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IN THE BAHA MOUSA INQUIRY  
SUPPLEMENTARY SUBMISSIONS  
ON BEHALF OF MAJOR ROYCE

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1. The Inquiry has asked for further assistance from Major Royce in relation to whether he should have obtained written confirmation following communications with Major Robinson and Major Clifton.
2. Major Royce accepted in evidence (day 57, page 97, lines 19-23), that it would have been desirable to have written down his communications with Major Clifton, saying it had 'occurred to me on a number of occasions since then that I should have done, but I didn't'. However this was said more from the perspective of proving the conversation with Major Clifton, rather than obtaining written confirmation of the conversation. The general method of operating in Basra at the time (and indeed the evidence showed that it was true of the Army in general) was that orders and clarifications were communicated orally, compare for example the order or direction given by the Lieutenant General Brims, GOC 1 Div in relation to hooding in Op Telic I (day 103, pages 12-14 and 26), and Major Royce should be judged on those generally applicable standards.

3. Further it should be recorded that, although the system established by Major Royce following the introduction of FRAGO 29 and his discussions with Major Robinson and Major Clifton was a part of the process which led to the events of 14-16 September 2003, Major Royce did not permit the type of treatment permitted by Major Peebles over the course of 14-16 September 2003. As noted in paragraph 66 of the Part I Closing Submissions on behalf of the KN core participants and soldiers, even eminent jurists such as Lord Parker CJ had considered that hooding and conditioning might in controlled circumstances be both humane and lawful. Further the evidence showed that, whatever might have been the prosecution case in the Court Martial proceedings, the use of hooding and conditioning techniques during Op Telic I and II was far more widespread than had to then been publicly accepted. In this sense whilst it was obviously desirable that written confirmation of what Major Royce understood from his conversation with Major Clifton should have been obtained, it is respectfully submitted that it would be wrong to criticise Major Royce for failing to obtain such written confirmation from Major Clifton.

JAMES DINGEMANS QC

CLAIR DOBBIN

KINGSLEY NAPLEY