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## FURTHER SUBMISSIONS ON BEHALF OF Christopher GOOD (Maj)

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This further submission supplements the Response to Potential Criticism ('RPC') submitted on behalf of Major Good [TSol's Appendix to the Generic Submissions SUB001692]. The Tribunal is referred to those submissions and to section 7(C)-(D) of the TSol Generic Submissions on Modules 1, 2 and 3.

**Summary** we submit that no criticisms along the lines below can fairly be made of this witness. In particular:

- Major Good provided an honest account to the best of his recollection;
- His interpretation of the situation and conditions in the TDF was plausible and reasonable, having regard to the local situation and his previous experiences;
- It is unsurprising that Major Good, like other truthful witnesses, cannot recollect many details of the scene in the TDF due to the passage of time and the brevity of his visit, in particular in his case, since two of his contemporaneous witness statements to the RMP have been lost;
- The nature of many of the injuries would not have been readily visible at the time to Major Good;
- As to his reporting of Schofield's concerns up the chain of command to Major Kenyon, Major Good's evidence is to be preferred over that of Major Kenyon, who was not a credible witness.

### Account of experiences

1. Major Good candidly admitted that his recollection of events was hazy, and he relied heavily on his witness statements. However, two of his statements given before November 2005 were lost by the RMP [Good 19/123/16]. Major Good is therefore at a disadvantage through no fault of his own and is relying on his recollection to the best of his ability and his statements from May 2004 onwards. In the circumstances, the Inquiry should be particularly slow to draw any adverse inferences from his hazy memory.
2. So far as he was able in these circumstances, Major Good gave an honest and straightforward account of his visit to the TDF. He did not seek deliberately to minimise the scene in the TDF, but frankly admitted that he could not remember the details that he had provided in his May 2004 statement [MOD046717 at MOD046720]. Further, it is unsurprising that his recollection of the scene is limited

given that he visited the TDF only very briefly over 6 years ago. However, it is clear from the 2004 statement that he did not shirk from providing a description of the dishevelled state of the detainees and made no attempt to cover up for colleagues. He indicated that the detainees were wearing sandbags and that their hands were tied behind their backs. He noted that some of the sandbags were stained red, as if from blood, and that the detainees were covered in a film of sweat. He also saw a detainee, who appeared to be in pain, curled up on the floor and groaning. In addition, he gave evidence at the Inquiry that the detainees had cuts and bruises [Good BMI19/136/20].

3. Major Good plainly recognised the injured condition of the detainees; however, he not unreasonably attributed their physical state to them having been involved in crowd disturbances and had been taken into BG Main. There is evidence that this was not uncommon. He knew that wounded Iraqis were often brought within the camp perimeter following such disturbances for their own safety [see RPC Good, SUB001692]. Importantly, he did not see and had never seen any abuse of the detainees by soldiers [Good BMI19/148/8ff] and so he simply assumed that, as on previous occasions, the detainees' had been caught up in disturbances. This was hardly unreasonable.
4. It is vital to keep in mind that what might be regarded as 'normal' in a war zone differs wholly from that in peacetime. It is important to have regard to the environment in which those serving in Iraq operated: see Generic Submissions, SUB001266. To Major Good, the fact that wounded Iraqis were being held in the TDF was not out of the ordinary, hence his comment that everything in the TDF appeared appropriate "*within the constraints of what was normal at the time*" [Good BMI19/140/24]. The Inquiry should be slow to criticise based on a perspective of what should of course raise suspicion in peacetime in the UK.
5. Some evidence was given as to the serious nature of the detainees' injuries. However, it is unsurprising that Major Good did not see such injuries:
  - a. He was only briefly in the TDF. In contrast, some of the guards who have described the injuries were present for at least one 2-hour shift: further, they were either physically close to the detainees [Reader BMI28/140/13; MOD000202], actually witnessed the abuse [Reader BMI128/171/17; Cooper BMI29/20/21] or participated in the mistreatment;
  - b. The injuries would not have been readily visible. Mr Hughes, who probably visited the detainees the same afternoon, could not even tell whether the detainees were injured, describing them instead as "fatigued" [Hughes BMI 15/39/11-17]. Mr Cooper saw a large bruise on a detainee, but only when a medic lifted the detainee's shirt. Further, he described seeing the bruise on the morning of 16<sup>th</sup> September, the day after Major Good visited the TDF [BMI04372]. Lt Rodgers had the bruising on one detainee pointed out to him by Cpl Payne: but for this, he had not noticed the bruising [Rodgers BMI30/30/14-21]. Mr Reader did not notice the cut to the nose of a detainee

until he gave him a drink. In the circumstances, it is entirely plausible that Major Good may not have seen injuries.

6. Given that Major Good's recollection is hazy (and for understandable reasons), it would be unfair to seek to criticise him on the basis that he could not recall the details of the conditions in the TDF over six years after the event because:
  - a. Other visitors to the TDF (who *did* have access to all their contemporaneous witness statements) also could not recall all relevant details. Mr Schofield, who was an honest and truthful witness, could simply not remember whether the detainees were in stress positions [Schofield BMI 18/191/13-20]. As mentioned above, Mr Hughes could not recall whether the detainees were injured;
  - b. Any smell in the TDF would have been masked by, or explained by, the portaloos outside. Mr Hughes stated that outside the building there was a smell "like going into a portaloos on a hot day" [Hughes BMI15/91/2-6]: it would therefore have been unsurprising for the smell to have been present in the TDF;
  - c. He only entered one of the rooms in the TDF. He was not aware that there were detainees in the other rooms, or that Baha Mousa was in the centre room.
7. Upon visiting the TDF, Major Good himself saw nothing untoward. There was therefore nothing suspicious to report to a superior officer at BG Main. However, he was sufficiently concerned by the report from Cpl Schofield that he chose to report it up his chain of command, namely to Major Kenyon. This was the appropriate course of action because it was reasonable to expect that Major Kenyon, as a superior officer, would bring the matter up at 'O' Group and his seniority would have lent weight to the concerns, even when there did not appear to be any concrete evidence of wrongdoing.

#### **Unreliability of Major Kenyon's evidence**

8. There is a factual dispute between Major Good and Major Kenyon as to whether Major Good did report these concerns to Major Kenyon before Baha Mousa's death. It should be said that Major Good has consistently stated, since his earliest surviving statement [9 May 2004, MOD046717], that upon his return to C Coy location he reported the incident to Major Kenyon in the cookhouse, who said he would look into the matter [MOD46720]. Major Good's evidence is to be preferred over that of Major Kenyon because of its consistency and because Major Kenyon was not a credible witness, in particular because:
  - a. Early in his tour Major Good saw hooded detainees carrying out "jerry can aerobics". It was his consistent evidence that he raised the matter with Major Pinchen, who in turn discussed it with Major Kenyon. Major Good was told by Pinchen that Major Kenyon had approved of the treatment. This is supported

by Major Pinchen's evidence [Pinchen BMI50/42/25ff], but Major Kenyon denies the incident outright. Neither Major Good nor Major Pinchen had anything to gain from fabricating the incident;

- b. Major Kenyon's evidence as to the use of masking tape on the eyes of Garamsche tribe members is not credible. He alleged that he never saw this incident [Kenyon BMI60/127/16-17], but the photographs of the Garamsche tribe members (for whom he was responsible) at the Old State Building clearly show that they had their sight deprived in this way [MOD054308 and MOD054309] within the perimeter of the Old State Building. It is notable that SO37's evidence places Major Kenyon as being present whilst the detainees had masking tape over their eyes [SO37 BMI49/218/1-11]. Major Kenyon surmised that the soldiers (who were under his command) may have run out of sandbags, but all the detainees in the photographs had their eyes taped [Kenyon BMI60/130/4-21]. His explanation is not convincing: it is submitted that it is not credible that he was unaware that of the use of the masking tape and did not condone such treatment, his use of the term "masked" when referring to depriving the detainees of sight further damages his credibility in this respect [Kenyon BMI60/137/13-138/10]. Further, while giving evidence to the Inquiry, he sought to renege on his earlier evidence (given in his initial RMP interview in December 2005 [MOD009578]) that he had given an order to keep the detainees hooded [Kenyon BMI60/132/10-135/3].
  - c. Major Kenyon denied apologising for allowing the Garamsche tribe members to be beaten, but it was Mr Schofield's clear evidence that he did so [Kenyon BMI60/149/23-151/2].
9. Further, if Major Good's evidence is correct, then it would not have been the first time that Major Kenyon had failed to deal appropriately with such reports. Major Pinchen and CSM Parry raised concerns with Major Kenyon regarding possible assaults on the Garamsche detainees, but the evidence is that he failed to institute an inquiry [Kenyon BMI60/145/3-149/10]. It is submitted that the plain inference is that he did not carry out an inquiry because he was aware his troops had carried out the beatings (with his tacit agreement): this is evidenced by his comment to SO37 (who was losing his composure with a Garamsche tribe member) "not outside, behind closed doors" [SO37 BMI49/211/6-213/24] and that the troops had "carte blanche on this one" [SO37 BMI49/218/10].
  10. On the basis of the above, it is submitted that Major Good's evidence is plainly to be preferred.