal with that at paragraph 57 of your statement to this
12 Inquiry. Again you say about that FRAGO, issued as we
13 know on 26 June and perhaps not implemented for up to
14 a week later -- so it is coming towards the end of your
15 time -- you say about it:

16 "I do not recall this FRAGO and I cannot remember
17 discussing the creation of the BGIRO, but the idea does
18 not surprise me."

19 Why did the idea of the BGIRO not surprise you,
20 General?

21 A. Because it sought to reinforce the level within
22 a battlegroup headquarters at which concerns over who to
23 detain and how they should be detained were being
24 exercised. It was essentially bringing it into the core
25 battlegroup staff at senior captain and possibly major

1 level, which is the appropriate level for that
2 consideration in light of the issue in relation to
3 our -- the relationship we wanted to strike up with the
4 Basrari people.

5 Q. You say you don't recall and you don't remember
6 discussing the creation of that post. Is it not
7 surprising, given your role at the time -- if there were
8 discussion prior to the issuing of this FRAGO on
9 26 June, is it not surprising that you were not involved
10 in discussions of this kind, changing a regime, if you
11 like, of prisoner handling?

12 A. I don't think it is at all surprising in the context of
13 the challenges we were grappling with at the time.

14 Q. Not a matter that ought to have come to you or not
15 a matter that you would have expected to be brought to
16 you?

17 A. In the context of the issues we were facing at the time,
18 no.

19 Q. Thank you. You go on in that paragraph, at the end of
20 it, over the page, to say:

21 "It seems to me to be an example of placing
22 reasonable emphasis on prisoner handling. I suspect
23 I was aware of this at the time but perhaps not the
24 detail."

25 That may be so, might it?

1 A. Well that's what I have said here and I can't recall.
2 And I could outline to you one of the reasons why this
3 important issue wasn't occupying a lot of my time
4 because a number of other mission-critical issues were.
5 Q. And you set some of those out in your statement.
6 A. Indeed.
7 Q. Yes.
8 A. I can elaborate here if you would like me to.
9 Q. Maybe you will be asked to, but I think the Inquiry will
10 understand that you had -- and I put it this way without
11 underestimating it -- a lot on your plate, of which this
12 would have been one issue.
13 THE CHAIRMAN: In a word, how much of your time in the day
14 was taken up with your work, rather than resting or
15 sleeping?
16 A. I should think we worked from about 6 in the morning to
17 midnight.
18 THE CHAIRMAN: To ...?
19 A. Until midnight, and so did a large proportion of the
20 staff.
21 THE CHAIRMAN: So I have heard, and I entirely understand
22 you had a large number of matters to consider during
23 that time.
24 A. Yes, we did, Sir, but it was the intractability of some
25 of the issues which made this so difficult.

1 THE CHAIRMAN: Give me one instance of the intractability.

2 A. Trying to run a city of 1.6 million people whose
3 administrative experts had been banished through
4 a mixture of issues, but not least de-Baathification.

5 THE CHAIRMAN: Thank you.

6 MR ELIAS: So FRAGO 29, as we know, set up the BGIRO and you
7 do not think that you had any discussion or input, as it
8 were, into that. Were you aware that FRAGO 29 also, for
9 example, relegated the RMP essentially out of the
10 equation, so that one of the protections that we talked
11 about a little earlier was no longer in place?

12 Let me put two or three things to you so you can
13 comment on them: that the hours before which a prisoner
14 needed to be delivered, removed from battlegroup
15 holding, therefore, raised from 6 to 14 hours, thereby,
16 it would seem on the face of it, increasing the very
17 risk that we looked at not five minutes ago. Were you
18 aware of these changes at the time?

19 A. I wasn't. I was aware that we were going to suffer from
20 an acute shortage of military policemen and there were
21 two impacts of that. One was our reduced ability to
22 train the Iraqi police service, which was one of the
23 measures we were trying to take to instil some sort of
24 order and Iraqi-provided security principally in Basra
25 but also around the oil infrastructure; and the other

1 impact was going to be on our general level of
2 supervision of the detainee system but I wasn't aware of
3 this level of detail.

4 MR ELIAS: I was going to come to the question of resources.
5 Perhaps I could deal with that after the break.

6 THE CHAIRMAN: Yes.

7 We break off now for lunch. If you would be kind
8 enough to be back here at 2 o'clock prompt to resume.
9 I am sure I don't need to tell you that you ought not,
10 please, to speak to anybody about your evidence during
11 the course of the luncheon break.

12 A. Okay, Sir.

13 THE CHAIRMAN: Thank you very much.

14 (1.01 pm)

15 (The short adjournment)

16 (1.59 pm)

17 THE CHAIRMAN: Yes, Mr Elias.

18 MR ELIAS: Thank you, Sir.

19 General, you were just touching on the question of
20 resources before we broke off. Could we have a look at
21 paragraph 20 of your statement at BMI04512, please? You
22 say this, a little more than halfway down the
23 paragraph -- you are talking about the initiative to put
24 RMP senior NCOs into temporary detention facilities,
25 which we looked at earlier, then you say this:

1 "I suspect that it may have been difficult to
2 continue this practice beyond Telic 1 as RMP numbers in
3 theatre had to be reduced from a regiment to a company
4 to enable us to sustain effort into the medium term."

5 You were therefore, were you, aware at the time
6 obviously of the drawdown that involved the RMP amongst
7 others?

8 A. Yes, we were actively trying to tailor our force to
9 a level that was sustainable across all combat and
10 support functions.

11 Q. Was thought given to the effect that the drawdown of RMP
12 numbers might have on the handling of prisoners?

13 A. We were certainly conscious of it, but there was no way,
14 without posing an unreasonable burden on individual
15 members of the Royal Military Police, that we were going
16 to be able to sustain the effort at any more than
17 a company per deployment after the initial divisional
18 level operation, so this was a reduction in proportion
19 to the overall force size reduction.

20 Q. To what extent, if at all, therefore, would planning for
21 the handling of prisoners, such as FRAGO 29, which
22 I think you do now know about, although you didn't at
23 the time, you tell us, or at least you weren't aware of
24 the detail at the time -- to what extent, if at all, did
25 the policy for the handling of prisoners have to be

1 adapted, if you like, to the reduction in the force of
2 RMP available?

3 A. I think the lack of the same level of military policemen
4 was a significant factor in the adoption of the
5 procedures articulated in FRAGO 29. I suspect that's
6 the case.

7 Q. But you don't recall, do you, any discussion about, for
8 example, the increased risks that this may bring about,
9 the removal of the RMP from the picture, the extension
10 of the hours, as I was putting to you before luncheon?

11 A. We had, I think for some time, probably before FRAGO 29
12 was produced, been in negotiation with PJHQ to see
13 whether we could tap into more policemen or find some
14 other solutions, as I said earlier, not solely because
15 of the detainee handling issue, but also because of our
16 growing liability to train the Iraqi police service.

17 Q. But for whatever reason -- I don't want to go into it --
18 you didn't get any increased numbers --

19 A. There were none.

20 Q. There were none available. Thank you.

21 Moving on then, just to deal with this very
22 briefly -- you address it at paragraphs 63 and 64 of
23 your statement to this Inquiry -- in your handover to
24 General Lamb, you tell us, in the middle of July 2003,
25 if we look at paragraph 64, prisoner handling, it is

1 unlikely it would have been mentioned because you say
2 "No issue had been reported to me about it and therefore
3 it was simply not 'on the radar'".

4 A. Correct.

5 Q. Can I just move on then, please, to ask you about one or
6 two further documents? Can we have a look, please, at
7 MOD049458? It is a draft memorandum. Can we go over
8 the page, please. It is drafted by Colonel Mercer, it
9 seems, to go out under the GOC's hand. Do you see that?

10 A. Yes.

11 Q. If we go back to the first page, the draft anyway is
12 July 2003. Do you recall seeing such a draft
13 document --

14 A. No, I don't recall this?

15 Q. -- or whether indeed the memorandum was issued by you,
16 do you remember?

17 A. I don't recall.

18 Q. All right. May I ask you then, please, whether you were
19 aware of the concerns that are set out at paragraphs 2
20 and 3? This was to go out under the name of the GOC, it
21 seems, but it says, as you can see:

22 "... I cannot predict the outcome of these
23 investigations [that is SIB investigations into
24 allegations of assault], there was a further incident
25 last week where one of our coalition partners refused to

1 hand over a prisoner to a battlegroup as a result of the
2 instructions they were given with regard to the
3 treatment of the prisoner.

4 3. Legal direction with regard to the treatment of
5 civilians (whether detainee or internee) has already
6 been provided by my legal branch both in rules of
7 engagement briefings and by FRAGO but, despite these
8 instructions, there continues to be incidents where
9 civilians are maltreated whilst being temporarily
10 detained by the battlegroups."

11 Do you recall being made aware, through this
12 document or in any other way, that there were, as
13 Colonel Mercer has drafted here, apparently incidents
14 where civilians are maltreated whilst being temporarily
15 detained by battlegroups?

16 A. No, I can't recall any such incidents or reports of
17 them, other than the matter I alluded to at the very
18 beginning of this session, when I was talking about the
19 investigation into some people who were drowned in the
20 process of being arrested.

21 Q. Again, in your position as GOC, should you have been
22 made aware, would you say, of any incidents where
23 civilians had been maltreated whilst in temporary
24 detention of a battlegroup?

25 A. Yes, I think I should.

1 Q. Can you help? What is your position, that you don't
2 think you were made aware of any such incidents or you
3 simply can't remember?

4 A. No, I think if -- I think that, had I been made aware of
5 issues of any significant gravity, I would remember
6 them, so I don't think I was made aware of them.

7 Q. If you had been made aware of what is set out in
8 paragraph 3, what, if any, steps would you have taken?

9 A. I would have given very clear direction that we were
10 to -- properly to implement our accepted procedures and
11 I suspect I would have been dealing direct with the
12 battlegroup commander in question.

13 Q. You would have wanted to know the detail, would you, of
14 what had happened --

15 A. Yes.

16 Q. -- and an explanation from the commander of the
17 battlegroup who were allegedly responsible?

18 A. Yes, and I suspect I would have had a conversation with
19 the brigade commander as to whether he was going to deal
20 with it or I was.

21 Q. But it wouldn't, as it were, have been left just in the
22 air, would it?

23 A. It wouldn't.

24 Q. Just to round this off, as it were, at paragraph 6, we
25 can see what is said:

1 "It is a command responsibility to ensure compliance
2 with the law of armed conflict and this responsibility
3 is personal to all commanders at whatever level.
4 I therefore expect my commanders to personally ensure
5 that prisoners are treated correctly."

6 That accurately reflects your position, as it were,
7 doesn't it?

8 A. Well, it is the army's position.

9 Q. But it reflects yours too?

10 A. Correct.

11 Q. There is a reference in paragraph 7, you can see:

12 "In addition and to reinforce this message further,
13 cards on the temporary detention of civilians will be
14 produced for all troops in theatre and this will contain
15 clear guidelines on the standard of treatment expected."

16 The Inquiry has heard evidence from Colonel Mercer,
17 not least, that cards were prepared which would have
18 indicated, for example, that the use of hooding or the
19 use of stress positions were under no circumstances to
20 be adopted. Do you recall any proposal for cards of
21 that kind to be issued to troops on the ground?

22 A. I don't, although I'm now aware that another set of
23 cards had been issued just prior to D-Day, some three
24 plus months before this, which was the sort of extant
25 card at the time.

1 Q. You are probably also aware of what is said in the
2 witness statement of Charles Barnett to this Inquiry.
3 May I take you just to one paragraph of his statement,
4 at BMI07915, paragraph 94? Thank you.

5 "Lieutenant Colonel Mercer told me that a verbal
6 order had been given by GOC ... General Brims,
7 prohibiting the use of hooding and that a written order
8 had also been issued. I think a copy of the written
9 order was in the file. I also saw the draft of
10 a further order which included the ban on hooding (which
11 he told me had been issued). I recall it had a draft
12 soldier's card attached to it. He told me that they had
13 been sent to the GOC 1 (UK) Div and that the card had
14 not been issued. The GOC was Major General Wall, who
15 had by then been promoted and appointed GOC ... Recently
16 I came to learn from Lieutenant Colonel Mercer that
17 Major General Wall had decided not to issue both but
18 I do not know why."

19 Do you recall ever making a decision not to a issue
20 what we have been referring to as the "soldiers' card"?

21 A. I don't recall the memorandum or the card.

22 Q. There would on the face of it, would there, have been no
23 reason why you should have stopped the issuing of a card
24 of this kind?

25 A. I think that, you know, stepping back from the specific

1 detail of this, there becomes a point in a handover
2 between a division and its successor division when it's
3 not particularly helpful for the outgoing commander to
4 issue fresh instructions a few days before the incoming
5 commander on issues that he may wish to address in his
6 own way and take proper account of the way in which his
7 soldiers had been trained and so on and so forth. So
8 I think there a point at which you wouldn't,
9 particularly on something that went that far down the
10 tactical chain, be issuing that sort of thing. Whether
11 that was in my mind at the time I can't recall.

12 Q. What, you mean because, as it were, you are binding the
13 hand of your successor in some way?

14 A. Yes, yes, and you are also doing it without a knowledge
15 of the guidance and training that those soldiers have
16 been given.

17 Q. So it wouldn't be --

18 A. So it would not be the most responsible thing to do
19 necessarily, to impose that sort of direction a few days
20 before the incoming commander might want to issue it in
21 a slightly different way or with a slightly different
22 tone.

23 Q. So if this were happening towards the end, as it were,
24 of your turn in theatre, you may, in essence, have
25 deferred the issue to your successor?

1 A. That's possible, but I don't remember whether that was
2 the key factor in this case.

3 Q. I follow.

4 Just two other discrete matters. Forgive me if
5 I have asked you this before: you weren't aware, were
6 you, of the Heath ruling?

7 A. I have become aware of it in the context of these
8 bundles, but not before that.

9 Q. Not before preparation for this Inquiry?

10 A. No, that's correct.

11 Q. If the Heath ruling, issued as we know in the early
12 1970s, were extant in 2003, as appears to be the case,
13 does it surprise you that you were not made aware of it?

14 A. No, it doesn't.

15 Q. Because ...?

16 A. Because at the time the issues that we are now analysing
17 in hindsight were not prominent at the level of command
18 I was operating at and I don't think we have a sort of
19 corporate memory that readily goes back that far and it
20 had not come up in any of my training --

21 Q. Maybe that is --

22 A. -- annual mandatory training in the context of the law
23 of armed conflict or the Geneva Conventions.

24 Q. Maybe that last point, with respect, General, is the
25 point, isn't it? Perhaps it is something that ought to

1 have been brought up regularly in training if it were an
2 extant order that had, as it were, gone to the very
3 highest level to be issued.

4 A. I would have thought -- I am no great expert on the
5 evolution of the form of articulation of the law, but
6 I would have thought that laws would have been upgraded
7 to make it very clear and incorporate the Heath
8 statement propositions, rather than us relying on
9 a statement in Hansard from 30-odd years beforehand.

10 Q. In other words, there should have been clear written
11 doctrine about the point?

12 A. I think that is correct.

13 Q. Forgive my coming back to resources again. I should
14 have dealt with this a little earlier when we dealt
15 with it. Just for completeness, you gave evidence to
16 Chilcot, of course.

17 A. I did.

18 Q. In that -- I don't want to go into the detail of it --
19 you gave evidence about, if you like, the state of
20 preparedness of the army for the stabilisation period in
21 particular and also gave evidence, didn't you, about
22 resources and the drawdown that you touched upon in your
23 evidence today?

24 A. Yes.

25 Q. Would it be fair to say -- paraphrasing -- that your

1 evidence to Chilcot was that the state of readiness was
2 just ready, but nothing more?

3 A. Are you talking about the state of readiness of the
4 force as it entered Iraq?

5 Q. No, I am talking really about the stabilisation period
6 in particular, the peace-keeping, if you like.

7 A. No, I think it was -- it was quite a significant
8 achievement by the brigades on the ground to make the
9 transition in the same deployment from a potential
10 war-fighting operation that may might have involved
11 chemical warfare to something in a sort of complex
12 societal situation, where they were adopting a different
13 set of operating procedures and trying to fulfil
14 a really rather different task. To grapple those
15 stresses, strains and challenges into a single
16 deployment for people like this without any rest and
17 recuperation over a six- to eight-month period was what
18 was required and it did impose certain stresses on our
19 systems, but in the round people performed extremely
20 well.

21 Q. I think that is, in essence, what you said to Chilcot.

22 In relation to resources, would it be fair to say
23 that your evidence to Chilcot -- and this Inquiry is
24 particularly concerned with resources for prisoner
25 handling, of course, if we can break it down to that

1 amount of detail -- your evidence to Chilcot was that
2 the resources that you were left with for the
3 peace-keeping phase of this operation or stabilisation
4 were, if you like, the bare necessity?

5 A. That certainly turned out to be the case.

6 Q. May I finally just ask you two or three questions then
7 please? Knowing what you now know about FRAGO 29 and
8 the change of direction that it brought about for
9 prisoner handling, do you think that you ought to have
10 made more representation than you did about the change
11 of policy and the risks that were now being run?

12 A. Yes, I think that, with hindsight, to prevent the risks
13 that turned into realities, we would do things
14 differently --

15 Q. I suppose you would also --

16 A. -- but I don't think that it was easy to foresee that at
17 the time.

18 Q. I suppose those risks, which, as you say, turned into
19 reality, were something which, with hindsight, you might
20 have flagged up for your successor, General Lamb.

21 A. They were not high on my list of risks at the time.

22 Q. That perhaps brings me, General, to the very last point
23 that I have for you. That is, please, to take you to
24 paragraph 48 of your statement to this Inquiry, where
25 you are referring to the fact that you don't recall any

1 written order prohibiting the use of hooding and so on.
2 It is to the last five or six lines I want to go,
3 please, because you say this about hooding:

4 "As I have explained this issue had little profile
5 at the time because we were so busy dealing with a range
6 of intractable issues, for which we lacked genuine
7 expertise in the early stages."

8 Then this:

9 "To be frank, while it has always been important, it
10 was regarded as a lesser risk and awareness of it has
11 grown in hindsight."

12 So are you there saying that the risk of the use of
13 hoods and hooding, if you like, in general, was not
14 appreciated at the time as perhaps it should have been?

15 A. I'm -- I think I am talking wider than specifically
16 hooding. I am talking about the whole business of
17 training and supervision of detainee and internee
18 handling in the context of that sort of operation where
19 one has, inevitably, if we are going to make progress,
20 to delegate a lot of responsibility down to the lowest
21 levels in the chain of command.

22 Q. So prisoner handling was regarded as a lesser risk and
23 awareness of it has grown with hindsight?

24 A. Yes, and I can explain what the other risks were if you
25 want me to give you some colour and texture.

1 Q. Yes, please.

2 A. Well, I explained earlier that we were trying to run
3 this section of southern Iraq, including the second
4 city, with its large and increasingly agitated
5 population, without the real mechanisms to do so. That
6 involved every facet, from keeping the oil
7 infrastructure running, which I think in scientific and
8 technical terms, it probably had no right to function.
9 You know, it was a botched job at the best; we had to
10 obviously provide, where we could, for security of
11 people; we had to try to eclipse crime where we could.
12 We had to do all that respecting our own and
13 implementing our own rules of engagement, which were not
14 very convincing to the Iraqi mind, but that's the way we
15 did it.

16 We had to make the plans for General Lamb to
17 establish Multinational Division (South-East), which was
18 all four provinces in the south, which involved very
19 extensive work at a fairly senior level with Dutch,
20 Italians and the other nations that were going to form
21 that sort of mosaic; we had to work as closely as we
22 could with the United Nations, until such time as they
23 elected to withdraw after various targeted incidents
24 against them, who did have some expertise in some of the
25 functions we were trying to deliver; we had to work

1 within an evolving American chain of command that was
2 starting to recognise that some of the initial
3 impressions it had formed of the way to do this mission
4 needed drastic change.

5 All the time we were acutely conscious that we were
6 failing to meet the expectations of 4 million or so
7 Iraqi people and, the longer that that pertained, the
8 greater was going to be their resentment and the sort of
9 extremity of the actions they took to punish us for it.
10 Those were the sort of things we were dealing with and
11 against that backdrop. That's why what you are talking
12 about was a lesser issue.

13 Q. So what you are really saying here is that, against that
14 backdrop, as you put it, prisoner handling had a lower
15 priority than, with hindsight, it ought to have been
16 given?

17 A. Yes. I also think, in terms of ways in which the
18 safety, security, wellbeing and so on of the Iraqi
19 people might have been undermined or damaged, prisoner
20 handling was also low on that list.

21 MR ELIAS: Thank you, General.

22 Thank you.

23 THE CHAIRMAN: Yes, well I expect there will be one or two
24 questions from other counsel, General.

25 Mr Singh.

1 Questions by MR SINGH

2 MR SINGH: General, I would like to begin by asking you some
3 questions arising from paragraph 59 of your statement to
4 Inquiry. That's at BMI04524. In the first few lines,
5 General, there you tell the Inquiry that:

6 "As GOC, I of course had a personal responsibility
7 for ensuring that adequate orders, guidance or
8 instructions in respect of prisoner handling were
9 provided to soldiers and officers under my command.
10 I inherited a system of prisoner handling from
11 General Brims when I arrived in theatre and he reported
12 no difficulties with it to me."

13 Now, I am right, aren't I, General, to say that that
14 handover in formal terms from General Brims was about
15 13 May 2003?

16 A. That's right.

17 Q. Can it really be right, General, that he reported no
18 difficulties with prisoner handling as an issue to you
19 on that occasion?

20 A. That's certainly my recollection.

21 Q. You see, just a few weeks earlier General Brims had, it
22 seems, had to issue a direction banning hooding in
23 theatre. Did he not mention that to you?

24 A. I don't think he did. I certainly don't recall it. And
25 I would have imagined he would have issued several

1 hundred other directions about a whole raft of other
2 issues, some of which might have been more pre-eminent
3 in his thinking at the point of our handover.

4 Q. So do I take it from that that the issue of any
5 complaint from the ICRC, which had been around a few
6 weeks earlier, didn't come up in your formal handover?

7 A. To my way of thinking, having witnessed the way that the
8 informal complaint from the ICRC was dealt with and
9 ceased to become a formal complaint, we had reacted to
10 that issue and handled it and it was closed. That was
11 our view at that point in time.

12 Q. Were you aware, General, at around that time, that
13 General Brims -- not necessarily from him directly, but
14 that General Brims had indeed issued a ban on hooding?

15 A. I don't think I was aware at the time.

16 Q. You have given some evidence to this Inquiry today at
17 least that you did come to that understanding at some
18 time; is that right?

19 A. Yes, and I certainly recall Air Marshal Burridge telling
20 us to convey his direction to the division on that very
21 subject at about the same time, as a consequence of the
22 same stimulus, which was the ICRC advice.

23 Q. Yes. Can we just look at that a moment longer -- I know
24 you have been asked about it already -- at paragraph 11
25 of your witness statement at BMI04508 and then onto the

1 following page. It is particularly where you mention in
2 the last four lines of paragraph 11:

3 "As a consequence, Air Marshal Burrridge ordered that
4 hooding should cease ..."

5 Forgive me, General, but in paragraph 11 the Inquiry
6 doesn't see any reference to General Brims having,
7 either separately or in conjunction with Air Marshal
8 Burrridge, ordered that hooding should cease. Why don't
9 you mention General Brims there?

10 A. Because I was not aware of what General Brims was
11 thinking at the time and I worked for Air Marshal
12 Burrridge. Oh, when I say "not aware of what General
13 Brims was thinking", I mean in the context of prisoner
14 handling. I was well aware of what he was thinking
15 about just about everything else because I used to talk
16 to him every day. So I worked for Air Marshal Burrridge
17 and it was my job to implement his direction.

18 Q. At NCC, General, were you in contact from time to time
19 with a person we know at this Inquiry as S034? That is
20 the POLAD.

21 A. Yes, I was part of the same command group.

22 Q. That is in Qatar, is it?

23 A. In Qatar, yes.

24 Q. Did she or anyone else give you reason to think that
25 what the ICRC had complained about was not only hooding,

1 but what has been called "harsh treatment"?

2 A. Yes, I think the discussion we had concerned both of
3 those things.

4 Q. Was it your understanding, either from S034 or from
5 other sources, that harsh treatment that the ICRC was
6 complaining about at the time included such things as
7 prisoners of war being made to sit in the sun, kick
8 prisoners and the use of stress positions?

9 A. I was aware of the suggestion -- if not allegation --
10 that it involved people sitting in the sun, but not the
11 other two things you mentioned.

12 Q. Were you aware, either from S034 or from other sources,
13 that Air Marshal Burridge had acted immediately on the
14 ICRC's complaint not only to order a ban on hooding, but
15 also a ban on harsh treatment?

16 A. Yes, I think I was aware of that, and then we were at
17 the same meeting.

18 Q. Forgive me, I will be corrected if I am wrong, General,
19 but I don't think you refer to that being ordered by
20 Air Marshal Burridge in your witness statement.

21 A. No, I think my witness statement was constructed in
22 response to the way in which your questions were posed
23 to me.

24 Q. The Inquiry's questions?

25 A. The Inquiry's questions.

1 Q. I understand.

2 Just one other topic, General, if I may. At
3 paragraph 36 of your witness statement at BMI04517 at
4 the bottom there -- if you can just remind yourself,
5 please, of that paragraph and then going over the
6 page -- it is particularly the last few words that
7 I would like to ask you about. You refer there to this:

8 "... I would not have permitted it [that is hooding]
9 as part of any conditioning process."

10 That is the phrase you use there, General.

11 A. I don't think it mentioned hooding. I think if you go
12 back to the bottom of the previous page, it does not say
13 "hooding"; it says "deprivation of sight".

14 Q. Forgive me. Quite right. It is particularly the last
15 phrase that I am interested in asking you about. What
16 did you mean when you gave that evidence to the Inquiry
17 in this statement about "any conditioning process"?

18 A. Because in the -- I think by the time we were writing
19 our statements to the Inquiry, we were aware of what
20 this was all about. But at the time, as I articulated
21 earlier, we had a discussion about the circumstances in
22 which covering up people's faces, ie hooding, or
23 deprivation of sight, ie blindfolding, might be
24 acceptable in the context of protecting the identity of
25 detainees in the presence of other detainees and also to

1 preserve the integrity of our own security arrangements
2 as people were entering facilities or leaving.

3 Q. Forgive me, General, I am sure it's my fault for not
4 making my question clear. It is simply that the phrase
5 you have used there, the last three words, "any
6 conditioning process" -- when you wrote those words,
7 what did you understand that phrase to mean?

8 A. Any conditioning process.

9 Q. It just means what it says; is that what you are saying?

10 A. Yes.

11 Q. In paragraph 28 of your witness statement at BMI04515,
12 you say in the first sentence:

13 "My knowledge of conditioning techniques was very
14 limited. This is because intelligence specialists in
15 organisations such as JFIT are trained to conduct
16 tactical questioning and interrogation, in accordance
17 with proper procedures. Expertise tends to be limited
18 to that specialist community."

19 Would it be fair of me to say, General, that the
20 attitude which is reflected in that paragraph, if I may
21 say so, shows a great deal of deference to the subject
22 matter specialists, namely the intelligence specialists
23 in this case?

24 A. I don't think it is deference. I don't think it's
25 a great deal of deference --

1 Q. How would you describe your attitude towards them?

2 A. It is not a question of attitude, I don't think.

3 I think there's a recognition that there are certain
4 areas of activity in an armed force, in military
5 activity, where you defer to the experts. There are
6 also some areas that traditionally have been less
7 overtly discussed and about which there has been
8 training, of which JFIT-type activity was certainly one.
9 So one would defer even more to those experts in that
10 situation.

11 MR SINGH: General, thank you.

12 Sir, those are my questions.

13 THE CHAIRMAN: Thank you. Ms Dobbin?

14 Questions by MS DOBBIN

15 MS DOBBIN: Thank you, Sir.

16 General, just one question: at the end of Operation
17 Telic 1, did you foresee the problems that came to the
18 fore in Operation Telic 2 like growing insurgency, the
19 increased agitation of the people, as you have described
20 it, or did you think that you were handing over
21 a relatively stable situation and one that would
22 continue to grow in its stability?

23 A. No, I think we were fearful that we were sitting on
24 a situation that could easily deteriorate, but I don't
25 think we could put our finger on quite why or how that

1 deterioration would manifest itself.

2 Q. Do you think now, in retrospect, that that was
3 adequately planned for in Operation Telic 2, the fact
4 that that was an unknown at the time you were handing
5 over?

6 A. I don't think it is down to the functioning of planning
7 in Operation Telic 2. They really inherited what we
8 handed over to them. And I think the seeds for the
9 problem that ensued and our inability to deal with it
10 suitably go further back than even my tenure as the GOC
11 in Telic 1. It goes back to the -- to really the
12 concept of operations that following the -- that assumed
13 that there was not really a clear military role in the
14 nation-building activity and this would be done by other
15 mechanisms.

16 MS DOBBIN: Thank you. Thank you, Sir.

17 THE CHAIRMAN: Ms Edington?

18 Questions by MS EDINGTON

19 MS EDINGTON: General, you said to Mr Elias that you had not
20 seen the memo, the draft memo, from Colonel Mercer which
21 looked as if it was going to come out under your
22 signature block; is that right?

23 A. I said I couldn't recall seeing it.

24 Q. You could not recall seeing it. Might it be that he did
25 discuss with you at least one or two deaths in custody

1 which occurred in your time, one being about 28 May?

2 A. It might, but I don't recall them.

3 Q. As such, when you then said that you wouldn't want to
4 bind General Lamb coming in to take over from you with
5 issuing soldiers' cards, et cetera, might it be that
6 actually you were aware and you just didn't really want
7 to bind General Lamb as he came in to take over?

8 A. I didn't say as it as definitively as you put it. What
9 I said to Mr Elias was that that might be one of the
10 reasons behind my thinking for not issuing something
11 that was that detailed at the tactical level that late
12 in my tenure, but I can't remember.

13 Q. Would the same apply to FRAGO 29, which actually came
14 out on 29 June?

15 A. No, I think that's a slightly different issue. That is
16 about a system rather than about a procedure that's
17 going to go down to the lowest tactical level, and
18 because of the paucity of resources in the military
19 policing domain and because, I think, for other reasons
20 that were not about resources -- they are about a change
21 of approach -- we felt that the G2 fraternity would be
22 better placed to lead on which internees we should
23 retain. It was necessary to have that in place before
24 General Lamb turned up. In fact the new force structure
25 under 19 Mech Brigade was in place for the final two

1 weeks of my tenure.

2 MS EDINGTON: Thank you very much.

3 THE CHAIRMAN: Mr Garnham?

4 Questions by MR GARNHAM

5 MR GARNHAM: Just one matter please.

6 General, you said to Mr Singh a few moments ago that
7 it would not be a matter of showing deference to the
8 intelligence community, but that you would defer to
9 their expertise.

10 I want to just understand what you meant by that.
11 First of all, when you were GOC, would you take the view
12 that, because the intelligence community had particular
13 specialist skills, they did not need to be supervised?

14 A. No, I don't necessarily mean that. But I do think it
15 tended to be an area that those of us who didn't have
16 much knowledge of or expertise in had slightly closed
17 minds towards.

18 Q. You need to explain that to me, please. "... closed
19 minds towards" ...?

20 A. Well, we didn't naturally -- I didn't and I am not sure
21 my colleagues did, but I will speak for myself --
22 I didn't naturally foresee risks in that domain. The
23 people that I had met from that fraternity had always
24 struck me as being very well regulated and very
25 professional and so it wasn't -- it didn't sort of -- in

1 a pre-conceived way, it wasn't something I thought "I am
2 going to have to go and devote some time to that".
3 I tended to regard it as a given in relation to all of
4 the things that I had to address that I didn't have
5 a clue about, most of which were closer to, you know,
6 our definition of what success might look like.

7 Q. Was there a view current in the units with which you
8 were engaged that the intelligence community were above
9 the usual rules?

10 A. No, not at all.

11 Q. That they were above the law?

12 A. Not at all.

13 Q. That usual doctrine didn't apply to them?

14 A. Not at all.

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

16 Further questions by MR ELIAS

17 MR ELIAS: Can we look, please, at paragraph 57 of your
18 statement to this Inquiry at BMI04523, please? You will
19 see it is under the heading of FRAGO 29. We looked at
20 it in part this morning anyway. Can I just understand
21 this?

22 "I do not recall this FRAGO and I cannot remember
23 discussing the creation of a BGIRO, but the idea does
24 not surprise me. Again it seems to me to be an example
25 of ...", and so on, which we dealt with this morning.

1 "I suspect I was aware of this at the time but
2 perhaps not the detail."

3 The impression I got from that paragraph in your
4 statement is that you didn't recall having any
5 discussion at all about FRAGO 29; is that right?

6 A. I don't.

7 Q. So when you said a moment or two ago to Ms Edington,
8 asking you questions from behind me, that putting G2, as
9 it were, in place, the intelligence experts determining
10 the status of a prisoner, is that a rationalisation, as
11 it were, that you have come to now --

12 A. Yes, I think it is a retrospective --

13 Q. Not something you appreciated at the time?

14 A. No, it is not.

15 Q. You didn't have discussion about that at the time?

16 A. No, I don't recall any discussion at the time. I should
17 have made it clear that that is a retrospective
18 judgment.

19 Q. Thank you.

20 Then just going back to questions that Mr Singh was
21 asking you a little earlier, you said in answer to one
22 of his questions -- I don't know whether you meant it as
23 the royal "we" -- but "We were writing our statements to
24 the Inquiry ..." I don't want to know what may have
25 occurred between you and any solicitor or solicitors

1 involved, but were you writing your statement in
2 conjunction with any other soldier?

3 A. No, certainly not, no, but I was doing it in the context
4 of a list of questions that the Inquiry had sent me that
5 I think made more emphasis of hooding, rather than wider
6 issues of potential maltreatment.

7 Q. Finally, then, could we look at paragraph 36 again? You
8 were asked about that by Mr Singh. It is at BMI04518,
9 the second part of it. Thank you:

10 "I would not have permitted it [that is deprivation
11 of sight] as part of any conditioning process."

12 What conditioning process did you have in mind when
13 you wrote that?

14 A. Any conditioning process.

15 Q. But conditioning for what?

16 A. In the context that the question is set, Mr Elias, in
17 the way that it was put to me when I was asked to write
18 this statement, that's to do with maltreatment or
19 anything to do with prolonging things like the shock of
20 capture, that sort of thing.

21 Q. Or the softening up prior to questioning?

22 A. Prolonging the shock of capture.

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

24 Questions by THE CHAIRMAN

25 THE CHAIRMAN: General, before you go, just for my own

1 benefit if you wouldn't mind, did I understand you to
2 say, during the time that you were general officer
3 commanding the division, that you took on two more
4 provinces than you had originally had responsibility
5 for?

6 A. We were preparing to do so, Sir, such that, when
7 General Lamb arrived, the conditions were set for him to
8 raise his flag over those four provinces. The
9 additional two involved two other nations, the Italians,
10 who had arrived and were under our command for about the
11 last month --

12 THE CHAIRMAN: That is Dhi Qar, is it?

13 A. Dhi Qar, yes.

14 THE CHAIRMAN: And Thanna?

15 A. And the other one was Muthana, which is further west
16 than Dhi Qar, where the Dutch were going to go.

17 THE CHAIRMAN: Muthari --

18 A. Muthana, M-U-T-H-A-N-A.

19 THE CHAIRMAN: Thank you.

20 There is one other matter I want to ask you about.
21 If you could cast your mind back to rather earlier days
22 in your military career when you commanded a unit,
23 I have heard evidence about some quite serious
24 allegations of prisoners, as you no doubt understand,
25 being beaten up. We have concentrated on your evidence

1 today on hooding and the like. Who would you expect to
2 have had or ought to have had knowledge of that sort of
3 behaviour working up the chain of command?

4 A. I think anybody from sort of warrant officer level
5 upwards, but in an ideal context senior non-commissioned
6 officer level upwards would have knowledge and concerns
7 that they would report up their chain of command.

8 Q. And lower down presumably you would expect, would you,
9 if you so call them now, section commanders, platoon
10 commanders, to have knowledge of this sort of behaviour?

11 A. That's certainly the case now.

12 THE CHAIRMAN: What do you mean by "the case now"? Do you
13 mean --

14 A. Well, we are a learning organisation and although the
15 events that you are directing your attention to happened
16 seven years ago, we have had seven years to implement
17 the lessons of the activities you are alluding to here
18 and our omissions then, such as they might have been,
19 and other things we have learnt in the process. And
20 people like me who visit operational theatres never do
21 so without going to the detention facilities and making
22 sure that what is going on is coherent and appropriate.

23 THE CHAIRMAN: I don't imagine that you went to the
24 detention facilities when you were out there in 2003.
25 You would not have thought there was any need to, is

1 that right?

2 A. I did go to the Iraqi prisons and I went to Camp Bucca
3 once, I think.

4 THE CHAIRMAN: Yes, I see. Even going back to 2003, would
5 you not have expected platoon sergeants or module
6 commanders to have known of that sort of activity if it
7 was going on?

8 A. I would have expected them to, yes.

9 THE CHAIRMAN: It is not just something that happened
10 apparently over a short period of time. It is over
11 36 hours at the least. Would you expect a multiple
12 commander to know what his soldiers are up to in that
13 respect over that period of time?

14 A. I certainly would, yes.

15 THE CHAIRMAN: And a company sergeant major as well?

16 A. Yes, I would, over that period of time.

17 THE CHAIRMAN: What about the officer commanding the
18 company?

19 A. If the company sergeant major knew, then the company
20 commander would know.

21 THE CHAIRMAN: Ought to.

22 A. Yes.

23 THE CHAIRMAN: And the Regimental Sergeant Major?

24 A. It would depend where the company was in relation to the
25 commanding officer and the RSM.

1 THE CHAIRMAN: I follow and I understand that these are very
2 general statements and there are other circumstances no
3 doubt that I shall have to consider.

4 A. But I make those comments without a detailed awareness
5 of the deployment of the unit in question at the time --

6 THE CHAIRMAN: No, I follow that.

7 A. -- and I do know that, to coin a phrase, they had their
8 hair on fire dealing with the day-to-day activity.

9 THE CHAIRMAN: I didn't catch that.

10 A. They were extremely busy dealing with day-to-day --

11 THE CHAIRMAN: I quite understand that, yes.

12 All right. Those are all the questions that the
13 Inquiry has for you. I am very grateful to you for
14 coming here and answering questions and for giving your
15 evidence.

16 A. My pleasure, Sir, thank you.

17 THE CHAIRMAN: So far as we are concerned, you are free to
18 go. Thank you very much.

19 MR MOSS: Sir, Mr Kett is our third and final witness
20 statement for today, please. I call Mr Kett.

21 THE CHAIRMAN: It is at this stage Mr Kett; is that right?

22 A. Yes.

23 THE CHAIRMAN: I am going to ask that you take the oath,
24 please.

25

1 ROBERT EDWARD KETT (sworn)

2 THE CHAIRMAN: Thank you very much. Do sit down. If you
3 would position yourself as close as you can get to that
4 microphone and speak into it, we will all be able to
5 hear you. Thank you.

6 MR MOSS: Thank you, Sir.

7 THE CHAIRMAN: Yes, Mr Moss.

8 Questions by MR MOSS

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

11 A. Robert Edward Kett.

12 Q. Mr Kett, if you look at the statement in front of you,
13 I hope you will find a copy of your witness statement to
14 the Inquiry. If you would look at the final page,
15 please, at BMI08456. Could we have it on the screen?

16 A. Yes.

17 Q. Do we see that that is a statement that you provided to
18 the Inquiry very recently on 26 May of this year?

19 A. Yes.

20 Q. Thank you. When you signed that statement, were you
21 telling the Inquiry that the contents of the statement
22 were true to the best of your knowledge and belief?

23 A. Yes, I did.

24 Q. I think you have been here for our earlier witnesses, so
25 you will know that I am not going to ask you about

1 everything in your witness statement, but to take you to
2 some topics that arise out of it, as I am sure you
3 understand.

4 Could we start, please, with your career history
5 just in brief? I think you tell us -- is this right --
6 that you started your military career with some
7 pre-commission service, spending three years working
8 with the intelligence corps in Northern Ireland.

9 A. That's right.

10 Q. You tell us that you went on to be commissioned in 1975
11 into the Royal Artillery and that you then held a number
12 of regimental appointments with them over the next
13 decade or so; is that right?

14 A. That's also correct.

15 Q. I think it was in 1985 that you then transferred
16 formally to the intelligence corps and, after that, you
17 held a number of different staff posts over again the
18 next ten years or so after that; would that be correct?

19 A. Yes, that's right.

20 Q. Moving up to more recent years, you tell us in your
21 witness statement that from 1996 you spent, I think,
22 four years as the deputy assistant chief of staff on the
23 J2 side of PJHQ; is that right?

24 A. That's right.

25 Q. You were then promoted to full colonel --

1 A. Yes.

2 Q. -- and I think spent six months in a J3 role in Bosnia;
3 is that right?

4 A. That's correct.

5 Q. And it was after that six months in Bosnia, you tell us
6 in your witness statement, that you took up the post of
7 immediate relevance for the Inquiry, which was of
8 assistant director of intelligence ADI HUMINT, on the
9 defence intelligence side at MOD.

10 A. Correct.

11 Q. Thank you. So that we have the dates, was that a post
12 that you took up in November 2000 --

13 A. I believe that's correct.

14 Q. -- and one that you held through until April 2004?

15 A. Yes.

16 Q. Thank you. I think it's right, isn't it -- you have
17 a cipher list, I believe, on the table in front of you.
18 Perhaps you could just confirm for us that you took over
19 in this role of ADI HUMINT from a soldier whose
20 cipher -- please don't use the name -- is S061.

21 A. That's correct.

22 Q. And I think you were succeeded as ADI HUMINT by
23 Colonel Pedley, is that right?

24 A. That's right.

25 Q. You served, after 2004, for a number of years further in

1 the armed forces, I think ending up in a role as acting
2 brigadier, but I think it is right that you have now
3 retired from the army. Is that correct?

4 A. I have retired, yes.

5 Q. Can I turn then, please, Mr Kett, to aspects relating to
6 your training? You tell us, of course, that you had
7 annual training in the law of armed conflict.

8 Can I just ask about that? Do you remember whether your
9 law of armed conflict training ever covered whether or
10 not prisoners could be deprived of their sight?

11 A. I don't recall that.

12 Q. You are speaking quite softly. Perhaps you could just
13 try to keep your voice up.

14 A. I don't recall that.

15 Q. Thank you very much.

16 Can I ask you about training more generally then?
17 Had you ever come across in the training that you had
18 received any instruction on whether or not prisoners
19 could be deprived of their sight?

20 A. Not that I recall, no.

21 Q. Did you have an understanding of that matter as to
22 whether or not, for British forces, it would be
23 legitimate for them to deprive prisoners of their sight
24 in any circumstances and, if so, for what purposes?

25 A. Whilst I was in the role of ADI HUMINT, I understood

1 that it was acceptable to deprive prisoners of sight for
2 security purposes.

3 Q. Was it only for security purposes or did you understand
4 that that might have a role in prolonging the shock of
5 capture for those who were taken prisoner?

6 A. It was only for security and force protection purposes.

7 Q. Could we have a look, please, in this regard, at
8 paragraph 50 of your statement? It will come up,
9 Mr Kett, on the screen for you. It is at BMI08449. You
10 say there, consistent with what you have just told us,
11 that:

12 "Sight deprivation is used to assist force
13 protection and security of other prisoners and captors.
14 From my experience of having observed escape and evasion
15 type training exercises in Germany, sight deprivation is
16 achieved using a sandbag."

17 Is that right?

18 A. That's what I saw, yes.

19 Q. Did you understand, therefore, that when it was
20 permitted to deprive prisoners of their sight, it would
21 be appropriate to use a sandbag for that purpose?

22 A. At that time I didn't give it any real consideration.

23 Q. But that is what you had seen on exercises; would that
24 be right?

25 A. I saw people with sandbags on their heads on exercises,

1 yes.

2 Q. Perhaps without going into unnecessary detail about the
3 exercise, when you saw sandbags being used, was that in
4 the context of what British soldiers could expect to
5 happen to them if they were taken prisoner?

6 A. That's probably what it was meant to achieve, yes.

7 I have to say this was when I was in the artillery and
8 I was merely taking part in the exercises in
9 a completely different role.

10 Q. So in the course of some kind of training exercise that
11 was teaching members of the artillery escape and
12 evasion, what to do if you are captured --

13 A. They were not members of the artillery. They were
14 members of the Royal Signalers and it was another unit
15 and we were providing a hunter force.

16 Q. Forgive me. Thank you. That is helpful. But it was in
17 that context then -- this was teaching members of the
18 Signalers, then, what to do if they were captured --
19 that you saw sandbags being used?

20 A. I'm not sure what it was used for. All I know is I saw
21 soldiers with sandbags over their heads.

22 Q. You appear to say here on paragraph 50 -- unfortunately
23 for us it goes over the page -- that from your
24 experience of that exercise, sight deprivation is
25 achieved using a sandbag. It does follow, does it, that

1 your understanding from having seen that was that if
2 sight was to be deprived, a sandbag was a legitimate way
3 of doing it?

4 A. I am not sure that there was any other way of doing it.

5 Q. You never saw the use, for example, of blindfolds or
6 blacked-out goggles used on exercises?

7 A. Well, soldiers didn't carry those sorts of things, but
8 every soldier carries a sandbag, so it is the obvious
9 thing to use.

10 Q. Thank you. So far as stress positions is concerned, had
11 you ever had any training as to whether or not stress
12 positions could be used?

13 A. No.

14 Q. What do you understand the term "stress positions" to
15 mean?

16 A. My understanding is that you place an individual in
17 a position which prevents him from reacting quickly and
18 allows you to search him, and that's something I saw
19 when I was in Northern Ireland quite frequently.

20 Q. We may have the difficulty that "stress positions" means
21 different things to different people, as you might
22 understand. Just dealing with what you understand
23 a stress position to mean as you have explained it to
24 us, did you understand that was something that was
25 legitimate for the British Army to use?

1 A. Yes it's the sort of thing you see the American police
2 doing when they stop someone on the roadside. It
3 putting -- it's like a star position.

4 Q. What about that star position -- perhaps fingers against
5 walls, that sort of thing -- being used for a longer
6 period of time than merely initial detention or an
7 initial search? Did you have any understanding whether
8 that might be legitimate?

9 A. That's not something that I have considered, but I would
10 have thought not.

11 Q. There is no reason why you should have seen it, but the
12 Inquiry has seen the video in relation to the treatment
13 of Baha Mousa and those detained with him, showing the
14 prisoners being held in a ski-sit position, back against
15 the wall --

16 A. Sorry in a what?

17 Q. A ski-sit position, back against the wall, but with
18 thighs parallel to the ground. Do you understand the
19 position I am talking about?

20 A. I think I can imagine it, yes.

21 Q. Had you ever come across that at all?

22 A. Only at boarding school.

23 Q. So that we have it, would you have understood whether or
24 not that might be legitimate to use in any
25 circumstances?

1 A. It can't be legitimate because it contravenes the
2 Geneva Convention.

3 Q. The sort of position I think that you are describing
4 that might be used -- and perhaps which you saw in
5 Northern Ireland -- has been described by other
6 witnesses as a control position, something that you
7 might use to control people at an initial point of
8 capture. Do you follow?

9 A. It's not a term I have heard, but it would make sense,
10 I suppose.

11 Q. But in terms of the risk for ambiguity of language and
12 misunderstanding to occur, perhaps just this: "stress
13 position" to you meant that low-level type of position
14 used on initial capture or search; would that be right?

15 A. Yes, correct.

16 Q. Thank you.

17 A. In fact I have not heard of the term "stress position"
18 until this ...

19 Q. Help us with that if you may, then, because if we look
20 at paragraph 48 of your statement at BMI08449, it was
21 your wording in your statement:

22 "My understanding of the term 'stress positions' is
23 the placing of an individual in a position which is not
24 a natural stance so that the individual is unable to act
25 quickly ...", and so on.

1 What did you know those type of positions as if it
2 wasn't as a "stress position"?

3 A. We didn't really have a name for it.

4 Q. You didn't have a name for it?

5 A. No. It was just a position.

6 Q. Thank you. Finally on those positions, did you have any
7 understanding at all of whether or not those sort of
8 positions could be used as an aid to tactical
9 questioning or interrogation?

10 A. No.

11 Q. It's not something you had come across?

12 A. No.

13 Q. You deal with it in your statement, but so that we have
14 it, I think it is right, isn't it, that you don't have
15 any recollection of knowing before Baha Mousa's death
16 about the Heath ruling?

17 A. The what?

18 Q. The Heath ruling --

19 A. No.

20 Q. -- the statement by Prime Minister Heath in 1972 or of
21 any prohibition on the five techniques; that's not
22 something you had come across in your training?

23 A. Not at all, no.

24 Q. Thank you. I think also you confirm for us in your
25 statement, having been asked to look at it, that you

1 don't recall ever having seen or being aware of the
2 directive from 1972 which contained a prohibition on the
3 use of the five techniques; is that right?

4 A. No, I had never seen it until I received the bundle from
5 the Inquiry.

6 THE CHAIRMAN: I wonder if you could just speak up a little
7 bit. It is quite hard to hear, particularly at the
8 furthest extremities of this room. I would not mind
9 personally if you shouted into that microphone.

10 A. I will try my best, Sir.

11 THE CHAIRMAN: Thank you. I know it is not all that easy.

12 MR MOSS: Just finally on training -- we may touch on it
13 a little bit later -- but I think it is right, isn't it,
14 that in your role as ADI HUMINT you would not have been
15 familiar with the detail of what was taught on courses
16 at Chicksands?

17 A. That's correct, yes.

18 Q. And you didn't understand yourself as being responsible
19 for the detailed content of those courses either?

20 A. Also correct.

21 Q. May I turn, then, to some aspects relating to your role
22 in your chain of command in that post, Mr Kett, of ADI
23 HUMINT? Perhaps the chain of command first. I think it
24 is right, isn't it, that you reported to the director
25 general of intelligence collection, the DGIC -- is that

1 the correct terminology?

2 A. Yes.

3 Q. -- first Major General Laurie and then Air Marshal

4 Peach.

5 A. Correct.

6 Q. They in turn reported directly, did they not, to the

7 chief of defence intelligence?

8 A. Yes.

9 Q. That would have been, first of all, Air Marshal

10 Sir Joe French and then Lieutenant General Ridgway.

11 A. Correct.

12 Q. Thank you. Your title as ADI HUMINT, I wonder if you

13 can help us to understand the scale and nature of it.

14 I think you give the indication in your statement that

15 you headed up the DI HUMINT -- the directorate

16 intelligence HUMINT; is that right?

17 A. That's correct.

18 Q. That is the branch of which you were the head?

19 A. I was.

20 Q. So that we understand it, was the reality of that that

21 that was a very small staff branch indeed?

22 A. There were four of us.

23 Q. I think, in addition to you as its head, you explained

24 that there was an S02 and an S03.

25 A. That's correct, and a civilian.

1 Q. And...?

2 A. And a civilian.

3 Q. Thank you. It was the SO3, you tell us, who dealt
4 principally with tactical questioning and interrogation
5 matters. Is that the reality of it?

6 A. That's correct, yes.

7 Q. So that we understand the context of your evidence, you
8 tell us candidly in paragraph 1 of your statement --
9 there is no need for us to have it on the screen -- that
10 the reality is that, before the various documents were
11 put to you by the Inquiry for the purposes of you
12 drafting your statement, you simply had no recollection
13 at all of you having been involved in any matters
14 relating to tactical questioning or interrogation; is
15 that right?

16 A. Sorry, I do not understand exactly what you are saying.

17 Q. Forgive me. If we look at paragraph 1 of your statement
18 at BMI08434, you say:

19 "I wish to state that I had no recollection of
20 dealing with matters relating to interrogation and
21 tactical questioning until I was shown and had read the
22 documents listed below."

23 A. What I am saying there is I didn't remember the details
24 of it. Clearly the branch was responsible for that, but
25 I don't remember any of detail.

1 Q. I follow. So it is not that you didn't recall any
2 dealings of interrogation or tactical questioning, but
3 the detail of it had evaded you. Is that --

4 A. I am sorry if I misled you there.

5 Q. Not at all. That is the purpose of asking the
6 questions, to clarify it.

7 Thank you. Can I turn, then, from the branch and
8 the chain of command to your role? Correct me if I have
9 this wrong. I think you tell us essentially that your
10 role was fourfold and that one aspect -- and the first
11 matter we should look at just briefly -- was that you
12 managed directly certain intelligence assets. You set
13 that out. Could we look, please, at paragraph 18 of
14 your witness statement at BMI08440. You say there:

15 "I also had responsibility for the direction and
16 management of some DIS HUMINT collection assets
17 including the UK contribution to the quadripartite
18 debriefing programme and of military intelligence
19 liaison officers ...", and so on.

20 Without ignoring the rest of the paragraph, I think
21 that perhaps those are not matters directly relevant to
22 the Inquiry, save that that was part of the make-up of
23 your workload; is that right?

24 A. It was, at the time, quite a considerable part of the
25 workload because of the various operations that were

1 going on across the globe.

2 Q. Thank you. In terms of context one should no doubt keep
3 in mind that point that you make -- would that be
4 fair -- that you were not just dealing with Operation
5 Telic come 2002/2003, but with other operations
6 worldwide.

7 A. Telic played a very small part in our overall activity.

8 Q. Thank you. Apart from the management of those assets,
9 you set out in your statement the second part of your
10 role, which was to deal with capability matters. Can we
11 look at paragraph 14 of your statement, please, at
12 BMI08349, where you say that:

13 "The day-to-day role ... was to act as a focal point
14 within the ... DIS for the provision of trained HUMINT
15 capability in support of operations and also the
16 management of DIS HUMINT collection operations mentioned
17 at paragraph 18 ..."

18 On the point about capability, can you just help the
19 Inquiry to understand in real terms what that
20 responsibility involved?

21 A. It was twofold. First of all it was actually generating
22 a more permanent capability and a large amount of staff
23 work was involved in that aspect. The second part was
24 helping to find individuals in order to -- for them to
25 be deployed on operations. We had a database of all the

1 people with all the various qualifications.

2 Q. So would this be right? When PJHQ said that there was
3 an operational requirement on an active operation for
4 particular types of human intelligence capabilities, it
5 was your job to find those resources for them one way or
6 the other?

7 A. No. We would get involved once the three services had
8 failed to identify the capability.

9 Q. So only if the three services had difficulty in meeting
10 the PJHQ requirement would you get involved?

11 A. Exactly.

12 Q. Thank you.

13 Thirdly in your role I think we come to training.
14 Can we look at paragraph 17 of your statement, please?
15 You say that the directorate intelligence HUMINT acted
16 as the sponsor for all HUMINT training. Again, just
17 help us with the terminology. The "sponsor for
18 training", what does that mean in real terms?

19 A. The best way to describe it is to act as the interface
20 between the HUMINT trainers and the rest of the MoD
21 really. So if they needed additional resources,
22 vehicles and things like that, then they could use our
23 branch as a mechanism in order to achieve that.

24 Q. You go on to say, perhaps reflecting that in
25 paragraph 17, towards the bottom of the paragraph:

1 "DI HUMINT was responsible for ensuring that
2 sufficient training capacity was available to provide
3 the required level of capability to meet operational
4 needs and for setting HUMINT training priorities to meet
5 those operational needs and this was achieved through
6 interaction with the three services and other MoD
7 departments."

8 But presumably not, as you told us earlier on, to
9 get involved in the detail of the training itself?

10 A. No, it would be, if they needed more instructors, we
11 could act as a conduit for the three services to try and
12 find those people, that type of thing.

13 Q. Thank you. Then the fourth aspect of your role, which
14 you summarise in your statement -- if we could go down
15 the page to paragraph 19, please, Mr Kett, do you see
16 there that you were accepting in your statement that the
17 directorate, of which you were the lead, also had
18 responsibility within DIS in the development of HUMINT
19 doctrine including interrogation and tactical
20 questioning; is that right?

21 A. Yes.

22 Q. Just while we have that on the screen, you say that in
23 relation to that doctrine -- you went to say:

24 "... which was at that time being written by the
25 JDDC."

1 What doctrine being written by the JDDC or the JDCC,
2 whichever it was -- what doctrine are you actually
3 referring to there?

4 A. I think, if I recall correctly, it was the JWP 1
5 revision and they were also looking at other aspects of
6 HUMINT doctrine as well.

7 Q. The Inquiry has seen JWP 1-10. Is that what you are
8 referring to in the first of those --

9 A. I think so, yes.

10 Q. The document that deals with prisoner handling and --

11 A. Yes.

12 Q. -- to an extent with prisoners of war and prisoner of
13 war handling?

14 The Inquiry has seen that that was finalised in
15 2001, so perhaps would have been in drafting or in
16 finalisation just in the first few months if you started
17 in November 2000 of your posting. Would that seem
18 right?

19 A. That would be correct, yes.

20 Q. The other, the more generalised intelligence policy,
21 JWP 2, I think, was that being drafted --

22 A. JWP 2?

23 Q. Yes.

24 A. Yes. It wasn't our responsibility, but it was an
25 important document for all intelligence practitioners.

1 Q. Thank you. May we turn then, please, just briefly, to
2 the defence HUMINT working group? Can we look at
3 paragraph 23 of your statement? You say there that:

4 "The main work strand of the defence HUMINT working
5 group was the production of a paper for the chiefs of
6 staff that would lead to the development of a defence
7 HUMINT capability to fulfil a growing need for HUMINT
8 operators."

9 Can I just ask you about that? You make several
10 references in your statement to the fact that a large
11 part of your work in this area was building up
12 capability in what eventually became, if I have
13 understood it correctly, a defence HUMINT unit; is that
14 right?

15 A. I believe that happened after I left DI HUMINT, but,
16 yes, that was the aim of the exercise.

17 Q. Looking at it just at a very general level, would it be
18 right that, alongside the detailed documents which I am
19 afraid we will look at in relation to interrogation
20 policy, that there was a much broader review going on
21 into the capability requirements which, as you say,
22 became finalised after you had handed over to
23 Colonel Pedley?

24 A. Could you repeat that? Sorry.

25 Q. Forgive me. It is my fault. There is reference within

1 the papers to a broader document and review of
2 capability in HUMINT which you say led to the setting up
3 of the defence HUMINT unit. Was that going on in
4 2002/2003?

5 A. That was going on the whole of my time as ADI HUMINT and
6 it was the main work strand of my divisions.

7 Q. Was that also, as you appear to indicate here at
8 paragraph 23, a significant part of the work of the
9 defence HUMINT working group?

10 A. Yes.

11 Q. Thank you. If we look at paragraph 24, please, of your
12 statement, you say in general terms that:

13 "The task of delivering a coherent HUMINT collection
14 capability was one of the highest defence priorities
15 throughout the time I was in DIS and overshadowed all
16 other work in order to meet operational demands and to
17 fill what was, at the time, a critical capability gap
18 within UK defence."

19 Does that remain your evidence, that that was really
20 the focus of your work?

21 A. Yes.

22 Q. You go on to say:

23 "It must be stressed that the shortage of other key
24 HUMINT skills, which were considered to be far more
25 pressing than interrogation and tactical questioning,

1 were therefore of paramount consideration at the time."

2 Looking at it in general terms, is what you are
3 candidly saying to the Inquiry that tactical questioning
4 and interrogation was not high up on the priority lists
5 so far as --

6 A. At that time, yes.

7 Q. Thank you -- so far as capability is concerned?

8 A. Yes.

9 Q. Perhaps for reasons that you will understand, you could
10 just answer the following questions "yes" or "no".

11 Is it right that the HUMINT work with which you were
12 involved would have covered quite a spectrum of
13 different types of HUMINT work?

14 A. Yes, but we were focused on one particular area, which
15 I --

16 Q. Just pause, if you would. Again perhaps you can just
17 answer this question "yes" or "no". Were you
18 particularly concerned to deal with the types of
19 intelligence work that field HUMINT teams might have
20 been involved with?

21 A. Correct. That's what I am referring to and that was in
22 desperate short supply at that time.

23 Q. Thank you.

24 You have obviously been asked to look at a large
25 number of documents in preparation for giving your

1 evidence. Would you accept, having been able to look at
2 those, that with hindsight the capability and perhaps
3 the doctrine as well, in relation to tactical
4 questioning and interrogation, ought to have been given
5 greater priority at this time?

6 A. No, I do not think so.

7 Q. Because ...?

8 A. Because what we were doing was -- and I still am
9 convinced -- was of much higher priority, given the
10 pressures we were under.

11 Q. Now I would like to turn just briefly, if I may,
12 Mr Kett -- we will perhaps come back to that matter --
13 to some developments which the Inquiry knows had
14 happened before you came into post as ADI HUMINT.
15 I want to ask you about them just to establish what your
16 state of knowledge was.

17 Could we look for this purpose, please, at
18 MOD028345? Mr Kett, the Inquiry knows that the CO of
19 JSIO at Chicksands had invited one of his OCs to do some
20 research and to conduct a study on interrogation and
21 capabilities for interrogation. Leading out of that
22 there was a paper which -- several papers, but you have
23 one of them in front of you on 2 May 2000 -- which dealt
24 with interrogations, as we will see at the top:

25 "Doctrine, assets, training and the way ahead."

1 Within this, if we just turn to paragraph 7, please,
2 what was being said by the CO of the JSIO was that:

3 "It is evident that the interrogation function has
4 not been properly addressed for several years. It is
5 still regarded as a useful weapon in the HUMINT armoury,
6 enabling the discipline to span all types of operational
7 scenarios. Direction and firm policy need to be the
8 start point for any re-examination."

9 Then there was a warning in paragraph 8 about the
10 risks of procrastination.

11 "The issues requiring clarification are complex,
12 especially legal parameters; this is traditionally a
13 charter for procrastination but they should not be
14 allowed to slow the pace of change if this is what is
15 required."

16 Then "Recommendation":

17 "It is recommended that a suitable working group --
18 perhaps a subset of the defence humane working group --
19 be convened to address the issues raised in the paper.
20 Membership to be directed by the ADI HUMINT ..."

21 This 2 May document is, of course, a few months
22 before you took up the post. Were you aware of this
23 going on either before you became ADI HUMINT or once you
24 did, that it was being recommended that a subset of the
25 defence HUMINT working group, with membership to be

1 directed by the person in your post, should look at
2 these problems in relation to interrogation policy and
3 capability?

4 A. I am not aware of that recommendation, no.

5 Q. Given that that was a recommendation made just a couple
6 of months before you did take up post, is that not
7 something, if the system had worked correctly, that you
8 would have expected, as it were, to be in your in-tray
9 come November 2000?

10 A. Having read the bundle, I think this was the precursor
11 to the paper that was then presented to the defence
12 HUMINT working group.

13 Q. I follow that and we will come on to that. The reason
14 for my asking about this in terms of your in-tray and
15 when you took up post is that those documents are some
16 considerable time later, 2002, so I am seeking to
17 understand, when you took up post, whether this was
18 something of which you had any awareness at all.

19 A. Well, I don't think we assumed responsibility for
20 interrogation until 2002 anyway and this appears to be
21 an international internal DISC document, so I don't
22 think I would have known about it.

23 Q. Understanding that, because you rightly say that in
24 terms of the policy lead you did not take on
25 responsibility until 2002, as you have seen from the

1 recommendation it was being suggested that nevertheless
2 the defence HUMINT working group should look at this or
3 at least a subset of it and, indeed, that the membership
4 of the group to look at it will be directed by
5 ADI HUMINT. But you say, do you, that this is something
6 that you do not recall being drawn to your attention?

7 A. That appears to be just a suggestion on an internal note
8 and I don't know whether that ever came up to
9 ADI HUMINT.

10 Q. Thank you. The paper that was attached to this -- may
11 we just go on a couple of pages to MOD028348 -- in terms
12 of current doctrine, paragraph 4 referred to a number of
13 references and said that they are the current national
14 and NATO publications covering EPW handling. Then
15 a couple of lines further on:

16 "By adopting [the two STANAGs that applied] ... the
17 UK appears, by default, to have adopted their content as
18 national doctrine. Extensive searching has not revealed
19 any parallel national requirements."

20 Then reference E, which was a reference to JWP 1-10,
21 which was in the late stages of drafting -- so JWP 1-10
22 will replace reference A. It went to say in this report
23 or this paper that it dealt with "... advice on
24 interrogation, tactical questioning techniques and the
25 processing of captured documents and equipment for

1 intelligence purposes. It otherwise deals with
2 interrogation in a cursory manner".

3 If we go on, I think, to paragraph 17, there was
4 a section in the paper on "Doctrine and assets":

5 "Current doctrine dates from the end of the 1940s.
6 It is still relevant for Article 5 operations ... but
7 becomes less applicable as the level of conflict
8 addresses and the complexity of political, legal and PR
9 requirements increases."

10 So setting out various concerns again about the age
11 of the doctrine. Were those issues of which you were
12 aware or you were made aware when you became ADI HUMINT?

13 A. They weren't made aware to me -- I wasn't made aware of
14 them directly, but I knew that doctrine was being
15 revised and I knew that work was being undertaken in
16 that area.

17 Q. When you say that doctrine was being revised, so that we
18 understand it, is that again a reference to JWP 1-10?

19 A. Yes.

20 MR MOSS: Sir, would that be a convenient moment?

21 THE CHAIRMAN: Yes. We are going to finish him all right
22 tonight?

23 MR MOSS: Yes.

24 THE CHAIRMAN: All right. We will have a break. I say
25 "finish him" in that rather undignified way. We will

1 get through your evidence, I hope. We will take a break
2 now for about ten minutes. Please do not talk to
3 anybody about your evidence during the course of the
4 interval.

5 (3.19 pm)

6 (A short break)

7 (3.28 pm)

8 THE CHAIRMAN: Yes.

9 MR MOSS: Thank you, Sir. Taking it chronologically then,
10 Mr Kett, can we move forward in time then to the spring
11 2002 and look at things at that stage?

12 MOD037444, please. Mr Kett, this is a document
13 dated 28 March 2002. If we go over the page, we can see
14 that it comes from Brigadier Barry from the DASD. Is
15 that the director of army staff duties?

16 A. I believe so, yes.

17 Q. Thank you. It is going, as we see at the top of the
18 28th, to both the director of military operations at MoD
19 and to your superior officer, as it were, the DGIC. Do
20 you see that there?

21 A. Yes.

22 Q. The context, so that we have it, its title is "Prisoner
23 handling and tactical questioning capability" and
24 Brigadier Barry wrote in paragraph 1:

25 "The developing operational situation in Afghanistan

1 brings the potential intelligence acquisition from
2 prisoners through timely and effective tactical
3 questioning into sharp relief."

4 So that is the background against which the
5 Brigadier appears to have been writing.

6 "I have the impression that the unit and formation
7 capability which the army maintained during the cold war
8 and utilised to considerable effect during Op Corporate
9 has atrophied."

10 It goes on to talk about the army personnel and
11 training, and down in paragraph 3 he went on to say
12 that:

13 "The lack of [prisoner handling and tactical
14 questioning] ... trained personnel within deployed
15 forces elements risks the loss of potentially accurate,
16 timely and life-saving information/intelligence during
17 war-fighting operations."

18 Pausing there, that is a concern being raised about
19 the lack of capability in this area, isn't it --

20 A. It would seem so.

21 Q. -- giving rise to risks of not being able to get
22 intelligence.

23 "I understand that ADI HUMINT [a reference to you]
24 will assume responsibility for intelligence policy from
25 April 2002."

1 Pausing there, I think you said in your witness
2 statement that you had forgotten until you saw this
3 document that it was only in 2002 that you assumed the
4 actual responsibility for interrogation policy, but that
5 this brought back a recollection; would that be fair?

6 A. That's correct, yes.

7 Q. "I believe TQ policy should be an integral part of this
8 function and would welcome DGIC's view.

9 "Within the army I believe we need to address the
10 capability requirements and mechanisms whereby we can
11 redevelop our ability to exploit the intelligence value
12 inherent in the capture of enemy personnel whilst
13 ensuring deployed elements adhere to prisoner handling
14 techniques to meet both intelligence and legal/moral
15 requirements. The less well trained our troops are, the
16 greater the chance that they may mishandle prisoners."

17 Just pausing there, I asked you a little earlier
18 about whether, in hindsight, greater attention ought to
19 have been given to the capability and doctrinal
20 difficulties in the area of tactical questioning and
21 prisoner handling, and here was a warning, was there
22 not, that if these areas continued to be neglected, the
23 greater the chance that prisoners would be mishandled?

24 A. Sorry, I --

25 Q. Is that right, that that was the nature of the warning

1 that was being given, that neglecting the area of
2 tactical questioning/interrogation posed a risk of
3 prisoners being mishandled?

4 A. That's what appears to be said there, but I still
5 maintain that it was small beer compared to the issues
6 we were facing at the time and prisoner handling wasn't
7 our responsibility.

8 Q. Did you not understand that one of the courses that was
9 given at Chicksands was actually called "the prisoner
10 handling and tactical questioning course" in part
11 because how prisoners should be handled prior to
12 tactical questioning and during the course of tactical
13 questioning was an integral part of the
14 intelligence-gathering process?

15 A. Yes, but prisoner handling was not under our remit.
16 That was a G1 responsibility and we did not get involved
17 in that.

18 Q. Now, Brigadier Barry gave there the date of 8 April
19 2002. As far as you can remember, is that about the
20 time that you did, in fact, take over responsibility for
21 interrogation policy?

22 A. I remember taking over interrogation at that time.
23 I can't recall exactly when or indeed if tactical
24 questioning was formally handed over to us.

25 Q. Can I ask you about what steps you took when it did come

1 your way as an area of policy responsibility,
2 interrogation policy? Did you take any steps to
3 familiarise yourself at that stage with what the
4 existing policies were and what work was going on in the
5 area, what the issues of concern might be?

6 A. What we did is we -- I say "we" -- I looked at it and,
7 to my mind, the interrogation operations had been listed
8 as successful in the past. There were no issues being
9 raised to us, there were no urgent doctrinal issues that
10 were being brought to our attention, no policy issues
11 being brought to our attention and there was nothing in
12 our work strand that said that urgent action needed to
13 be taken. So we knew stuff had to be done, but we
14 processed it at a lesser priority to the more urgent
15 things that we were dealing with.

16 Q. I will come back to the answer you have just given in
17 due course about nobody was raising problems or anything
18 that was urgent, but can I just ask you specifically
19 about the policies? Did you, at that stage, inform
20 yourself about what the policies were in this area once
21 you took over responsibility? Did you have a briefing,
22 for example, about --

23 A. No, nothing formally came. I just based it on what
24 I knew at the time and, as the papers came through, so
25 we increased our knowledge. But I didn't go through

1 a review at the time, no.

2 Q. If we can look just briefly, please, at MOD041753?

3 I think you will be aware of this document. You were
4 asked to look at it for the purposes of your statement.
5 We are going back in time to 21 July 1997. We see at
6 paragraph 2:

7 "Addressees may wish to note that UK
8 interrogation policy is now vested in the new Joint
9 Service Intelligence Organisation which forms part of
10 [DISC] ..."

11 So that seems to suggest that prior to you taking
12 over the policy responsibility for interrogation, it lay
13 with the JSIO at Chicksands --

14 A. That was my understanding.

15 Q. Thank you. Paragraph 1 of this document from 1997 was
16 canceling part of the 1972 Directive and issuing a new
17 high level policy for interrogation and related
18 activities which, if we go to MOD041755, we will see set
19 out and with which this Inquiry is now quite familiar.

20 Continuing to prepare at (a) for ...

21 "... prepare and train in peace-time for tasks
22 involving the questioning of PW ...", and so on.

23 At (d):

24 "Procedures used by UK interrogators ... should be
25 governed by a detailed directive ...", and so on.

1 That appears to have been the high level policy that
2 was in place at the time. Was that not something with
3 which you familiarised yourself at the time?

4 A. I didn't know of its existence. It wasn't brought to my
5 attention and I hadn't seen it until the bundle of
6 evidence was provided to me.

7 Q. Did you call or ask for -- whether from your staff or
8 from JSIO perhaps -- what the extant policy in this area
9 was?

10 A. No.

11 Q. Do you think you ought to have done that?

12 A. No, because I was under the impression that things were
13 okay. There were no urgent issues that needed
14 addressing when compared to the other things we were
15 doing.

16 Q. Thank you. Can we then turn to that? Perhaps we can
17 pick it up by looking at paragraph 27 of your statement.
18 That's at BMI08443. You say within this paragraph of
19 your statement, towards the bottom of the paragraph:

20 "In these circumstances little staff effort was
21 devote to the subject of interrogation. It was
22 something that DI HUMINT planned to turn attention to;
23 once more pressing capability gaps had been resolved."

24 One bears in mind what you said about where your
25 attention was focused. At the top of paragraph 27:

1 "... I learned that there was very little interest
2 in interrogation, as it was regarded largely as
3 a defunct capability ..."

4 Those sort of sentiments, is that why you say you
5 didn't look at what the extant policy was, because
6 nobody was raising concerns and it was seen as a low
7 level priority?

8 A. Certainly within the three services there was no visible
9 interest in the capability and when it was ever
10 mentioned or raised, we never had any form of reaction
11 that it needed to be invigorated. So, yes, that's why
12 it was dealt with as a lesser priority.

13 Q. So the army, the air force and the navy were not, as it
14 were, tugging your collar in any way to say that there
15 were problems with interrogation. Would that be fair?

16 A. Well, there was no capability so there was nothing to
17 work on.

18 Q. When you said in paragraph 27, "I learned that there was
19 very little interest in interrogation, as it was
20 regarded largely as a defunct capability", did you
21 really mean that literally?

22 A. I think "defunct" is a strong word. "Dormant" might
23 have been a better word to use.

24 Q. Was it not the case that there were elements who were
25 raising quite serious concerns about the lack of

1 capability in relation to interrogation and tactical
2 questioning?

3 A. Yes, within the profession, within the intelligence
4 community, but outside of that there was no interest
5 whatsoever.

6 Q. Well, if the professionals who were dealing with it --
7 and we will look at a couple of examples -- were raising
8 serious concerns, is that not something to which you
9 should have paid attention, even if the three services
10 appeared themselves to be looking at it as a low
11 priority?

12 A. Yes, and we did.

13 Q. In what way did you -- when you say you did --

14 A. Well, it was being staffed by the defence HUMINT working
15 group and it was -- the policy was being revised, but it
16 was being done at a much slower speed and a lower scale
17 than the other activities we were involved in.

18 Q. Just to take two examples, if we may look at them. The
19 first is the document we saw a moment ago, MOD037444,
20 that memorandum from Brigadier Barry, it would seem
21 arising out of Op Herrick Afghanistan operations.

22 If we have paragraphs 3 and 4 back, that was
23 raising, was it not, concerns both about the loss of
24 intelligence if there wasn't the TQ capability and, as
25 I suggested to you a few moments ago, a knock-on effect

1 of a risk of prisoners being mishandled if the
2 capability was allowed to atrophy.

3 A. I thought you were talking about interrogation in the
4 last piece we looked at.

5 Q. Well, the two together --

6 A. No, they don't go together in my mind. They are
7 separate entities and we were dealing with interrogation
8 in terms of the JWP. The tactical questioning came
9 later.

10 Q. Well, all right, in relation to tactical questioning, if
11 paragraph 27 was only a reference to interrogation, was
12 it not the case that, in relation to tactical
13 questioning, serious concerns were being raised?

14 A. Concerns were being raised, but they weren't deemed as
15 serious in comparison to the other things we were doing.

16 Q. Could we just look, please, at a second document? This
17 is a 17 June 2002 paper from the JSIO. We have it at
18 MOD042040.

19 Mr Kett, as you will recognise, I am sure, this is
20 a document that came from a paper drafted by the CO of
21 JSIO. It is one, isn't it, of a number of documents
22 that you will have seen, a paper that moved during
23 time -- moved onwards in its drafting --

24 A. Yes.

25 Q. -- and eventually went to the defence HUMINT working

1 group. This was addressing, wasn't it, UK defence
2 policy for both tactical questioning and interrogation,
3 as you see at the top?

4 A. Yes.

5 Q. Where as you suggest in your statement that there was
6 little interest in this area, it is right, isn't it --
7 taking it generally -- if one looks at paragraph 1, that
8 this paper was raising real concerns.

9 "... there is no coherent operational capability for
10 tactical questioning and interrogation that enables
11 MODUK to comply with any of ..." the references that
12 were set out at the beginning of the document, including
13 JWP 1-10.

14 A. Well, I accept there was no capability. That was the
15 nub of the issue. Again, this is an internal document
16 to the intelligence practitioners.

17 Q. Well, it is not an internal document within JSIO at this
18 stage, is it?

19 A. No, agreed, but it was generated by the intelligence
20 practitioners and has not come from a wider concern
21 within defence that we need to do something urgently
22 about interrogation.

23 Q. Within this paper -- again, just to look, if we may, at
24 the nature of some of the concerns that were being
25 raised -- on any view, if I can take it shortly, the

1 vast majority of paper deals with capability aspects.

2 If we look at paragraph 10, we do see, however --
3 MOD042044 -- the comment being made that there is no MoD
4 endorsed doctrine for interrogation. It looks as though
5 that was something which was being drawn to your
6 attention at this stage, doesn't it?

7 A. Yes, and we were involved in the development of
8 doctrine, as I have already explained. There was no
9 MoD-endorsed doctrine for any of the HUMINT skills.

10 Q. When you say that you were involved in the development
11 of doctrine, what doctrine was being evolved --

12 A. This is JWP 1 that I refer to.

13 Q. Mr Kett, if you take it from me for the moment that by
14 this stage JWP 1-10 had been drafted because that had
15 been completed in 2001, so by this stage, when it is
16 being said that there is no MoD-endorsed doctrine for
17 interrogation, that is against the background that
18 JWP 1-10 had been drafted. So what policy or what
19 doctrine was in draft at this stage that was going to be
20 dealing with interrogation? Can you help us?

21 A. In that case I have no idea.

22 Q. Paragraphs 18 and 19 of this paper, if we may, please.
23 Again the nature of the warnings being given:

24 "Prisoners of war continue to be a vital component
25 of the MODUK HUMINT effort but JWP 1-10 is not being

1 complied with."

2 What would you have understood that to be
3 a reference to or to mean at this stage, the summer
4 2002?

5 A. I'm not sure. I don't know.

6 Q. It is quite a stark comment to make, isn't it, that the
7 primary doctrine that did exist was not being complied
8 with?

9 A. I don't know what it is referring to in that. Does it
10 mean the whole document or just part of it? I don't
11 know.

12 Q. At paragraph 19:

13 "The lessons of history have not been learned and
14 has resulted in an inability to meet current operational
15 requirements."

16 Entirely understanding the point you make that this
17 is part of the intelligence world that is raising these
18 concerns rather than the broader three services, this
19 does reflect, does it not, the specialists at JSIO
20 shouting really quite loudly about concerns that they
21 had in this area?

22 A. Well, my understanding was that that was related to the
23 lack of capability.

24 Q. Perhaps leading from that, if we look at paragraph 31 of
25 your statement:

1 " My recollection having read those documents is that
2 the work was focused on capability rather than policy
3 and doctrine."

4 That is really the point you have just made.

5 A. Correct.

6 Q. You go on to say:

7 " I am not aware that a 'relative paucity' of policy
8 and doctrine in respect of interrogation and tactical
9 questioning had been identified by November 1999 and
10 continued up to and including Op Telic."

11 I just wanted to ask you about that. You will
12 recall, if we can just go back to it, the references at
13 MOD028345. This was the precursor to that 2002 paper,
14 if you remember it -- the 2000 one -- and I took you to
15 MOD028348. If we can go forward to that, the current
16 doctrine section do you remember from this paper in
17 2000?

18 A. Yes.

19 Q. By 2002, once you had assumed responsibility for this
20 area, were these sort of concerns -- "Extensive
21 searching has not revealed any parallel national
22 requirements" -- not something that was made clear to
23 you?

24 A. Sorry, I don't understand the question.

25 Q. This paper from 2000 -- I entirely accept before the

1 time that you were ADI HUMINT and had taken on the
2 responsibility -- but years earlier had been saying that
3 there was not parallel national requirements to meet the
4 international STANAGs, so a lack of doctrine. Was that
5 really something which you were ignorant of come 2002?

6 A. It hadn't been drawn to my attention, but it would make
7 sense because all our operations were being done under
8 the auspices of NATO, which is what the STANAGs were
9 for.

10 Q. I don't know if you are aware, but the STANAGs deal with
11 these matters -- are you aware of this -- at a very high
12 level of generality. They don't give detailed doctrine
13 by and large. Were you aware of that?

14 A. They are a high level document, yes, I agree.

15 Q. So that is the 2000 document. But if we go back to the
16 17 June paper to look at how it developed -- we saw this
17 a moment ago, MOD042044 -- whereas you say that the work
18 was focusing on capability and you simply weren't aware
19 of a paucity of doctrine, one comes back, do we not, to
20 paragraph 10 in the middle of 2002 and a document that
21 is going to the defence HUMINT working group of which
22 I think you were -- were you the chair or simply
23 a member?

24 A. I was the chairman.

25 Q. -- of which you were the chair, saying that there was no

1 MoD-endorsed doctrine for interrogation.

2 A. There may not have been a doctrine that had been
3 endorsed by the MoD, but I cannot accept that there was
4 no doctrine. Interrogation has been practised and it
5 says so in those papers -- it had been practised
6 successfully since the end of World War II and the Gulf
7 War. Yes, there were problems with capability. If
8 there was no doctrine, then how on earth were those
9 operations conducted was the way I viewed it. There
10 must have been doctrine, there must have been a way of
11 doing it, otherwise it would not have taken place and
12 quite clearly it has taken place.

13 Q. Did you not, therefore, at this stage, question this
14 sort of information that was coming your way from S046,
15 the Colonel at Chicksands, to say "What do you mean
16 there's no MoD-endorsed doctrine for interrogation? How
17 can that be?"

18 A. I have to say it wasn't really raised as an issue. The
19 big issue was capability and that's what we focused on.

20 THE CHAIRMAN: Just pause for a moment. "Capability", what
21 do you actually mean by "capability"? People?

22 A. People, equipment, communications, the wherewithal to
23 actually go out and do interrogation. There just was no
24 capability in the UK armed forces at that time other
25 than a smattering of reservists.

1 Q. So there just were not sufficient soldiers actually to
2 carry out this work?

3 A. It depends what the task was. There were -- the way the
4 UK approached interrogation was there was no standing
5 capability. They generated a core from within JSIO
6 supplemented by reservists and that was the accepted way
7 of doing business. The paper that JSIO put forward
8 wished to change that and turn it into a recognised
9 capability. That was subsequently turned down and
10 rejected. The work I was doing was a similar thing,
11 developing FHTs to deliver other HUMINT capabilities, if
12 that helps explain it, Sir.

13 THE CHAIRMAN: To some degree, yes.

14 MR MOSS: It may be my fault, Mr Kett, for taking things too
15 shortly. S040, whose name is on your cipher list,
16 I think, told the Inquiry that, in terms of setting up
17 the JFIT for Op Telic -- to put some concrete detail on
18 what you are talking about, he said that the difficulty
19 there was that JSIO was expected to deliver that
20 capability of a deployable JFIT, but simply did not have
21 the manpower and that, in effect, what happened was that
22 it was one or two people from JSIO at its core and the
23 rest could only be met by calling up reservists who
24 hadn't necessarily been trained for that specific role.

25 A. Reservists and individuals with the requisite skills.

1 Q. Yes. And is it in that context of not having a standing
2 unit who is ready to deploy on operations to fulfil the
3 HUMINT requirements that you are talking about when you
4 talk about a lack of capability? Is that a concrete
5 example of it on Op Telic?

6 A. Yes.

7 Q. Just going back, if we may, then, to the account that
8 you gave in your statement suggesting that a lack of
9 doctrine was not something of which you were aware,
10 could we look at another document looking ahead to
11 11 December 2002? It is at MOD042058, please. We are
12 now looking at a memorandum, Mr Kett, if we go over the
13 page, from you. Can I ask you first of all, do you
14 remember what the context and the background was as to
15 why you came to write this note?

16 A. No, I do not. I don't remember it at all.

17 Q. Commodore Munns, who was the DACOS J2 at PJHQ, told the
18 Inquiry --

19 A. He was the ACOS.

20 Q. Forgive me, you are quite right, the ACOS of PJHQ. He
21 told the Inquiry that the background to this was that
22 PJHQ had held a number of workshops or seminars in which
23 they had updated the DIS staff at MoD on preparations
24 for operational planning and matters of that kind and
25 that, during one of those workshops or seminars,

1 concerns about capability and allied matters in relation
2 to tactical questioning had arisen and that, as he
3 recalled it, the DIC had effectively turned to you and
4 said "Colonel Kett, is that something you can look at
5 and address?" and Commodore Munns thought that this
6 document was your response to that, having been tasked
7 to look at what the issue was in relation to concerns
8 that were being raised by PJHQ in that area. Would you
9 take issue with any of that?

10 A. I don't remember any of those meetings and I don't
11 recall when that document was written or what caused it
12 to be written. All I can say is it looks like an
13 internal document from me to DGIC.

14 Q. Focusing for the moment on matters relating to doctrine
15 and your suggestion that a lack of doctrine in this area
16 was not something that was brought to your attention, we
17 see that this is entitled "Tactical
18 questioning/interrogation situation", and the background
19 in the memorandum that you yourself are writing seems to
20 be:

21 "The need to examine interrogation policy, develop
22 a joint doctrine for interrogation and capability
23 requirements were recognised in early 2002."

24 You go on to comment about the paper that we saw
25 earlier on that was in the course of being drafted and

1 perfected. Do you follow?

2 A. Yes, yes.

3 Q. In paragraph 3, under "Policy" you said that:

4 "Doctrine for handling and questioning prisoners of
5 war is given in reference B."

6 But you went to say:

7 "It is clear that TQ is conducted by capturing unit
8 personnel and that TQ is acceptable from both
9 a doctrinal and legal position. Further work is
10 required in developing the CONOPS ..."

11 Concept of operations?

12 A. Yes.

13 Q. "... and tactical doctrine notes. This will occur
14 following the JSIO study."

15 I am going to ask you some questions about this in
16 a moment, but could we just look as well at paragraph 5?

17 "Despite the outstanding work to be done to develop
18 doctrine for TQ, plans are well advanced for any Gulf
19 deployment in the near to medium term."

20 Those references, paragraph 1 and paragraphs 3 and
21 paragraphs 5 taken together, do they not show, Mr Kett,
22 that clearly you were alerted to a need for doctrine in
23 relation to TQ and interrogation to be further
24 developed?

25 A. I have always said that we were working on the doctrine.

1 We were developing it and the JWP was being written and
2 we were party to that.

3 Q. The difficulty, you see, Mr Kett, may be said to be
4 this: although you say that you were working on the
5 doctrine, there is no evidence, other than your say-so,
6 available to the Inquiry that there was any work ongoing
7 on TQ and interrogation doctrine at this stage because
8 JWP 1-10 had been finalised by this stage some 18 months
9 or so previously in 2001 --

10 A. My recollection is that it was being rewritten. I am
11 sure of that. But I am -- I stand to be corrected.

12 Q. If we look at paragraph 3 and "Policy", what you seem to
13 be saying at the time was that further work was going to
14 be dealt with after the JSIO study; not "We are working
15 on this doctrine at the moment", but "the doctrine will
16 follow the capability paper".

17 A. Oh yes. What I said there was that further work was
18 required on the CONOPS and the -- it is actually
19 saying -- sorry, I misunderstood it. The doctrine is
20 actually in place with the JWP -- I think that's what
21 I say -- but we are still doing the work on the CONOPS,
22 the concept of operations, and the TDNs. So I do not
23 understand what is missing.

24 Q. All right. Perhaps we can look at it in this way: so
25 far as JWP 1-10 is concerned, if one just looks at what

1 you are saying in paragraph 3, you said the doctrine for
2 handling and questioning of prisoners of war is given in
3 reference B, which is the reference to JWP 1-10. Did
4 you mean to say there that both interrogation and
5 tactical questioning were matters that were dealt with
6 in JWP 1-10 and that that's where the doctrine was to be
7 found?

8 A. Yes.

9 Q. Did you look at JWP 1-10?

10 A. Yes.

11 Q. You did?

12 A. Yes.

13 Q. What did you understand JWP 1-10 to contain so far as
14 interrogation was concerned?

15 A. It lays out the whole gambit of how it is to be
16 conducted and the rules and the various regulations, the
17 conventions.

18 Q. You say it lays out the whole gambit of how it was to be
19 conducted.

20 A. Yes.

21 Q. Do you include in that interrogation?

22 A. Yes.

23 Q. So you would not expect JWP 1-10 to make only passing
24 reference to interrogation?

25 A. I would, yes, because the detail would have been --

1 that's part of the training that the practitioners have.
2 It's a doctrine note and doctrine is just laying down
3 the general procedures of how you go about something.

4 Q. So when one looks at MOD013432, JWP 1-10, in the
5 introduction to it -- again the Inquiry has seen this
6 a number of times -- in paragraph 5, what JWP 1-10 said
7 was that:

8 "It should be noted that the publication, whilst
9 making ..."

10 A. Which document is this?

11 Q. JWP 1-10, the introduction:

12 "It should be noted that the publication, whilst
13 making passing reference to the interrogation of PW,
14 does not deal with the subject in detail."

15 If we go on to look -- can we just go on to
16 MOD043471? The tactical questioning section that is
17 relevant is really restricted to the passage that I am
18 just showing you now. Could we just highlight, please,
19 paragraph 3 for Mr Kett? So for tactical questioning
20 there is that guidance, but no equivalent section on
21 interrogation, if you take it from me for the moment.
22 Were you aware that the references to interrogation were
23 as limited as that?

24 A. I suppose I must have been because I have read it, but
25 I didn't think it needed anything else in there.

1 Q. So it comes to this, does it? The detail you would
2 expect to be entirely dealt with, what, in training
3 materials rather than written anywhere else?

4 A. Well that's certainly the way all of the other HUMINT
5 activities were practised. If I look at the other
6 things we were involved in, there was a broad doctrine
7 being written, but the detail of how it actually was
8 conducted would not appear in there.

9 Q. If one goes back to the 1997 policy, the ministerially
10 endorsed policy for the time -- MOD041755 -- seemed, did
11 it not, to say the opposite at paragraph 1(d) -- and
12 I preface my question with a reminder that you were not
13 yourself aware of this at all -- it did seem to require
14 that "Procedures used by UK interrogators in an
15 operational theatre should be governed by a detailed
16 directive that incorporates current legal advice and is
17 issued on behalf of the UK joint commander". So
18 a slightly different context, but at least from the
19 point of view of an operational directive, there seemed
20 to be a requirement, did there not, for the details of
21 the procedures to be set out?

22 A. Yes.

23 Q. May we look, please -- again, just so we can understand
24 what it is that you are saying on this and the
25 requirements and what the requirements might have

1 been -- if we look briefly at MOD028370, you refer in
2 your statement to JWP 2 -- JWP 2 being the general joint
3 warfare publication that dealt with the architecture --
4 would that be fair -- of intelligence matters?

5 A. Yes, yes.

6 Q. The Inquiry knows that until the late 1990s or perhaps
7 the early 2000s there was a joint service publication,
8 the Manual of Service Intelligence, of which this is the
9 cover sheet. Would you have been familiar with JSP 120?

10 A. I don't recall it.

11 Q. You see there volume 6, "Interrogation in war". Was
12 that something that you had ever looked at, part 6 of
13 the Manual of Service Intelligence dealing with
14 interrogation in war?

15 A. I don't remember seeing it, no.

16 Q. I am not, you will be relieved to know, going to take
17 you to the detail of it, but just to get a flavour, can
18 we look at MOD028376. This is the contents section for
19 chapter 6 of JWP 120(6). Perhaps I can just invite you
20 to skim-read through it. Over the page we see, so far
21 as prisoner handling is concerned -- and you see all the
22 matters of detail set out in relation to how prisoners
23 were to be dealt with within holding areas, tactical
24 questioning, interrogation and the like.

25 Again, was that something that -- perhaps there is

1 no reason specifically why you should have been -- but
2 was that something that you were aware of that those
3 matters had previously been dealt with in detail in part
4 of a Manual of Service Intelligence?

5 A. I wasn't aware it was in a Manual of Service
6 Intelligence, but I made the assumption that that
7 information had been captured somewhere, yes.

8 Q. And what the Inquiry has been told -- I raise it so we
9 can have your comment and your assistance on it -- was
10 that that was superseded by the JWP 2 that you refer to
11 in your statement, the joint operation and intelligence.
12 Let us look at that. It is at MOD054517, the joint
13 warfare publication, joint operational intelligence.

14 If one goes to MOD054520, again without going
15 through the detailed contents of it, do we see that
16 JWP 2, the successor, dealt really with the architecture
17 and matters such as the intelligence cycle, operation
18 intelligence architecture and, over the page, guidelines
19 for joint intelligence practice, and that what seems to
20 have happened is the chapter dealing with interrogation
21 in war has dropped out altogether once it came to JWP 2?
22 Do you see that?

23 A. Yes, I do.

24 Q. That is not referred to in the contents. Again, was
25 that something that you became aware of, that the new

1 doctrinal publication on operational intelligence
2 generally now omitted detailed guidance for
3 interrogation in war?

4 A. No, I was not aware of that.

5 Q. Again, bearing in mind your responsibilities for
6 doctrine in this area, 2002, do you not think that that
7 is something which you ought to have been aware of?

8 A. If I thought there was a problem with the doctrine,
9 then, yes, probably.

10 Q. The various references that I have taken you to,
11 including the June paper, saying in terms "There is no
12 MoD-endorsed doctrine", does that not indicate that you
13 were being put on notice of a lack of doctrine in this
14 area?

15 A. No, I am not sure that what is in the original paper is
16 actually doctrine. I am struggling with the term of
17 what doctrine practices actually are --

18 THE CHAIRMAN: I am bound to say that I am also struggling
19 with it.

20 A. I think this is a doctrine paper in its true sense and
21 the one you showed me before is not a doctrine paper --

22 MR MOSS: JWP 120(6).

23 A. Yes, I don't think that is doctrine. I may be wrong,
24 but I do not understand that as doctrine. JWP 2 and JWP
25 1 to my understanding are doctrine papers produced by

1 the Joint Doctrines Organisation.

2 Q. Yes.

3 A. I am having real difficulty understanding what is meant
4 in these documents by "policy", "doctrine" and
5 "instructions" and none of that is clear to me.

6 Q. If we move away from the labels that are applied to
7 them. All that I can indicate is what MoD have said,
8 which is that JWP 2 superseded JSP 120(6). But if one
9 moves away from the labels that are applied to them, in
10 terms of guidance as to how interrogation should be
11 carried out, were you aware, at this stage, that
12 concerns were being raised that there was a lack of
13 written guidance -- whatever label is applied to me --
14 to set out how interrogation should be approached?

15 A. No, I wasn't.

16 THE CHAIRMAN: Would that have been your responsibility or
17 not?

18 A. The responsibility to prepare the doctrine?

19 THE CHAIRMAN: No, no, not doctrine. Use Mr Moss' phrase:
20 instructions as to how to carry out TQ'ing or
21 interrogation.

22 A. No, it would not be my responsibility.

23 THE CHAIRMAN: Whose would it be?

24 A. I would think it would rest with the JSIO.

25 MR MOSS: But we have seen, have we not, that indication

1 that you were taking over a responsibility. If we go
2 back to paragraph 19, I am afraid it does use the word
3 "doctrine" -- paragraph 19 of your statement, BMI08440.
4 Even if doctrine means guidance at a very high level,
5 you had that responsibility, did you not?

6 A. We were taking over that responsibility, yes.

7 Q. Were you aware that, even if doctrine means guidance at
8 a high level, the broad principles that are to be
9 adhered to and the broad approaches that are to be
10 taken, were you aware that there was a lack of guidance
11 in that sense even at the high doctrinal level?

12 A. It had not been drawn to my attention. It wasn't raised
13 as an issue, a big issue, otherwise we would have dealt
14 with it.

15 Q. You say that notwithstanding, do you -- at the risk of
16 repeating my questions to you -- the paper that was
17 going through several iterations which was sent to the
18 defence HUMINT work group at MOD042044, paragraph 10, on
19 17 June 2002?

20 THE CHAIRMAN: "All DHWG members" includes you, is that
21 right?

22 A. I was the chairman of the ...

23 THE CHAIRMAN: So it definitely does, yes. All right.

24 MR MOSS: You still maintain not brought to your attention
25 despite this document?

1 A. Not raised as a huge issue, no.

2 Q. Forgive me for taking matters slightly out of course,
3 but could we look next, with that paper in mind -- the
4 June 2002 paper -- at one of the responses? It is at
5 MOD042051. It is dated 2 September 2002 and it is the
6 response -- do we see from the top -- from the
7 directorate of military operations, so being written, as
8 one sees on the following page, on behalf of the DMO.
9 Do you have the context of it?

10 A. Yes.

11 Q. Now, in relation to that paper raising the concerns
12 about capabilities that we have seen and the reference
13 to doctrine as well, one of the responses here --
14 2 September 2002 -- was saying this, if we look at
15 paragraph 2:

16 "Given the advanced state of staffing to identify
17 what capabilities MI [military intelligence presumably]
18 is to fulfil and how best to do so, it is suggested that
19 the further staffing of a separate paper dedicated to
20 tactical questioning and interrogation may complicate
21 matters. This does not seek to undermine or devalue the
22 critical role played by TQ and interrogation; simply to
23 suggest that the ongoing reviews of military
24 intelligence in general and HUMINT specifically may be
25 the most suitable vehicles for addressing most of the

1 issues raised."

2 Over the page at the conclusion, they were saying at
3 paragraph 5.

4 "[The Chicksands paper from S046] JSIO's paper is
5 a welcome addition to the wide-ranging staffwork
6 currently being conducted ... It is believed that the
7 issues raised would now best be taken up by
8 incorporating them into papers already circulating ..."

9 Translating that into more simple language, that was
10 suggesting that the issues being raised by JSIO about
11 tactical questioning and interrogation should be
12 subsumed into that bigger exercise, that bigger review
13 that you say was your main focus; is that right?

14 A. I am not entirely sure it meant going directly into the
15 defence HUMINT paper, but it was to be subsumed by the
16 wider work on the development of MI and that was a much
17 broader issue than just HUMINT.

18 Q. So whether the two papers were subsumed in one another,
19 it was going to become part of the bigger process, the
20 bigger work that was ongoing?

21 A. That would have made sense.

22 Q. If we look at paragraph 33 of your statement, please,
23 which is where you deal with this, what you say is that
24 your staff branch -- in the second line:

25 "DI HUMINT followed the direction of DMO [the

1 document we have just looked at] that intelligence and
2 TQ capability would be included in the wider review of
3 military intelligence capability ..."

4 Is that right, that you took the lead from the DMO
5 in that response?

6 A. Yes, yes.

7 Q. Did you not think at that stage, to question the
8 desirability of putting off work on tactical questioning
9 and interrogation capability, that it might be better
10 dealt with promptly and quickly rather than being
11 subsumed into a bigger process that was ongoing?

12 A. At the time, no, because there were more pressing issues
13 and it was obvious to us that they were never going to
14 get the capability they were asking for.

15 Q. But in the context, moving towards the end of 2002, of
16 operations looming in Iraq, was it not a consideration
17 that, unless there were soldiers trained in TQ with
18 guidance given, there would be that risk to prisoners
19 that was identified by Brigadier Barry earlier on in
20 2002? Was that not something that was being thought
21 about?

22 A. No.

23 Q. Do you think, with hindsight, it ought to have been
24 thought about?

25 A. No, I do not think so, not in the context of what we

1 were doing at the time.

2 Q. I apologise for having inevitably to jump around. May
3 we just go back, please, to the December minute that we
4 looked at for the purposes of doctrine and guidance? It
5 is at MOD042058. Can we just look at this now from the
6 point of view of capability about what you were saying.

7 If we look at paragraph 4, Mr Kett -- so this is
8 late 2002 -- you say there that:

9 "In February 2002 land command, recognising the
10 requirement for trained TQ personnel in units, directed
11 all high-readiness units to send personnel on PH&TQ
12 courses at DISC, Chicksands. The response was patchy
13 and it is likely that there will be a shortfall if
14 a medium- or large-scale war-fighting operation were to
15 be conducted."

16 Pausing there, you were also, were you not, pointing
17 out the risks that if the operation was going to be
18 significant, a medium- or large-scale one, that there
19 was going to be a shortfall in capability?

20 A. In several areas, yes.

21 Q. But within this context, that is talking about
22 PH&TQ-qualified soldiers.

23 A. Well, because at the time I remember that they raised
24 a requirement for additional capability.

25 Q. You went on to say, over the page, that:

1 "Despite the outstanding work to be done to develop
2 doctrine for TQ, plans are well advanced for any Gulf
3 deployment in the near to medium term. Provision has
4 been made for a JFIT, largely from the reserves, and
5 an FHT [field HUMINT team] to support the UK land
6 component ..."

7 Just pausing there, when S046 gave evidence, I think
8 it was, the suggestion was made that this approach of
9 yours in terms of the capability was very optimistic and
10 that there wasn't a JFIT in place at all. Request for
11 one had been made, but the reality was that it had not
12 yet been sourced from the reserves and a lot of work was
13 going to need to be done if that was to be done,
14 including the call-up made on the reserves. Were you
15 aware of that?

16 A. No, that is not my recollection and I would not have
17 written that if I had not been told one was available.

18 Q. Dealing with the numbers of those who were qualified in
19 prisoner handling and tactical questioning, can you
20 remember if any steps were taken to try to ease the
21 problems with capability in that area?

22 A. Sorry, I missed the first part of your --

23 Q. Sorry, the number of those who were trained in PH&TQ has
24 been raised as an issue. Can you remember what steps
25 were taken to deal with that capability question?

1 A. If I recall, land command were very much in the driving
2 seat in getting the capability from the units and
3 I think we were involved in assisting JSIO to find
4 additional instructors, and it was in other areas as
5 well that we were doing the same thing. That's my
6 recollection.

7 Q. The Inquiry has heard evidence which suggests that,
8 prior to Op Telic 1 and at around the time of this note
9 and shortly afterwards, additional courses were put on
10 at Chicksands to train TQers -- did that ring a bell?

11 A. I seem to recall that, yes.

12 Q. -- to try to ease that capability difficulty.

13 A. Yes.

14 Q. Can I ask you this, though? Were you alerted to
15 capability problems that were a knock-on in Op Telic 2
16 in this sense, that although extra courses were put on
17 for Op Telic 1, by the time soldiers were preparing for
18 Op Telic 2, no courses could be run at all because those
19 who were the trainers at JSIO had deployed themselves to
20 Iraq on Op Telic 1 so were not available to run the
21 courses. Is that something which came to your
22 attention?

23 A. I don't recall that being raised, but it would make
24 sense for the instructors to be deployed because that
25 matched the policy that we had in place at the time,

1 that they formed the core of the JFIT.

2 Q. But that policy would mean, would it not, that if
3 battlegroups like 1 QLR had not already got tactical
4 questioning trained personnel in their battlegroup, they
5 were going to deploy without them because no courses
6 would be run while the trainers were on the operation?

7 A. If all the trainers went, that would be the case, but
8 I don't know whether they did or not.

9 Q. Were you not aware that so many of the trainers did go
10 that Chicksands were not able to run the course?

11 A. It wasn't raised as an issue with us -- at least I don't
12 recall it.

13 Q. Just one or two miscellaneous matters, if I may. Could
14 I ask you about an entirely different matter. Can we
15 have MOD037459. This is not, I think, related to any of
16 the documents we have been looking at previously, but do
17 we see at the top of this, please, Mr Kett, that this is
18 an email first of all that seems to have been forwarded
19 on to you? We see "ADI HUMINT" at the top.

20 A. Yes.

21 Q. It is 3 July 2002. The context of what was being passed
22 on was an email from S040 -- perhaps you could just look
23 at your cipher list and remind yourself who S040 was so
24 you don't use his name.

25 A. Yes.

1 Q. He is talking about a meeting that he attended at
2 Colchester -- presumably at the MCTC -- and involving
3 also an army captain. He says:

4 "... I did attend the meeting ...

5 "It was attended by about 20 people [redacted] ...
6 who chaired the meeting down to captains various and
7 there was a US army MP captain who told us all about
8 what they were doing in Bagram and Guantanamo and an
9 Aussie major who is attached to the Army Legal Services.
10 Whilst I can't say that we would have missed much by not
11 attending, it did enable me to remind the assembled
12 crowd of the need to approach PH, TQ, interrogation and
13 the PWHO holistically and not to get too wound up in
14 prisoners' rights at the expense of intelligence."

15 Can I just ask you a couple of questions arising out
16 of that? Do you have any recollection now of receiving
17 this email or reading it?

18 A. None whatsoever.

19 Q. Do you think you would have seen it at the time?

20 A. It is possible, but I don't know.

21 Q. Can you help us with what you would have understood
22 S040's email to mean and what you would have understood
23 it to mean at the time, if you did see it, about not
24 getting "too wound up in prisoners' rights at the
25 expense of intelligence"?

1 A. It's the first time I have heard that phrase expressed
2 and, quite frankly, I have never heard it before and I
3 don't understand it.

4 Q. If you had seen this at the time, what would your
5 reaction to this have been, do you think?

6 A. Well, it is wrong, isn't it?

7 Q. Because ...?

8 A. Because it breaches the Geneva Convention. Their rights
9 are sacrosanct.

10 Q. So you think you would have questioned this, do you, at
11 the time?

12 A. If I felt that the UK was getting involved in things
13 that breached the Geneva Convention, without doubt
14 I would have questioned it.

15 Q. Perhaps dealing more with what email actually says
16 because, as one sees from the top, it appears to have
17 been forwarded on to you, would you, in fact, have taken
18 any action to question what S040 was saying here?

19 A. Not really because it was more tittle-tattle between
20 junior officers than anything formal.

21 Q. You do not think that that is an impression that you
22 ought to perhaps have corrected at the time?

23 A. No.

24 Q. Finally from me, please, could we have look at your
25 statement at paragraph 67? You say there that you have

1 been shown the HUMINT directive of 27 February 2003.
2 You say that you were not involved in the drafting of
3 it, but you think it would have been copied to your
4 directorate at the HUMINT at some point, possibly at the
5 draft stage, although you could not say with certainty.

6 Just trying to understand that, does that mean that
7 the HUMINT directive, you think, would have been
8 something that you saw before it was finalised?

9 A. Probably, yes.

10 Q. Could we just look at it, please, at MOD049310? We will
11 see that so far as guidance on interrogation and TQ
12 matters is concerned that the most relevant aspect of it
13 is its annex B, MOD049314. Do you see that the
14 reception is dealing with categorisation,
15 responsibilities, screening procedures --

16 A. Yes.

17 Q. Going over the page, under "Interrogation procedures",
18 the categorisation of prisoners is dealt with. Over the
19 page again, "Procedure at interrogation unit".

20 What one does not see in that directive is any
21 detail about the methods and approaches that might be
22 used within interrogation or TQ itself. Do you follow?

23 A. Not specifically, no.

24 Q. In terms of, for example, the harsh technique or Mutt
25 and Jeff, good cop, bad cop, that sort of approach and

1 the limitations of those sort of techniques that might
2 be used in interrogation or tactical questioning, that
3 sort of detail was not contained in the directive, was
4 it?

5 A. No.

6 Q. You say, if we go back to paragraph 67 of your statement
7 at BMI08454 -- having looked at it again, you say that
8 it seemed to you to be sufficiently detailed for all
9 aspects of HUMINT operations and that your understanding
10 was that it was intended to be a broad directive and
11 that those conducting HUMINT activities would rely on
12 their training. So that's what you would have expected
13 ordinarily from a HUMINT operations directive; would
14 that be right?

15 A. Yes -- and there would be an in-theatre directive as
16 well.

17 Q. There would be an in-theatre directive as well?

18 A. Written in the operation of the theatre.

19 Q. Were you aware of one of those for Telic?

20 A. I am not aware, but I would assume that one would be
21 written for all operations.

22 Q. Now, your reference there to a "broad directive",
23 presumably you said that in your statement not being
24 aware of the 1997 policy. Can we look at it again at
25 MOD041755?

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

5 Insofar as you looked at that draft directive before
6 it was issued, you would not have been aware, would you,
7 of the need for it to provide a detailed directive
8 governing the procedures to be used by UK interrogators?

9 A. Sorry, wouldn't be aware in general of a detailed
10 directive?

11 Q. Forgive me, it is my fault. I am taking it too quickly.
12 If we look at this policy for 1997 --

13 A. Yes.

14 Q. -- it appears to require certain things before TQ'ing
15 and interrogation takes place in theatre. One of them
16 is that the procedures to be used by interrogators
17 should be governed by a detailed directive which,
18 amongst other things, incorporates current legal advice.
19 That requirement for a detailed directive incorporating
20 legal advice governing the procedures to be used, you
21 were not aware of that requirement, were you?

22 A. I was not aware that it was mandated as such, but I know
23 it was something that occurred because it applied to the
24 other aspects of HUMINT as well.

25 Q. If you had known about the terms of what one sees at

1 1(d), if we just look at it again on screen, and the
2 requirements that were specifically laid out there, for
3 it to be detailed to govern the procedures that would be
4 used, to incorporate legal advice and so on, would that
5 have caused you, if you had known about that, to look at
6 the draft directive more carefully or more fully, do you
7 think?

8 A. I do not think so, no.

9 Q. Would you accept, in not going into detail about
10 techniques and approaches and matters of that kind in
11 detail, that the directive from February did not fully
12 comply with this 1997 policy requirement?

13 A. No, I don't agree.

14 THE CHAIRMAN: You don't accept that?

15 A. I don't accept that because they were all banned.

16 I think you are referring to the five issues -- five the
17 things.

18 THE CHAIRMAN: The five techniques.

19 A. To my mind they were banned, so why do we need to put
20 them in the document?

21 MR MOSS: You say that they were banned --

22 A. They were against the Geneva Conventions, so therefore
23 they must be --

24 Q. But you were not aware that they were specifically
25 prohibited, were you?

1 A. Sorry?

2 Q. You were not aware of a specific prohibition on those
3 five techniques, were you?

4 A. No, but you asked me a hypothetical question and I am
5 giving you a hypothetical answer.

6 Q. Yes. What about the requirement for legal advice, that
7 the procedures to be set out in the detailed directive
8 should incorporate current legal advice? Were you aware
9 as to whether legal advice had been taken on the HUMINT
10 directive when you saw it in draft?

11 A. I think I would have made an assumption that the legal
12 staff would have cast their eye over it, yes.

13 Q. Which legal staff would that --

14 A. PJHQ.

15 MR MOSS: Could I just have one moment, Sir?

16 Thank you. Those are my questions.

17 THE CHAIRMAN: Yes, there will be a few more questions from
18 other counsel.

19 Ms Hetherington?

20 Questions by MS HETHERINGTON

21 MS HETHERINGTON: Thank you.

22 Mr Kett, dealing first with your assumption of
23 responsibility for interrogation policy in 2002, prior
24 to that it was simply the case that interrogation was
25 not part of your formal responsibilities at all or was

1 it a fact -- the case -- that it had just been neglected
2 across the board and then it was realised that it ought
3 to be something that you were looking at?

4 A. Well, it was not my responsibility until the middle of
5 2002 and, yes, it had been neglected.

6 Q. You explained, when talking about the priorities given
7 to interrogation, amongst other aspects of HUMINT that
8 you were dealing with, that HUMINT had been neglected
9 and was largely defunct -- I think today you said
10 "dormant" -- and that prior operations had managed.
11 That doesn't necessarily mean that it should be further
12 neglected in circumstances when you are about to deploy
13 interrogators to Afghanistan and Iraq, does it?

14 A. I didn't say it was going to be neglected. In fact
15 I think I intimated that we were actually working on
16 developing the capability and we planned to do so as and
17 when we had the time and resources available.

18 Q. Do you recall concerns being raised with you by those
19 within the intelligence community specifically in
20 relation to Iraq and the proposed deployment there?

21 A. Not specifically Iraq, no.

22 Q. Perhaps we could look at a statement from
23 Commodore Munns. It is at BMI08111. It is
24 paragraph 35, the last sentence on that page, and then
25 going over. He says:

1 "Concerns over the difficulties arising from the
2 problem of deploying sufficient trained personnel to
3 meet the Op Telic requirement ... were raised with the
4 DGIC and his staff by my team and me during the
5 breaching sessions ..."

6 Then he goes on to say that he believes your
7 December 2002 note was written in response to the DGIC's
8 concerns regarding points raised, so he at least appears
9 to be saying that he was raising concerns about the Iraq
10 deployment with you. You don't recall that?

11 A. I do not, no.

12 Q. S046, who was the colonel in charge of JSIO at the time,
13 has also said that he believes he raised concerns with
14 you about the Iraq deployment. He says in his
15 statement -- we perhaps don't need to go to it -- he
16 described the situation as "dire". Do you recall those
17 concerns being raised with you?

18 A. I don't recall him raising it with me directly, no,
19 other than through the paper that he was the author of.

20 Q. That's the paper in the summer of 2002?

21 A. Yes, there were two papers. There was that and then the
22 subsequent paper that appeared after the DMO ruling that
23 it would be absorbed into the work I was doing.

24 Q. And that was in the spring 2003?

25 A. I don't know.

1 Q. We have the papers, I think. We can work that out.

2 In terms of the earlier concerns that you say you
3 were aware of through the papers, you said that the
4 service heads were not particularly interested in
5 interrogation. Given that your role was, in effect, if
6 I understand it rightly, an interface between JSIO and
7 other aspects of the MoD and the service heads, was it
8 not your job to jump up and down metaphorically or even
9 literally in front of the service heads and say that the
10 JSIO were raising these very serious concerns?

11 A. I was jumping up and down about issues that were
12 regarded as of a much higher importance and I have to
13 say that that took up most of my time and was extremely
14 frustrating.

15 Q. Just in terms of the prioritisation -- and being careful
16 not to go into any detail in terms of the FHT work with
17 which you were focused -- one can see that there are
18 a number of risks attached to HUMINT work, some being
19 operational, ie you won't get information if you don't
20 do it properly; and there may be arguments to be had
21 about the importance of FHT work as opposed to
22 interrogation in that regard.

23 But in terms of the legal risks attached to HUMINT
24 work, would you accept that the risk of noncompliance
25 with the legal obligations was much higher in relation

1 to interrogation and tactical questioning where you are
2 dealing with prisoners who have not consented?

3 A. Absolutely not.

4 Q. You would not accept that?

5 A. I disagree with that entirely.

6 Q. And in terms of the sensitivity of interrogation and
7 tactical questioning in terms of media interest, but
8 also public interest, both in theatre and in the UK,
9 would you accept that interrogation and tactical
10 questioning is more sensitive in that regard than other
11 aspects of HUMINT work?

12 A. No, not when it goes wrong.

13 Q. You have said -- leaving aside the different
14 interpretations of "doctrine" -- that your
15 interpretation was that doctrine would deal with general
16 procedures and the detail would be in the training.

17 A. Um-hm.

18 Q. I think you said the same in your statement about the
19 CJO directive that you have just been taken to. That
20 places quite a heavy reliance on the training, doesn't
21 it?

22 A. There is a whole series of things in place. There is
23 the standard operating procedures which would lay down
24 how things are to be done, there is the in-theatre
25 directive, there is the training and there is a whole

1 raft of things that people rely on in all aspects of
2 military operations and it is exactly the same for
3 interrogation and other HUMINT tasks.

4 Q. If there were, in fact, no written SOPs and no written
5 in-theatre directive dealing with these matters, then
6 the focus would be very much on training, wouldn't it?

7 A. There were SOPs. I am sure there were.

8 Q. You say you are sure. That's an assumption.

9 A. I can't believe that JSIO went to war on several
10 occasions without any form of SOPs. That's a normal
11 thing a unit would have. I didn't personally check it,
12 but I cannot believe they didn't have SOPs.

13 Q. Would you accept that -- I take what you say about
14 that -- but if there were no such written SOPs, then it
15 was particularly problematic to not have clear written
16 doctrine in a situation where you are reliant on
17 reservists to carry out these functions who may have
18 been trained a long time before and not had regular
19 operational experience?

20 A. I don't think it would have made any difference at all
21 whether there was doctrine because I don't see soldiers
22 reading doctrine quite frankly.

23 Q. Your evidence is it would be the written SOPs --

24 A. The training, the SOPs and what the soldiers are
25 actually told to do on the ground. I don't know of any

1 soldiers that carry doctrine notes in their pocket to
2 refer to them or even see them.

3 Q. You have explained that you were not familiar with the
4 details of the training given at Chicksands. Were you
5 aware whether or not that training had been audited to
6 check that it complied with legal obligations?

7 A. I assume it had.

8 Q. But you didn't specifically ask that?

9 A. I didn't specifically check, no. I saw that as the
10 responsibility of CO DISC.

11 MS HETHERINGTON: Thank you. Thank you, Sir.

12 THE CHAIRMAN: Thank you. Mr Evans?

13 Questions by MR EVANS

14 MR EVANS: Thank you, Sir.

15 We talked a little about the joint doctrine
16 development cell -- I think they are called various
17 different things --

18 A. I can't accurately recall what they were.

19 Q. What was their role?

20 A. Their role was to write doctrine.

21 Q. Was that a function that they were prepared to let
22 anybody else undertake in your experience?

23 A. No.

24 Q. Would it have been their role, therefore, to have
25 physically written any new doctrine regarding TQ and

1 interrogation, for example?

2 A. In my view, yes.

3 Q. How much reliance did you place upon the expertise of
4 those running the training courses for interrogation and
5 TQ at Chicksands?

6 A. The JSIO were subject matter experts and we referred to
7 them a lot on not just interrogation, but on all matters
8 of HUMINT.

9 Q. What, if anything, did you assume that the training
10 involved as far as compliance with the Geneva Convention
11 and existing doctrine was concerned?

12 A. I assumed it complied totally.

13 Q. Would you have expected, for example, it to have
14 included methods and approaches and limitations to
15 interrogation and tactical questioning insofar as
16 relevant to the procedures involved?

17 A. Sorry, can you explain that?

18 Q. Yes. You were asked by Mr Moss how doctrine might have
19 affected the methods and approaches and limitations
20 involved in the tactical questioning and interrogation
21 process. My question is: would you have expected any
22 methods, approaches and limitations of interrogation and
23 tactical questioning to have been taught at Chicksands?

24 A. I would have expected the training at Chicksands to have
25 complied with the Geneva Conventions and the other

1 conventions which we have signed up to.

2 Q. Equally you were asked a lot about STANAGs and the
3 JWP 1-10 and the superseded JWP 120(6). Would you have
4 expected the up-to-date doctrinal position to have been
5 taught at Chicksands on the specialist courses?

6 A. Absolutely.

7 Q. You were asked about the absence of an MoD-endorsed
8 doctrine on TQ and interrogation and you explained that
9 in fact there was no MoD-endorsed policy on any of the
10 HUMINT aspects of interrogation that you were dealing
11 with.

12 A. Correct.

13 Q. In that context, how big an issue, to use your phrase,
14 was the absence of doctrine in TQ and interrogation in
15 particular?

16 A. I don't consider it to be an issue because my
17 interpretation of "doctrine" is it is a broad guideline
18 of how you go about the business of delivering
19 a capability. So, to answer your question, I don't see
20 it as a show-stopper or a real problem.

21 Q. Did your focus therefore still remain on the other
22 aspects of human intelligence that you have talked
23 about, in particular the FHTs --

24 A. Yes.

25 Q. I don't want to go into any detail about that for

1 obvious reasons. In particular, therefore, did you have
2 any sense from the documents that you have now been
3 shown that, at the time, it was urgently necessary for
4 you to change your focus from the HUMINT aspects you
5 have told us about to TQ and interrogation in
6 particular?

7 A. No.

8 Q. Can we have your note, please, at MOD042058 on screen,
9 perhaps on the last page of that, MOD042059, you talk
10 about -- Mr Moss took you to this. You say:

11 "Provisions have been made for a JFIT, largely from
12 the reserves, and an FHT to support the land component,
13 subject to confirmation of CONOPS."

14 Some witnesses said that this was unduly optimistic
15 perhaps. What scale of operation were you envisaging
16 when you made those comments there?

17 A. Small scale.

18 Q. By that, what do you mean?

19 A. At brigade or less.

20 Q. Can we just go to the previous page, please, and at the
21 bottom paragraph? You say at the bottom of that
22 paragraph 3 that:

23 "The response to a recognition for TQ trained
24 personnel was patchy and it is likely that there will be
25 a shortfall if a medium- or a large-scale war-fighting

1 operation were to be conducted."

2 In the context of the scale of the operation you
3 were considering, can you explain that comment, please?

4 A. "Medium" would be two brigades and a "large scale" would
5 be division or above.

6 Q. Therefore what you were saying in this document -- is
7 this right -- was that, if there was a large-scale
8 conflict, there was a risk of a shortfall in TQ
9 capability, but a small-scale conflict at brigade level
10 would be covered by a single JFIT and the TQ capability
11 you had?

12 A. That would have been the standard deployment for a
13 brigade-sized operation.

14 Q. Thank you. Finally this: could we have please the CJO's
15 directive, MOD049310, on screen? You were asked
16 a little about this in the context of the 1997 document
17 which talks about a detailed directive being necessary
18 for intelligence. Do you remember that?

19 A. Yes.

20 Q. Regardless of that policy statement in 1997 for
21 a detailed directive, was it, in fact, the position in
22 your experience in theatres around the world that
23 directives were issued before any unit from an
24 intelligence perspective deployed to theatre?

25 A. Yes.

1 Q. In this directive in particular, would you have regarded
2 this directive, having looked at it now, as being
3 sufficiently detailed to permit those who were deploying
4 to know how to operate in that intelligence context in
5 theatre?

6 A. To me, yes, and it seems to match the other directives
7 as I saw during my tour.

8 Q. May we look please, briefly, lastly, at paragraph 7 of
9 this document? You will see that at paragraph 7 it says
10 that:

11 "HUMINT operations are subject to specific legal
12 advice. The NCC LEGAD will be indoctrinated into HUMINT
13 operations and provide appropriate advice. Any conflict
14 between operational requirements and legal advice is to
15 be highlighted to PJHQ J2X. The following acts and
16 conventions are to be adhered to."

17 Then the Geneva Convention is mentioned there. Just
18 go over the page, please:

19 "J2X is to ensure that the NCC LEGAD approves
20 methods and approaches for interrogation and de-briefing
21 operations."

22 Would you have understood by this document that
23 interrogation procedures and methods and approaches --
24 to use the phrase there -- would have to be cleared by
25 the legal adviser in theatre before they could be

1 conducted?

2 A. Absolutely.

3 MR EVANS: Yes, thank you very much.

4 Thank you, Sir.

5 THE CHAIRMAN: Yes, Mr Moss.

6 Further questions by MR MOSS

7 MR MOSS: Mr Kett, you were asked some questions by

8 Ms Hetherington to my left about SOPs and what you would

9 expect and you said that you can't believe that the JSIO

10 would have gone to war on several occasions without SOPs

11 in place; is that right?

12 A. Yes.

13 Q. Does that include SOPs for both interrogation and

14 tactical questioning?

15 A. That I couldn't say. I don't think JSIO did tactical

16 questioning in the field. My understanding is they

17 formed the hub of the interrogation capability. I would

18 have thought that infantry units -- but I don't know --

19 would have had SOPs for that.

20 Q. So you would have expected -- I am asking because of

21 your responsibility of policy in this area -- so far as

22 TQ is concerned, that there would have been SOPs on

23 TQ'ing even if they didn't come directly from the JSIO;

24 is that right?

25 A. I can't answer that, but I -- I don't know.

1 Q. MOD016128, please. There is no reason why you would
2 have seen this before, but it is an email from the
3 acting chief of staff, very shortly after Baha Mousa's
4 death. In terms of what policy was available at the
5 time, you see under the second main bullet point there
6 is a sub-bullet point with TQ:

7 "No policy visible and practice is based on
8 training on TQ course. SOP required and in hand with
9 J2 lead ...", and so on.

10 As I say, there is no reason why you should have
11 seen this, but are you aware that in Op Telic 1 and
12 Op Telic 2 there didn't appear to be SOPs or guidance
13 issued that dealt with TQ'ing?

14 A. No, I am surprised.

15 Q. You were then asked some questions by your own counsel,
16 by my learned friend Mr Evans, in relation to the Joint
17 Doctrine and Concepts Centre, and you answered, agreeing
18 to his question, that it was for them to physically
19 write doctrine.

20 A. Yes.

21 Q. Do you remember being asked about that?

22 A. Yes.

23 Q. It is right, though, isn't it, that the JDCC would not
24 know that doctrine was lacking or needed work unless the
25 specialists or one of the services told them "That needs

1 to be updated" or "The doctrine in this area that we
2 deal with is lacking, you need to get drafting"?

3 A. Yes, yes.

4 Q. Did you alert them, in the latter part of 2002/the early
5 part of 2003, that doctrine was lacking in interrogation
6 and tactical questioning?

7 A. We -- I say "we" -- my staff officer had fairly frequent
8 dialogue with the doctrines centre and, yes, we were
9 pushing for doctrine, particularly in the other areas
10 which I refer to, in the FHT side of things in
11 particular. The line we got back was always, "Yes, but
12 you are at the bottom of the queue, so to speak. There
13 are many other papers being written". As I understood
14 it, there was a timetable as to how these things were
15 going to be produced.

16 Q. I understand what you say about the field HUMINT matters
17 and that that is something you are focusing on. The
18 chairman has your answer on that. Can I ask you to
19 focus on my question, which is in relation to tactical
20 questioning and interrogation? Do you have any
21 recollection of the JDCC being alerted by your branch to
22 a particular lack of doctrine in relation to
23 interrogation or TQ'ing prior to Op Telic 1 in
24 March 2003?

25 A. Yes, I remember my staff officer speaking to the joint

1 doctrine centre saying, "We need to get the -- I think
2 it was interrogation doctrine sorted out". I remember
3 that on a couple of occasions.

4 Q. You say that despite the fact that in your witness
5 statement to the Inquiry you said that you were not
6 aware of there being any particular lack of doctrine of
7 this area or any need --

8 A. I have never said there is no lack of doctrine. What
9 I have said -- at least, I don't believe I have said
10 that. What I have been saying is there was -- doctrine
11 had to be progressed, but we -- we weren't aware of any
12 real issue that it was a problem.

13 Q. Can we just look again at paragraph 31 of your
14 statement? You said in terms, if you forgive me for
15 putting it in that way:

16 "I am not aware that a 'relative paucity' of policy
17 and doctrine in respect of interrogation and tactical
18 questioning had been identified by November 1999 and
19 continued up to and including Op Telic."

20 How can that be if you are now claiming that one of
21 your staff officers alerted the JDCC to a lack of
22 doctrine in this area?

23 A. We go back to this issue of what do you mean by
24 "doctrine". The work that we were doing was bringing
25 the interrogation and other HUMINT skills into the

1 21st century post cold war. We referred to things like
2 STANAGs and NATO agreements. But what had happened is
3 that, at the end of the cold war, we developed
4 a completely different way of conducting operations. We
5 were talking about expeditionary warfare and those sorts
6 of things and the doctrine had to be recalibrated, so to
7 speak, to meet those requirements, and I think that's
8 what we were looking at, if I recall.

9 MR MOSS: Thank you.

10 Questions by THE CHAIRMAN

11 THE CHAIRMAN: Before you go, just one or two questions,
12 please, Mr Kett.

13 You were asked to look several times at the CJO
14 directive to ComBritFor for HUMINT operations. I want
15 to be clear in my own mind about it. Do you regard that
16 as, first of all, an appropriate document to have been
17 written by the CJO?

18 A. Yes, because that's the way we did business, yes.

19 THE CHAIRMAN: Secondly, if you look at it against the 1997
20 directive, do you think it complies with that?

21 A. I haven't read the 1997 document in detail so I don't
22 know.

23 THE CHAIRMAN: Right, well then, that answered that. You do
24 say that you would have expected there to be some SOPs
25 or indeed some further directive about tactical

1 questioning.

2 A. Yes.

3 THE CHAIRMAN: What would you expect to be contained in

4 them?

5 A. The details of how they go about their day-to-day

6 business in terms of carrying out their operations.

7 THE CHAIRMAN: Where would you expect those to be -- would

8 you expect, first of all, those to be written?

9 A. Where would --

10 THE CHAIRMAN: : Sorry, I muddled the question. Would you

11 expect an SOP of that nature to be a written document?

12 A. Yes.

13 THE CHAIRMAN: Would you expect the detailed directive of

14 exactly what you can or not do also to be written?

15 A. Yes.

16 THE CHAIRMAN: And who would you expect to be responsible

17 for that?

18 A. The writing of the SOP is normally done by the

19 commanding officer of the unit.

20 THE CHAIRMAN: When you say "the commanding officer of the

21 unit", do you mean the commanding officer of let's say

22 a battlegroup or a brigade?

23 A. Well, SOPs are normally written by the unit themselves.

24 THE CHAIRMAN: Let's take a battlegroup. How would the

25 commanding officer of a battlegroup know what to put in

1 an SOP for a tactical questioner?

2 A. I can't answer.

3 THE CHAIRMAN: The answer surely is he would not have the
4 first clue, would he?

5 A. But I understood that tactical questioning was a role
6 that the infantry undertook and, therefore, I would have
7 expected -- it's a bit like engineering tasks. Would
8 the commanding officer know what the infantry
9 engineering tasks were in any detail? He has experts
10 around him and I would have expected that unit to have
11 put together -- if that was a role that they were going
12 to carry out, then I cannot believe that they would have
13 gone to war without a set of SOPs detailing how they
14 were going to do it.

15 THE CHAIRMAN: Of course one of the problems so far as 1 QLR
16 are concerned is they did not actually have a tactical
17 questioner, so it is hardly likely that the commanding
18 officer is going to have a written document on an SOP,
19 isn't it?

20 A. It is possible.

21 THE CHAIRMAN: Sorry?

22 A. It is possible.

23 THE CHAIRMAN: When you say "it is possible", it is almost
24 certainly --

25 A. But I have no idea what SOPs he had. He may have no

1 SOPs for all I know.

2 THE CHAIRMAN: But where is a commanding officer to go when
3 he has a tactical questioner either attached to him or
4 landing on his doorstep in order to carry out his trade?
5 Where is he to go to say, "I must know what in fact he
6 is going to do"?

7 A. If he doesn't know, then the focal point in the theatre
8 of operations would be the J2X and the legal adviser.
9 That's my understanding.

10 THE CHAIRMAN: But are you saying your department had no
11 responsibility --

12 A. Absolutely not. We don't write SOPs. That's not our
13 job.

14 THE CHAIRMAN: What about the more detailed directive of
15 what a tactical questioner is going to do? You say that
16 he would expect such a document to be in writing and
17 available; is that right?

18 A. Yes.

19 THE CHAIRMAN: And available to a commanding officer?

20 A. If he is carrying out tactical questioning and it has to
21 be carried out by qualified people, then, yes.

22 THE CHAIRMAN: Where would that emanate from?

23 A. If it was required, I would have thought PJHQ would
24 produce it, again through the J2X side.

25 THE CHAIRMAN: If that is the case, why isn't it in the CJO

1 directive to ComBritFor? Why is there not a reference
2 to it there?

3 A. I have no idea.

4 THE CHAIRMAN: Forgive me for the expression, but so far as
5 you are concerned, it is no responsibility of your
6 department --

7 A. No, and it is not something that anyone ever raised with
8 us that it was required and it is not something we
9 looked into, nor was it something that we actually gave
10 any attention to.

11 THE CHAIRMAN: Would you expect Chicksands, the JCSIO [sic]
12 to give some indication of what would be required?

13 A. To ...?

14 THE CHAIRMAN: For tactical questioners?

15 A. To the units on the ground?

16 THE CHAIRMAN: Yes.

17 A. No.

18 THE CHAIRMAN: You wouldn't at all?

19 A. No, because they are not in the chain of command.

20 THE CHAIRMAN: I do not quite see how you are going to fill
21 this gap of saying that something -- that there ought to
22 be written SOPs, there ought to be a detailed directive,
23 but you are unable to explain to me who it is who should
24 have the knowledge to produce them? Do you follow the
25 point?

1 A. I do, I do.

2 THE CHAIRMAN: You can't help at all?

3 A. I can't help.

4 THE CHAIRMAN: All right.

5 Do you think that it is something that -- some gap
6 that ought to be filled in some way?

7 A. I think that if a unit is going to conduct a particular
8 function, there has to be some kind of guidance through
9 standard operating procedures on how to do it. I am not
10 sure how that is developed, but I can't -- I can't
11 imagine anything being conducted on an ad hoc basis.
12 There must be some kind of standard operating procedure.

13 THE CHAIRMAN: Yes. All right.

14 One other matter I wanted to ask you about: you were
15 asked about making your feelings known or views known
16 about matters that you wanted done in your area --
17 particularly not to do with tactical questioning. You
18 said you were jumping up and down quite a lot about
19 that; is that right?

20 A. With regards to the field HUMINT teams, yes.

21 THE CHAIRMAN: Yes. Now to whom were you addressing your
22 concerns and remarks?

23 A. CDI in particular.

24 THE CHAIRMAN: The Chief of Defence Intelligence?

25 A. Yes. He was very well aware of this, as was CJO, that

1 it was a major shortfall. They were putting pressure on
2 me to solve it.

3 THE CHAIRMAN: When you say putting pressure on you to solve
4 it, in what way?

5 A. Getting the paper sorted out and trying to get the three
6 services together to develop a way of delivering it.

7 THE CHAIRMAN: What are we talking about, capability or
8 what?

9 A. Principally, yes.

10 THE CHAIRMAN: You didn't think that there were enough
11 resources, people and the like, available to carry this,
12 to do this work?

13 A. No, there weren't.

14 THE CHAIRMAN: Over what period of time were you making your
15 views known about this?

16 A. Almost constantly through the time I was ADI HUMINT. It
17 was the main effort and we continually tried to generate
18 the resources, and we were working through DMO who were
19 the principal lead into the operation area to try and
20 resolve the issues. And we were solving them initially
21 through ad hoc methods and then slowly but surely
22 regenerated capability.

23 THE CHAIRMAN: I follow.

24 Now it resonates a bit with evidence from S046 in
25 relation to Chicksands, who said he was also

1 endeavouring to get greater resources to match the
2 capability that he thought was necessary.

3 Did you ever communicate with him about that?

4 A. Well, it was discussed every time we -- I say "every
5 time", whenever the issue was raised at the Defence
6 HUMINT Working Group.

7 THE CHAIRMAN: Was he on that?

8 A. He was on that. As was DMO.

9 THE CHAIRMAN: So on that particular matter you would be in
10 complete agreement?

11 A. I was in agreement in as much as they -- the capability
12 was required, but I also understood the reality of the
13 situation, that there just weren't the resources to
14 achieve it.

15 THE CHAIRMAN: I see. S046 also made a frank -- if not
16 concession -- statement that he thought it might have
17 been that doctrine, practice, that sort of thing was put
18 rather in the shade of the attempts to get further
19 resources for the capability.

20 Would you agree with that?

21 A. I would not say it is put in the shade but the priority
22 of work was development of capability and the doctrine
23 was trundling along behind.

24 THE CHAIRMAN: I think that probably expresses it as well as
25 anything: trundling along behind?

1 A. Yes.

2 THE CHAIRMAN: I see.

3 Very well, anybody want to ask any questions arising
4 out of that?

5 MR EVANS: Just one if I may, Sir. At the risk of incurring
6 your displeasure.

7 THE CHAIRMAN: Only one, and a short one.

8 Further questions by MR EVANS

9 MR EVANS: You were asked by the Chairman about where
10 a commanding officer might look for guidance in terms of
11 how to write an SOP for TQ'ing. You said, first of all,
12 that you might look to J2X but I wonder whether you
13 would just look please on screen with me at JWP --

14 A. Can I just correct --

15 Q. Yes.

16 A. I think I said that if he had a question in theatre he
17 would go to the J2X.

18 Q. Yes.

19 A. Not to write the SOP. I said I would assume there would
20 be SOPs extant.

21 Q. Yes. May I just ask you this question then: if you look
22 at JWP 1-10 -- and I would like to look at MOD013471
23 which is part of JWP 1-10 -- you will see there that
24 there is a short passage there on tactical questioning
25 and what the object is, and that for example at 3(c),

1 "no physical or mental pressure nor any other form of
2 coercion ..." et cetera is to be induced?
3 A. Yes.
4 Q. Would JWP 1-10 be an area where a commanding officer
5 might be able to turn to formulate his own SOPs were he
6 minded to do so?
7 A. If he had a copy, yes. But also the Geneva Convention
8 is pretty clear as well in my view.
9 MR EVANS: Thank you.
10 Thank you, Sir.
11 THE CHAIRMAN: Very well. Tomorrow we have four witnesses,
12 don't we?
13 MR MOSS: Sir, yes. The programme for tomorrow --
14 THE CHAIRMAN: Thank you very much. Sorry, I am forgetting
15 my manners. Thank you very much for coming and for
16 answering questions and giving your evidence to the
17 Inquiry. You are free now to go, Mr Kett, thank you
18 very much.
19 A. Thank you, Sir.
20 MR MOSS: If you will forgive me not using ranks, the
21 witnesses for tomorrow are Burr ridge, Eaton, Vincent and
22 Marriott; I think still in that order.
23 THE CHAIRMAN: A heavy day.
24 MR MOSS: Yes.
25 THE CHAIRMAN: Very well. 10.00 am tomorrow.

1 (5.06 pm)

2 (The Inquiry adjourned until 10.00 am on Wednesday

3 3 June 2010)

4 I N D E X

5	ADAM PATERSON INGRAM (affirmed)	1
6	Questions by MR ELIAS	1
7	Questions by MR SINGH	54
8	Questions by MS DOBBIN	70
9	Questions by MR EVANS	74
10	Further questions by MR ELIAS	78
11	Questions by THE CHAIRMAN	79
12	PETER ANTHONY WALL (sworn)	86
13	Questions by MR ELIAS	86
14	Questions by MR SINGH	133
15	Questions by MS DOBBIN	139
16	Questions by MS EDINGTON	140
17	Questions by MR GARNHAM	142
18	Further questions by MR ELIAS	143
19	Questions by THE CHAIRMAN	145
20	ROBERT EDWARD KETT (sworn)	150
21	Questions by MR MOSS	150
22	Questions by MS HETHERINGTON	218
23	Questions by MR EVANS	224
24	Further questions by MR MOSS	230
25	Questions by THE CHAIRMAN	234

1	Further questions by MR EVANS	242
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

