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Thursday, 8 September 2011

(11.00 am)

THE CHAIRMAN: Good morning, ladies and gentlemen. Do sit down.

Statement by Chairman

8 September 2011

Today my report to the Secretary of State for Defence entitled, "The Report of the Baha Mousa Inquiry" is published. The Secretary of State will be making a statement about the Report in Parliament later in the day.

The Report is necessarily a long one, since it covers a lot of ground, not just the events of 14 to 16 September 2003, themselves detailed and complex. At the end of the Report there is a Summary of my findings, itself lengthy. Today I shall make a much shorter statement summarising what I regard as some of the main findings. I stress that any summary, whether the longer one in Part XVIII of the Report, or this much shorter one, is just that: a Summary and not a substitute for the Report itself.

The Inquiry was set up by the Secretary of State for Defence on 1 August 2008. I was appointed Chairman. By the terms of reference the Inquiry was set three tasks. The first was to establish the facts of the events of 14

1 to 16 September 2003. The second was to establish where  
2 the responsibility lay for approving the practice of  
3 conditioning of the Detainees by members of the  
4 First Battalion of the Queen's Lancashire Regiment,  
5 (1 QLR), in this case principally the use of hooding by  
6 sandbags and placing the Detainees in stress positions.  
7 The third task was to make recommendations. In this  
8 statement I make brief comments on all three tasks and  
9 add two further general comments.

10 I am publishing my Report in full. There remains,  
11 however, one short and discrete issue relating to the  
12 Detainees upon which I have reached conclusions and  
13 reported to the Secretary of State, which I am  
14 withholding from publication at the request of the  
15 Detainees' legal representatives. I have acceded to  
16 this request under section 25(4) of the Inquiry's Act  
17 2005. The reason for this is that the single issue in  
18 question is personal to the Detainees and I am satisfied  
19 on the statutory grounds that it is necessary not to  
20 publish my findings in that respect.

21 What happened.

22 On 14 September 2003, a group of soldiers from  
23 A Company, 1 QLR raided the Hotel Ibn Al Haitham in  
24 Basra looking for suspected insurgents. A multiple of  
25 soldiers from A Company, commanded by

1 Lieutenant Craig Rodgers ("the Rodgers' Multiple")  
2 played a principal role in the raid. After finding some  
3 weapons, grenades and other paraphernalia, seven men  
4 employed in the Hotel were arrested. One of these men  
5 was Baha Mousa. Another man in the Hotel at this time  
6 escaped. Six of the seven men were removed to 1 QLR's  
7 headquarters at BG Main in Basra. The seventh  
8 accompanied a further party of soldiers from A Company  
9 to a house nearby where in due course two civilians were  
10 arrested. They were an elderly man and his young son.  
11 All three arrested men were eventually transferred to  
12 BG Main. The elderly man, D006, not in the best of  
13 health, was the father of the man who had escaped.  
14 Later that day a tenth man, D007, was arrested in  
15 another part of Basra. He, too, was transported to  
16 BG Main. He was wholly unconnected with the Hotel and  
17 the nine other civilian Detainees. The MoD conceded  
18 that there was no evidence implicating them in the death  
19 of British personnel.

20 On arrival at BG Main the Detainees were received by  
21 Corporal Donald Payne, the 1 QLR Regimental Provost  
22 Corporal. They were searched, handcuffed, hooded and  
23 placed in the temporary detention facility, the TDF.  
24 Some were hooded with two, if not three, hoods. In the  
25 TDF they were made to adopt stress positions, at first

1           in a ski position (as seen in the Payne video).  
2           Subsequently they were permitted to sit down but had to  
3           maintain their hands outstretched in front of their  
4           bodies and still handcuffed. I find that for almost the  
5           whole of the period up to Baha Mousa's death on the  
6           evening of 15 September the Detainees were kept  
7           handcuffed, hooded and in stress positions in extreme  
8           heat and conditions of some squalor. They were guarded  
9           first by two men from another A Company multiple, but  
10          from about 19.00hrs on 14 September until Tuesday  
11          morning by members of the Rodgers' Multiple.

12                 I find that from the outset of their incarceration  
13          in the TDF the Detainees were subjected to assaults by  
14          those who were guarding them and, in particular, by  
15          Payne. I find that they were also assaulted from time  
16          to time by others who happened to be passing by the TDF.  
17          The assaults by the guards were instigated and  
18          orchestrated by Payne. He devised a particularly  
19          unpleasant method of assaulting the Detainees, known as  
20          the "choir". It consisting of Payne punching or kicking  
21          each Detainee in sequence, causing each to emit a groan  
22          or other sign of distress. Payne, as Provost Corporal,  
23          was himself supposed to be supervising the welfare of  
24          the Detainees in the TDF. I also find that Payne and  
25          the guards should have been supervised by

1 Major Michael Peebles, the Battlegroup Internment Review  
2 Officer (the BGIRO).

3 From the evening of 14 September and into the  
4 afternoon of 15 September, the Detainees were questioned  
5 by two tactical questioners. The whole process was  
6 lengthy and in one instance involved a Detainee (D005,  
7 the youngest) being placed for over an hour very close  
8 to a noisy and hot generator. The tactical questioning  
9 went on well past the 14-hour time limit, at the end of  
10 which the Detainees should have been either released or  
11 transferred to the Theatre Internment Facility, the TIF.  
12 In fact, the nine surviving Detainees did not arrive at  
13 the TIF until Tuesday, 16 September, some 55 hours after  
14 the arrest of those in the Hotel.

15 Baha Mousa's death.

16 At about 21.30hrs on Monday the whole Rodgers'  
17 Multiple returned to the TDF to join three of their  
18 number who had been carrying out guard duty throughout  
19 Monday afternoon. At that time Rodgers left his  
20 Multiple at the TDF for another duty. Their followed  
21 a very serious incident when Baha Mousa was found  
22 standing in the TDF without his hood and handcuffs.  
23 A struggle ensued, involving principally Private Aaron  
24 Cooper, Payne and Baha Mousa. It did not last long, but  
25 in the final moments I find Payne violently assaulted

1 Baha Mousa, punching and possibly kicking him. This  
2 ended with Baha Mousa lying inert on the floor of the  
3 TDF. The Regimental Medical Officer was summoned but  
4 despite attempts to resuscitate him, Baha Mousa was  
5 pronounced dead at 22.05hrs.

6 A subsequent post mortem found that in the course of  
7 his detention in the TDF Baha Mousa had sustained 93  
8 separate external injuries. He was also found to have  
9 internal injuries including fractured ribs. I find the  
10 cause of the death to be twofold. Firstly, Baha Mousa  
11 had been made vulnerable by a range of factors, namely,  
12 lack of food and water, the heat, rhabdomyolysis, acute  
13 renal failure, exertion, exhaustion, fear and multiple  
14 injuries. Both stress positions, which are a form of  
15 exertion, and hooding, which obviously must have  
16 increased Baha Mousa's body temperature, contributed to  
17 these factors. Secondly, against the background of this  
18 vulnerability, the trigger for his death was a violent  
19 assault, consisting of punches, being thrown across the  
20 room and possibly of kicks. It also involved an unsafe  
21 method of restraint, in particular being held to the  
22 ground in an attempt to re-apply plasticuffs. Neither  
23 cause alone was sufficient to kill him, but the  
24 combination of both did.

25 On the morning after Baha Mousa's death, the nine

1 Detainees were transferred to the Theatre Internment  
2 Facility, the TIF. Subsequently they were examined and  
3 most were found to be suffering from a number of  
4 injuries, some more serious than others and some very  
5 serious, namely those sustained by D003 and  
6 Kifah Matairi. Some physical injuries were  
7 comparatively minor, namely those sustained by D005.  
8 All of the Detainees, other than Kifah Matairi, who was  
9 not examined by a psychiatrist because of his death much  
10 later in a wholly unrelated accident, were subsequently  
11 found to be suffering from psychiatric injury,  
12 including, in most cases, post traumatic stress disorder  
13 of varying degrees of seriousness.

14 In the Report I have made findings in respect of  
15 soldiers whom I identify as being responsible for  
16 mistreating the Detainees. It has not been possible to  
17 determine the identity of all those involved in assaults  
18 on the Detainees, but the fact that they were assaulted  
19 is not in doubt. The injuries graphically demonstrate  
20 this to be so.

21 I ask now that various photographs are put up on the  
22 screen. First, MOD021790, a view of the injury site to  
23 the left flank of D001.

24 Next, MOD021809, a view of the injury site at the  
25 left side of Kifah Matairi.

1 Thirdly, a frontal view of Kifah Matairi, MOD021814.

2 Next, MOD021827, a view of injury sites to the front  
3 torso of D003.

4 Finally, MOD021857, a view of the injury site at the  
5 right-hand side of the waist of D002.

6 There are other photographs within the text of the  
7 report.

8 I find that one of the principal causes, but not the  
9 only cause, of the violence was an unfounded rumour  
10 circulating in 1 QLR to the effect that these Detainees  
11 were connected with the murder of Captain Dai Jones,  
12 a popular 1 QLR officer, or members of the RMP, also  
13 murdered. I find that Peebles, the BGIRO at the outset  
14 of the detention, informed two of the guards that the  
15 Detainees might be connected with the murder of three  
16 Royal Military Policemen.

17 Further, I find that although there had been  
18 previous incidents of ill-discipline involving members  
19 of 1 QLR before the events of 14 to 16 September, these  
20 incidents did not amount to an entrenched culture of  
21 violence in the Battlegroup.

22 As for responsibility for what happened, again  
23 I have made findings in respect of individual officers  
24 and men. In this Statement I draw attention only to the  
25 part played by four of them in these events. Payne, as



1 the person who instigated and orchestrated assaults on  
2 the Detainees and the man who conducted the "choir",  
3 bears a very heavy responsibility for what happened in  
4 the TDF. Rodgers, the Multiple commander, must take  
5 responsibility for the ill-discipline of members of his  
6 Multiple. I find that at some time during Sunday night  
7 he knew that serious assaults had taken place. He did  
8 nothing to control his Multiple thereafter, let alone  
9 report what he knew up the chain of command. Peebles,  
10 the BGIRO, also bears a heavy responsibility as the  
11 officer who, as I find, ought to have appreciated he had  
12 responsibility for the welfare of the Detainees. I find  
13 that during the course of the time leading up to  
14 Baha Mousa's death he became aware that the Detainees  
15 had been assaulted and, on any view, he ought to have  
16 put a stop to hooding, stress positions and tactical  
17 questioning long before Baha Mousa's death.

18 Finally, I draw attention to the responsibility of  
19 Lieutenant Colonel Jorge Mendonca, the commanding  
20 officer of 1 QLR. I acquit him of knowledge of the  
21 beatings carried out on the Detainees in the TDF in the  
22 36 hours up to Baha Mousa's death. But I find that, as  
23 commanding officer, he ought to have known what was  
24 going on in that building long before Baha Mousa died.  
25 I find further that although he knew conditioning was

1 taking place he ought to have found out precisely what  
2 conditioning involved and appreciated the dangers of  
3 allowing Detainees to be hooded and placed in stress  
4 positions, not least because of the intense heat and the  
5 rudimentary conditions of the TDF, but also because of  
6 the obvious risk that in enforcing stress positions the  
7 guards might well resort to violent behaviour.

8 All four of these men bear a heavy responsibility  
9 for these events. I emphasise that in respect of the  
10 criticism of them and others in the Report, the specific  
11 passages in which my findings and the criticisms are  
12 made should be referred to for the full effect and  
13 context of such criticism.

14 Conditioning.

15 For many years it has been widely believed that  
16 a captured person may suffer a period of vulnerability  
17 when first taken prisoner. That vulnerability might  
18 take the form of feelings of fear, remorse or distress.  
19 This condition came to be known as the shock of capture.  
20 Those in the intelligence field who sought information  
21 from such individuals endeavoured to use the anxiety  
22 generated by the shock of capture to assist in obtaining  
23 information from them. Conditioning is a generic term  
24 to describe the techniques used to prolong, maintain or  
25 enhance the shock of capture. "Conditioning" can be

1 a dangerously ambiguous word. Historically it has been  
2 used to cover both lawful and legitimate means of  
3 exploiting the shock of capture as well as techniques  
4 for enhancing the shock of capture which have been  
5 banned or are unlawful.

6 I find that the use of hooding and stress positions  
7 by 1 QLR on these Detainees occurred because it was  
8 thought by those responsible for guarding them that  
9 hooding the Detainees and placing them in stress  
10 positions would aid tactical questioners whose job it  
11 was to obtain information from the Detainees by  
12 questioning them at Battlegroup Main before release or  
13 transfer to the TIF.

14 I find that quite apart from the violence carried  
15 out on the Detainees, the process of hooding them and  
16 placing them in stress positions was unjustified and  
17 wholly unacceptable.

18 The Inquiry has sought to understand why the use of  
19 these processes was not recognised by all concerned as  
20 unjustified and wrong. This has involved research into  
21 the background of the use of hoods, stress positions,  
22 and other techniques used in the intelligence field.

23 The historical background.

24 On 2 March 1972, the Prime Minister of the day, the  
25 Rt Hon Edward Heath MP, announced in the House of

1 Commons a ban on these five techniques (the Heath  
2 Statement). These techniques were hooding, the use of  
3 white background noise, sleep deprivation, wall-standing  
4 (a form of stress position) and a limited diet. These  
5 techniques came to be known as the five techniques and  
6 had originated in internal and counter-insurgency  
7 operations post the Second World War. What gave rise to  
8 the Heath Statement was the use of the five techniques  
9 in 1971 in Northern Ireland. This resulted in two  
10 Inquiries, the second being an Inquiry chaired by  
11 Lord Parker, the former Lord Chief Justice. The  
12 Minority report, written by Lord Gardiner QC, argued  
13 that the five techniques were already unlawful and that  
14 the law should not be amended to permit their use.  
15 While the Majority report was not formally disavowed,  
16 the force of Lord Gardiner's argument was recognised by  
17 the Government of the day.

18 The Heath Statement banned the use of these  
19 techniques as an aid to interrogation. I find that the  
20 ban clearly applied worldwide. What was not clear was  
21 whether the five techniques were banned from all  
22 military operations, including full warfare, or only to  
23 worldwide security or counter-insurgency operations.  
24 Whether or not it was intended that the techniques were  
25 banned in all operations is not material, because the

1 MoD recognised then, as they do now, that the five  
2 techniques were already prohibited and unlawful in  
3 warfare by reason of the Geneva Conventions.

4 In 1972, the 1965 Directive on Military  
5 Interrogation and Internal Security Operations Overseas  
6 was revised. Part I of it (the 1972 Directive)  
7 contained a ban which specifically prohibited the use of  
8 the five techniques. Part II of the Directive was  
9 issued with the intention that it was to be observed in  
10 all future training on interrogation in internal  
11 security operations and was to be reflected in all  
12 interrogation training instructions. Part II included  
13 guidance on methods and approaches that were permissible  
14 in interrogation. It also had cross references to  
15 Part I. I conclude that the limitation of Part II to  
16 internal security operations had the unfortunate effect  
17 of perpetuating the divide between doctrine on  
18 interrogation and prisoner handling in warfare and in  
19 internal security operations.

20 I find that what the Heath Statement did not do was  
21 to ban hooding for all purposes. I further find there  
22 was no ban on deprivation of sight by the use of  
23 blindfolds for security purposes.

24 Further, the evidence demonstrates that over the  
25 years the Heath Statement became largely forgotten and

1           apart from hearing in Part I of the 1972 Directive it  
2           mainly faded from policy and training materials and was  
3           not replicated in doctrine that related to full warfare.  
4           Although compliance with the Geneva Conventions was  
5           taught at all levels, there was little reference in any  
6           of the policy and training manuals to the prohibition of  
7           the five techniques.

8           By 1997, a revised policy for interrogation and  
9           related activities was issued. The revised policy  
10          contained the strategic imperative that all operations  
11          should comply with the Geneva Conventions and  
12          international and domestic law. It cancelled Part II of  
13          the 1972 Directive, but not Part I. It provided that  
14          procedures used by United Kingdom interrogators in an  
15          operational theatre were to be governed by detailed  
16          directive which incorporated current legal advice.  
17          There was no reference to the prohibition on the five  
18          techniques.

19          I find that by the time of Op Telic there was no  
20          proper MoD doctrine on interrogation of prisoners of war  
21          that was generally available. Further, knowledge of  
22          Part I of the 1972 Directive (at the time still  
23          operative) and the ban on the five techniques on  
24          internal security operations had largely been lost.  
25          I conclude that this came about by corporate failure of

1 the MoD.

2 Similarly, and not surprisingly because of the loss  
3 of knowledge of this ban on the five techniques, the  
4 written doctrine for prisoner handling, like the  
5 training materials for the tactical questioning, and  
6 interrogation, did not contain any reference to the ban  
7 on the five techniques.

8 I find that training at the Joint Services  
9 Intelligence Organisation (the JSIO) did deal with sight  
10 deprivation to the extent that prisoners could be  
11 deprived of their sight for security purposes. But the  
12 prohibition on use using hoods or blindfolds as an aid  
13 to an interrogation was not specified in the written  
14 material. Further, I find that the teaching imputed the  
15 message that the deprivation of sight for security  
16 reasons had an incidental benefit of maintaining the  
17 shock of capture. Finally, so far as the JSIO is  
18 concerned, I find there was a wholesale lack of doctrine  
19 in interrogation and a lack of legal assessment of JSIO  
20 training.

21 Op Telic.

22 The use of hoods of prisoners surfaced in the early  
23 stages of Op Telic and attracted the attention of the  
24 ICRC. Major General Robin Brims, the General Officer  
25 Commanding of 1 (UK) Division, when he became aware of

1 instances of hooding of prisoners, took the pragmatic  
2 decision to ban all hooding; pragmatic because at that  
3 time there was no legal consensus on whether hooding was  
4 legal or illegal and in what circumstances this practice  
5 might be legal. At about the same time, the National  
6 Contingent Commander also gave such an order.

7 Brims' order was an oral order. The evidence shows  
8 that the cascading down of this order to subordinate  
9 units appears to have been distinctly patchy. The  
10 original verbal order does not appear to have reached  
11 the First Battalion of the Black Watch (1 BW). A later  
12 Fragmentary Order (FRAGO) referring to the prohibition  
13 on covering prisoner's faces, I find, did reach them.  
14 However, that order was firstly not put into effect  
15 consistently by all elements of 1 BW, and secondly was  
16 not successfully communicated between 1BW and 1 QLR in  
17 their handover.

18 During the course of 1 QLR's recce to Basra in  
19 May 2003 and at the handover between 1 BW and 1 QLR,  
20 I find that a number of 1 QLR officers and soldiers saw  
21 civilians who had been hooded by 1BW personnel. In view  
22 of the ban on hooding issued by Brims, this practice  
23 should have ceased. However, it may be that what some  
24 members of 1 QLR saw may have influenced them in how  
25 they treated prisoners.



1           The Brigade Sanction.

2           In late June 2003, 1 (UK) Division issued FRAGO 29.  
3           This FRAGO created at Battlegroup level a new post of  
4           the Battlegroup Internment Review Officer (the BGIRO).  
5           Hereafter the BGIRO was after at Battlegroup level for  
6           deciding whether those civilians arrested by the  
7           Battlegroup should be released or sent to the TIF for  
8           further questioning. FRAGO 29 also provided a 14-hour  
9           time limit at the end of which prisoners should either  
10          be released, or transferred to the civilian police, or  
11          sent to the TIF. In order to assist the BGIRO to make  
12          this decision, a practice developed in theatre whereby  
13          the BGIRO could be assisted by trained tactical  
14          questioners. In 1 QLR's case, it had no trained  
15          tactical questioners attached to it. Such men would  
16          have been sent to 1 QLR from 19 Mechanised Brigade (19  
17          Mechanised Brigade), its superior unit.

18          Major Anthony Royce was the first 1 QLR BGIRO.  
19          I find that he spoke separately to both  
20          Major Mark Robinson, head of 19 Mech Brigade's  
21          intelligence cell, and Major Russell Clifton, the 19  
22          Mechanised Brigade legal officer about procedures to  
23          preserve the shock of capture, conditioning, during the  
24          interval between the arrest of civilians and the arrival  
25          of tactical questioners at BG Main. There was a dispute

1           between all three officers as to whether any such  
2           conversations took place and if so, what was said.

3           I find that each of these conversations were  
4           "passing conversations" of short duration. I find that  
5           Robinson told Royce that hooding was permissible and  
6           that Clifton, if he did give any advice on stress  
7           positions, is likely to have said that stress positions  
8           would have been permissible in some circumstances, if  
9           approved by a subject matter expert. I find that  
10          following these conversations, Royce genuinely believed  
11          that he had received some assurance from Brigade that  
12          the practices of hooding and stress positions for the  
13          purpose of conditioning detainees before they were  
14          questioned was lawful and permissible.

15          Thereafter, hooding continued to be used by 1 QLR  
16          and I find that along with a form of stress position,  
17          this became a standard operating procedure at 1 QLR for  
18          prisoners suspected of having been involved in the  
19          insurgency. This explains why these Detainees on their  
20          arrival at BG Main were hooded and placed in stress  
21          positions.

22          I find that hooding and stress positions as a form  
23          of conditioning were wholly unacceptable in any  
24          circumstances. In addition, they carried the risk of  
25          young soldiers using unjustified force when enforcing

1 stress positions.

2 The loss of knowledge of the Heath Statement and the  
3 ban on the five techniques does not provide an excuse  
4 for the treatment of these Detainees. All the guards  
5 and other officers and men who were aware of what was  
6 going on in the TDF must have realised that the  
7 treatment of the Detainees was wrong. Assaults on them  
8 could never be justified. But if the ban on the five  
9 techniques had not been lost, and had it in 2003 been  
10 the subject of policy, doctrine and training, it is in  
11 my view inconceivable that hoods and stress positions  
12 would have been used on these Detainees. That loss  
13 provides a not insignificant background to the events of  
14 the 14th to 16th September 2003.

15 Recommendations.

16 I have made 73 separate Recommendations. I say  
17 separate, but a number of closely linked. This is more  
18 than ideally I would have liked. But I regard all as  
19 important. A large number are short and, I believe,  
20 simple to implement (see, for example, Recommendations 1  
21 and 2). However, it may take longer for others to be  
22 implemented. No doubt those which involve alterations  
23 in training (Recommendations 47 onwards) fall into this  
24 category. I might add that in my view steps should be  
25 taken immediately to set in train the implementation of

1 such recommendations so that they come into effect as  
2 soon as possible.

3 My recommendations include the important requirement  
4 that each unit should designate an existing officer as  
5 a Detention Officer, so that there is a clearer line of  
6 responsibility for ensuring prisoner welfare. Further,  
7 I make a range of specific recommendations to deal with  
8 what I see as very necessary improvements to tactical  
9 questioning and interrogation training.

10 Length of the Inquiry and costs.

11 This publication of the Report is made just over  
12 three years from the date the Inquiry was set up.  
13 Throughout the whole of this period I have been  
14 conscious of the need for the Inquiry to be conducted as  
15 expeditiously as possible. It is for others to judge  
16 whether this was achieved. For myself, at the outset,  
17 I would have hoped for this time span to have been  
18 shorter. But the work of the Inquiry has been  
19 considerable. Some 10,600 documents were disclosed on  
20 Concordance, but many more had to be assessed for  
21 relevance. The Inquiry obtained witness statements from  
22 388 potential witnesses. Of those 277 were called to  
23 give oral evidence. The remaining 111 witness  
24 statements were read into the transcript. In addition  
25 to calling witnesses, the Inquiry was engaged in

1 directions hearings, legal arguments on various issues,  
2 and closing submissions which, together with the Counsel  
3 to the Inquiry's Opening Statement and the Module 4  
4 hearings, make a total of 115 sitting days.

5 Perhaps I might also be forgiven for stating that  
6 the task of writing the Report was not inconsiderable.

7 The total cost of the Inquiry is not yet final, but  
8 the figure will be just over £13 million. Once again,  
9 I recognise that this is a substantial sum. But  
10 throughout the Inquiry the Secretary, Lee Hughes,  
11 together with his deputy, Frances Currie, have kept  
12 a close eye and control on costs. They have done their  
13 best to keep them to the minimum. We are within budget  
14 which was allocated to us at the outset in the figure of  
15 £17 million.

16 Inquiries such as this one are expensive. I like to  
17 think that the Inquiry has done its best to keep the  
18 cost as low as possible. However, it would be wrong for  
19 me to give the impression that the costs are restricted  
20 solely to the Inquiry's costs. The cost to the MoD as  
21 a whole will be greater when account is taken of its  
22 work as a Core Participant in the Inquiry, and as the  
23 entity paying for a large number of the Core  
24 Participants' representation.

25 Finally, in final comments in this statement,

1 I paraphrase a passage which appears in Chapter 1 of  
2 Part I of the Report. I have been very conscious that  
3 throughout the whole of the time of this Inquiry  
4 a fierce conflict has been conducted in Afghanistan  
5 involving soldiers of the British Army and other  
6 national forces. Casualties have been heavy. Hardly  
7 a week has gone by without some reference in the media  
8 to the death or serious injury of members of the Armed  
9 Forces. I have also been acutely conscious of the  
10 additional pain and stress which this Inquiry has put on  
11 members of the Armed Forces and the MoD. I am also  
12 conscious that criticisms made by me may seem to some,  
13 not only those in the Armed Forces, particularly  
14 ungrateful and insensitive. On the other hand, there  
15 has been a clear need to expose the wrongs which have  
16 been done to the Detainees and their families.

17 It has to be appreciated that the events described  
18 in the Report represent a very serious and regrettable  
19 incident. Such an incident should not have happened and  
20 should never happen again.

21 Captain Gareth Seeds, 1 QLR Operations Officer at  
22 the time, in evidence was asked by Counsel to the  
23 Inquiry, as were a number of witnesses, his reaction to  
24 what had happened. He confirmed that in his Inquiry  
25 witness statement he expressed his anger at what he had

1           seen in the TDF on his visit shortly after Baha Mousa's  
2           death. He agreed that in his witness statement he had  
3           said:

4           "          It seemed to me at the time that this treatment  
5           would undermine all the hard work we had done to win the  
6           support of the Iraqi people for our operation in their  
7           country."

8           And in oral evidence, he added succinctly:

9           "Everything we did was undone in an oner."

10          General Sir Michael Jackson, the Chief of the  
11          General Staff from 2003 to 2006, when asked the same  
12          question, said he was on record ... "in the aftermath of  
13          the dreadful events that led to the death of Baha Mousa  
14          of saying 'this is a stain on the character of the  
15          British Army'."

16          I agree with both these observations. The events of  
17          14 to 16 September 2003 were indeed a very great strain  
18          on the reputation of the Army and no doubt they did, at  
19          the time, greatly damage some of the good work done by  
20          1 QLR and other units in Iraq.

21          My judgment is that they constituted an appalling  
22          episode of serious, gratuitous violence on civilians,  
23          which resulted in the death of one man and injuries to  
24          others. They represented a very serious breach of  
25          discipline by a number of members of 1 QLR.





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