

Wednesday, 19 November 2014

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(10.30 am)

THE INSPECTOR: Good morning, Iraq.

MS AL QURNAWI: Good morning.

THE INSPECTOR: We're ready to go. So we'll call the first witness. Mr Poole will take over.

MS AL QURNAWI: Before we start, Sir George, just I sent a couple of emails about an hour ago to Ben and Sarah. Have you received this?

MS RAMSEY: No, sorry.

THE INSPECTOR: No. I have had another commitment elsewhere and so I have rushed here. Do you want me to look at it?

MS AL QURNAWI: Yes, please. One of the emails contains the questions for the ammunition expert, Mr Tomei, and the second email, just pointing out that we had a meeting this morning with the family, the Said family, and we went through the Arabic statement and you appreciate this is, at the end of the day, the loved one, so there was some emotions and crying, so we have just to bear this in mind today, when we go through the evidence with the witness.

THE INSPECTOR: Thank you, yes, that has been mentioned to me on a briefing I just had before coming in. I am conscious that we must take account of the difficulty

1           that will arise, probably at a certain time in the  
2           evidence. All right?

3 MS AL QURNAWI: All right, thank you.

4 THE INSPECTOR: We are going to start with the munitions  
5           expert.

6 MR POOLE: Yes. Do you want us to see the email from  
7           Ms Al Qurnawi before dealing with Mr Tomei?

8 MS RAMSEY: I've got it, ten seconds.

9 THE INSPECTOR: Would you still like me to look at the  
10          email?

11 MS AL QURNAWI: Yes, please.

12 THE INSPECTOR: Then Sarah will get it up.

13                   (Pause)

14           We will ask those questions through Mr Poole.

15 MS AL QURNAWI: Yes, please.

16 THE INSPECTOR: Okay?

17 MS AL QURNAWI: That's fine. That's okay, thank you.

18 MR POOLE: Mr Tomei, can I ask you to step forward, please.

19                               MR FRANCO TOMEI (called)

20                               Questions from MR POOLE

21 MR POOLE: Good morning, Mr Tomei.

22 A. Good morning.

23 Q. There's going to be a sequential translation of your  
24          evidence. In practical terms, that means I will ask  
25          a question which will then be translated into Arabic.

1 If I could ask you then to answer the question and then  
2 your answer will be translated into Arabic.

3 If I could just ask you to bear if mind, when  
4 answering my questions, the translator will have to be  
5 given an opportunity to translate your answer. So you  
6 might need to break down any long answers.

7 In the bundle in front of you, if I could ask you,  
8 please, to turn to page 122. The numbers are at the  
9 bottom right-hand corner of the pages.

10 A. Yes.

11 Q. Could I ask you to confirm that is your signature that  
12 we see on page 122?

13 A. It is, yes.

14 Q. And that that exhibit to it, the document that starts at  
15 page 123, if I could ask you to look at that, please.  
16 Then if we turn the pages through to page 126, do we see  
17 your signature again there?

18 A. Yes.

19 Q. Now, that will stand as your evidence to the  
20 investigation and I just want to ask you a few questions  
21 to clarify some aspects of that.

22 You set out your qualifications and experience at  
23 page 124. I take it from that, that you are a forensic  
24 scientist specialising in the examination of firearms,  
25 ammunition and related items?

1 A. I am, yes.

2 Q. And you've worked continuously and exclusively in this  
3 field for the last 38 years; is that right?

4 A. Yes, I have.

5 Q. In the present case, you were asked 13 questions. We  
6 see those questions and your answers on pages 125 and  
7 126.

8 A. That's correct, yes.

9 Q. In answering those questions, you were asked to imagine  
10 the following scenario: a 5.56 mm NATO calibre bullet  
11 being fired from an SA80 rifle, at a range of less than  
12 90 centimetres, into the lumbar area of the human body.

13 I would like to now ask you some questions about  
14 your answers.

15 The first question you were asked is whether the  
16 type of bullet is a standard form ammunition used by the  
17 British Army. Although you did not physically examine  
18 the bullet in question, am I right that you based your  
19 answer on the witness statement of Peter Brookes, who is  
20 a firearms expert?

21 A. I have, yes.

22 Q. Am I right that you confirm that, from the description  
23 and identification of the recovered fragments that are  
24 detailed in Mr Brookes' report, you are able to confirm  
25 that this was a standard issue bullet used by the

1 British Army?

2 A. Yes.

3 Q. Now, you are familiar with the concept of an expanding  
4 or exploding bullet, are you?

5 A. Yes.

6 Q. Could you explain the difference, if there be  
7 a difference, between expanding and exploding bullet?

8 A. Yes. An expanding bullet is a type of bullet which is  
9 designed to expand and increase its size on striking its  
10 target. Ideally, this bullet will remain in one piece.

11 Strictly, an exploding bullet would be one that  
12 literally explodes, due to an explosive mixture, when it  
13 strikes a target.

14 This was not such a bullet. More accurately,  
15 certain types of bullet fragment or can break up when  
16 they strike their target. And it's not clear whether  
17 the type of bullet in this instance is designed  
18 specifically to break up.

19 But in my experience, bullets of this type can and  
20 do break up when they strike a target. And the extent  
21 to which they break up depends on what they strike.

22 Q. You answer question 7 and explain, as you have just  
23 explained, what you would normally expect to see if  
24 a bullet of the type that we are looking at came into  
25 contact with a human body.

1           You use the word in your answer, "deformed". For  
2           the benefit of the deceased's family, could you just  
3           explain or expand on what you mean by "deformed"?

4    A. The bullet itself is relatively long and narrow. And  
5           once the bullet becomes unstable, it will travel  
6           sideways instead of point first. And at this point,  
7           it's possible for the bullet to, effectively, bend and,  
8           typically, break into at least two pieces.

9    Q. It is the belief of the deceased's family that the  
10           bullet fired during the incident in question was  
11           designed to break up inside the deceased's body. Are  
12           you in a position to comment on that belief?

13   A. There is nothing in the design of the bullet that leads  
14           me to believe it is deliberately designed to break up.  
15           But one of the normal parts of construction of this type  
16           of bullet might make breaking up more likely.

17   Q. From everything that you have reviewed when compiling  
18           your report, are you of the view that the injuries  
19           described are consistent with the behaviour of this type  
20           of military bullet?

21   A. Yes, in that the injuries described are typical of what  
22           I would expect of this type of bullet.

23   Q. Would I be right to say that everything you have seen  
24           points to the bullet in question being a standard  
25           military issue bullet?

1 A. Yes, it does.

2 MR POOLE: I am grateful. I have no further questions.

3 THE INSPECTOR: Mr Tomei, where, if you were seeking to  
4 obtain an expanding or explosive bullet, would one have  
5 to go? Is there an international market for such  
6 bullets?

7 A. Expanding bullets are relatively readily available, in  
8 that they are available for use in assembling ammunition  
9 that is used for hunting.

10 In respect of exploding bullets, given what I said  
11 earlier about the strict description of an exploding  
12 bullet, I wouldn't believe these to be readily available  
13 at all and I do not believe such bullets are available  
14 in the calibre we are discussing.

15 THE INSPECTOR: Thank you. Ms Al Qurnawi?

16 MS AL QURNAWI: Yes.

17 THE INSPECTOR: I believe that covers all the questions  
18 which we believe we have and you have helped us with, so  
19 far as this witness is concerned. Are you in agreement?

20 MS AL QURNAWI: Yes, we are. But do you mind if I just take  
21 a moment to have a word with the family?

22 THE INSPECTOR: Yes, of course, you do that. Do you need  
23 a minute or two? Shall I stay where I am?

24 MS AL QURNAWI: I think a couple of minutes.

25 THE INSPECTOR: Okay.

1 MS AL QURNAWI: Yes, yes, please stay where you are.

2 (Pause)

3 (10.57 am)

4 (Break due to technical problems with video link)

5 (11.04 am)

6 MS AL QURNAWI: Hello, can you hear us now?

7 THE INSPECTOR: I can hear you very clearly.

8 MS AL QURNAWI: We have two points, if we may.

9 THE INSPECTOR: Yes.

10 MS AL QURNAWI: The first one, can we reserve the right to  
11 come back with further questions once we have more time,  
12 to discuss what the expert just explained and, as well,  
13 read the transcript. Is this possible?

14 THE INSPECTOR: Well it's certainly possible but I would  
15 like to know whether you envisage a need for the witness  
16 to be available at another date?

17 MS AL QURNAWI: I don't think we will need this probably, if  
18 you could put our questions arising, so I don't know  
19 whether this could be communicated to the expert,  
20 I think, that point -- I don't believe we need him to be  
21 present.

22 But for the time being, the immediate questions  
23 which have been raised by the family, it's about the  
24 description of the expert. He said that the bullet is  
25 not -- shouldn't have exploded once entered the body but



1 the way that the bullet entered the body from the side,  
2 that could, as we understood what he said, could have  
3 (inaudible) in the fragmentation of the bullet.

4 The question is, they have now: because the bullet  
5 was fired from a very short distance, we're talking  
6 about, I believe, 90 centimetres, how could have this  
7 happened, because it's not been fired from long  
8 distance? So the short distance could have, like, sort  
9 of not led to the scenario which has just been described  
10 by the expert, ie, should have been exploded or  
11 fragments (?) like that. But on this occasion, because  
12 of the way that entered the body, may have (inaudible)  
13 it happening, what happened. This is one of the  
14 questions they have for the time being.

15 THE INSPECTOR: Thank you very much. Thank you.

16 MR POOLE: Mr Tomei, is there any correlation between the  
17 distance from which the bullet would be fired --  
18 obviously, we're dealing with this specific bullet fired  
19 from this rifle -- and whether or not that bullet would  
20 fragment on entering a human body?

21 A. I would expect the same degree of fragmentation whether  
22 the bullet had been fired at this short distance or even  
23 from more than 100 metres.

24 MR POOLE: I am grateful.

25 THE INSPECTOR: Why is that?

1 A. The bullet is still travelling with sufficient velocity  
2 to cause the same degree of damage and fragmentation.

3 I think also the degree of fragmentation is greater  
4 in this instance, as the bullet appears to have struck  
5 bone.

6 THE INSPECTOR: Thank you. Will you get the other questions  
7 or question to us and we will send it, Ms Al Qurnawi, to  
8 the witness.

9 MS AL QURNAWI: Yes, will do, thank you, Sir George.

10 Unless, if I may, just one minute, just to explain  
11 again to the family what the expert has just said.

12 THE INSPECTOR: Okay. Ms Al Qurnawi, do you need a break?

13 MS AL QURNAWI: No, we don't -- we had our lunch, we are  
14 ready to go on. Do you need a break?

15 THE INSPECTOR: We'll go on.

16 MS AL QURNAWI: Okay, we'll go on. Just I need one minute,  
17 if I may.

18 THE INSPECTOR: Yes.

19 (Pause)

20 MS AL QURNAWI: Thank you, Sir George.

21 THE INSPECTOR: Thank you.

22 MS AL QURNAWI: We can continue.

23 MR POOLE: Thank you very much, Mr Tomei.

24 THE INSPECTOR: Thank you. Thank you, Mr Tomei.

25 MR POOLE: If we could next have S008, please.

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S008 (called)

Questions from MR POOLE

MR POOLE: Good morning, S008.

A. Good morning.

Q. You have been in court while Mr Tomei has been giving his evidence and so you understand how the translation is going to work.

You have provided a witness statement for the purposes of this investigation, which you will find at page 181 in that bundle in front of you.

If I could ask you, please, to turn through those pages until you get to the last page, which is page 191. The statement is dated 12 November of this year. It's obviously been redacted at certain parts but can you confirm that that is your statement for the investigation?

A. Yes, I can confirm it's my statement.

Q. I'm going to ask you some questions, if I may, to clarify certain aspects of that evidence.

You joined the Army in October 1995.

A. Yes.

Q. You no longer serve in the Army; is that right?

A. Correct.

Q. When did you leave the Army?

A. April 2006 ... I think.

1 Q. You deal, at paragraphs 4 through to 8, with aspects of  
2 training you received prior to deployment to Iraq. You  
3 refer to specialist military police training. Is that  
4 something that everyone receives when they join the  
5 Army?

6 A. No.

7 Q. You refer, at paragraph 8, to specific training you  
8 received in two items: a Monadnock Baton and quick  
9 cuffs.

10 In respect, first, of the baton, could you describe  
11 it to us, please?

12 A. If I remember correctly, that baton, Monadnock was an  
13 expandable baton, very similar in design to the Asp  
14 Expandable Baton.

15 Q. Was this the baton you were issued with when you went to  
16 Iraq?

17 A. Yes.

18 Q. When non-extended, roughly how long is this baton?

19 A. Maybe four to six inches.

20 Q. When extended, how long is it?

21 A. Anywhere from 12 to 14, I think.

22 Q. 12 to 14-inches?

23 A. I think so, yes, but I could not be exact on that, I'm  
24 sorry.

25 Q. What sort of weight is this baton?

1 A. I honestly couldn't tell you the weight but it's not  
2 very heavy.

3 Q. In terms of extending the baton, could you just describe  
4 how this is done?

5 A. If I remember correctly, there was maybe two or three  
6 different techniques to expand it but they all result --  
7 or revolved around the fact you would grasp the baton in  
8 your hand and you would flick your wrist out to extend  
9 the baton. It worked in a friction lock system.

10 Q. So would I be right, it's something which can be  
11 extended fairly quickly?

12 A. Yes.

13 Q. The quick cuffs that you refer to, were these issued to  
14 you in Iraq?

15 A. If I'm honest, I can't remember whether it was prior to  
16 leaving or arriving in country, I don't know. I can't  
17 remember, sorry.

18 Q. Later in your account, when we're dealing with the  
19 incident, you refer to using cuffs, or attempting to use  
20 cuffs. Are those the quick cuffs that we're referring  
21 to here?

22 A. It will be, yeah.

23 Q. Just describe those to us?

24 A. Rigid quick cuffs, it's pretty much standard police  
25 issue. I think they're used here in the UK as well.

1           It's a set of handcuffs with a rigid body between the  
2           two cufflinks themselves.

3   THE INSPECTOR:   Just pause a moment.

4   MR POOLE:   Are you able to tell us why they're referred to  
5           as "quick" cuffs?

6   A.   I believe it's just a reference to the ease with which  
7           they can be applied.

8   Q.   Perhaps just describe, if you would, how you would go  
9           about using those quick cuffs?

10   A.   To be very honest, it would depend on the situation as  
11           to how you would apply them.

12   Q.   If someone was compliant and had their hands out in  
13           front of them, just describe to me the mechanics of how  
14           the cuffs would be applied.

15   A.   If the subject is compliant and has his hands out in  
16           front of him, the cuffs are applied very quickly,  
17           easily, with no pain or discomfort.

18           You would -- there's maybe two ways.  You would  
19           either extend in front of them, side by side --

20   MR POOLE:   Sorry, if I could ask you to pause there.

21   A.   Sorry.

22   Q.   I think you were saying there were two ways they can be  
23           applied.

24   A.   Yes, there's the palms facing forward or arms facing  
25           forward, sorry, with your palms facing together, the

1 cuffs can be applied quickly, within seconds, very  
2 easily, with no comfort -- with no discomfort.

3 Or, alternatively, you can place them in what's  
4 called, I think, the front stack position, which again  
5 is very quick, with no discomfort, it's just that the  
6 hands are on top of each other, with the cuffs running  
7 vertically down between the two wrists.

8 Q. You refer at paragraph 9, to equipment that you were  
9 issued with, prior to going to Iraq. You refer  
10 specifically to a 9 mm Browning pistol and a black Nylon  
11 belt with a black pistol nylon holster. How would your  
12 pistol be carried?

13 A. To be honest, I can't remember that far back but looking  
14 at the statement, it would have been carried in  
15 condition 2, which would be a loaded magazine, loaded  
16 into the magazine housing, but the 9 mm pistol would not  
17 be made ready; that is to say, there would not be  
18 a round in the chamber.

19 And the pistol would have been securely carried in  
20 the black Nylon holster.

21 Q. Do you recall whether that holster is attached -- where  
22 it's attached on your body?

23 A. Most likely it would have been on the black Nylon belt,  
24 in my right hip area.

25 Q. What would you have to do, if anything, to remove the

1 pistol from the holster?

2 A. Firstly, you would have to open the holster, unfasten  
3 the cover of the pistol.

4 Q. How is that cover fastened?

5 A. I think by some sort of clip but I can't remember.

6 Q. From your recollection, is that clip something that you  
7 can easily unfasten?

8 A. Not really, without practice, no.

9 Q. But it's something that can be done one handed,  
10 I assume?

11 A. Yes.

12 Q. You say at paragraph 10 that you arrived in Kuwait on  
13 27 June 2003. And on 5 July you were deployed to  
14 1 Kings Battlegroup. And a day later you were deployed  
15 to the Iraqi police station at Ad Dayr in south-east  
16 Iraq.

17 What rank did you hold when you were deployed to  
18 1 Kings Battlegroup?

19 A. I was a C 1 Cpl.

20 Q. Were you associated with the Royal Military Police?

21 A. Yes.

22 Q. Just for the benefit of those that don't know, can you  
23 describe the distinction between the Army and the Royal  
24 Military Police?

25 A. I suppose the easiest way to describe it is, basically,



1           just police the Army.

2   THE INSPECTOR:  Let's see if we can get on.  You were there

3           because you needed to provide training to the local

4           police in Iraq; is that right?

5   A.  That's correct, sir, yes.

6   THE INSPECTOR:  But as a Royal Military Police man, it was

7           also part of your duty to investigate and enquire into

8           the circumstances of a death of a soldier.  Is that

9           right?

10  A.  Not strictly, sir, no.  It was quite complicated, the

11          whole layout of it, while we were out there.

12  THE INSPECTOR:  Is it not the role of the RMP when in

13          theatre, in war time theatre, when a death occurs of

14          a soldier, to prepare a report for the Coroner back in

15          England?

16  A.  It is, sir, yes, but the way it would have worked is had

17          that incident occurred, I would conduct a very initial

18          short part of the investigation, ie, I would be the

19          first person on the scene, I would report back to my

20          superiors what had happened.

21  THE INSPECTOR:  Sorry, I'm not really asking you what you

22          would literally have to do.  I'm talking about the Royal

23          Military Police presence in a theatre of war.  It

24          obviously gives rise to a number of people performing

25          different tasks for the investigation.

1 A. Yes. Sorry, sir, I misunderstood you. In that case,  
2 yes, we would carry out the investigations, yes.

3 THE INSPECTOR: But here you were in Iraq, having to provide  
4 advice and training and assistance to the local  
5 police --

6 A. (Nods).

7 THE INSPECTOR: -- which meant that you had to go to the  
8 police station, and in order to get to the police  
9 station, you would be transported by a patrol of troops.  
10 Correct?

11 A. Correct, sir, yes.

12 THE INSPECTOR: They would deliver you, as it were, to the  
13 police station and come and pick you up when your duty  
14 time was over. Correct?

15 A. No, sir, they would stay with us at the police station.

16 THE INSPECTOR: They stayed with you, did they?

17 A. Yes, sir.

18 THE INSPECTOR: Thank you. Now we can come, I think, to  
19 2 August.

20 MR POOLE: It was on 2 August that one of the patrols we've  
21 just been talking about, collected you to take you from  
22 the Ad Dayr police station to the Al Shifya police  
23 station. And that patrol comprised a Lt Halloran, Cpl  
24 Gardner and S009; is that right?

25 THE INTERPRETER: Sorry, the second name?

1 MR POOLE: Cpl Gardner.

2 THE INSPECTOR: Is that right?

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

4 MR POOLE: There was also an interpreter present; yes?

5 A. Correct.

6 Q. Now, there came a time that you were travelling along  
7 route 6, between the two police stations, and you say  
8 about 2 kilometres south of the police station you were  
9 heading towards, you observed six Iraqi males pushing  
10 a cart of what looked like munitions, across the road.

11 It's suggested by S009 that there may have been nine  
12 to ten men. Are you comfortable with what you say,  
13 which is that there were six?

14 A. To be honest, I don't remember the details of that day  
15 at the minute and from experience of carrying out our  
16 own investigations, I do know that witness statements  
17 will vary in details but, yeah, I'm comfortable. There  
18 may well be more but ...

19 Q. You say that the men were on the other side of the road  
20 to where you were travelling and the vehicle that you  
21 were in, pulled over and stopped. Then you say that the  
22 vehicle reversed back towards the men you had observed  
23 and it was then that three of the men ran off to  
24 a nearby village. Is that right?

25 A. Yes, I ... I base it on the statement at this point, so

1 I'll have to say yes.

2 Q. And am I right in saying you don't know, or you're  
3 unable to say, what happened to those three men?

4 A. Yes, that's correct.

5 Q. Everyone in your vehicle got out and it was Lt Halloran  
6 that took charge of the situation. And he instructed  
7 the men that were pushing the cart to "stop and come  
8 here." And as far as you're aware, those instructions  
9 were translated by the interpreter?

10 A. Correct.

11 Q. You say that your intention was to examine what was on  
12 the cart and then you say, at paragraph 16, that you saw  
13 approximately 20 to 30 metal boxes, about five inches  
14 deep.

15 If you turn, please, to page 201 -- you may have  
16 a black and white photocopy. Are you able to make out  
17 what's in that?

18 A. Yes.

19 Q. Am I right that that is a photograph of the type of  
20 boxes you observed on the back of the cart?

21 A. Yes, they're similar in all respects to the type of  
22 boxes we found, yeah.

23 Q. If you turn through those pages, at page 203 you get an  
24 individual shot of one of the boxes. The last  
25 photograph, if you turn to that, 207, we see some

1 bullets placed on top of the box. Is that what you  
2 later observed were inside one of the boxes?

3 A. Yeah, I'm sure, if I remember correctly, we pulled out  
4 one of these bullets from the boxes at the scene at the  
5 time.

6 Q. I think this is what you refer to at paragraph 17, where  
7 you described it -- and just over the page, at the top  
8 of page 105 -- as "a big bullet"?

9 A. That's correct, yes.

10 THE INSPECTOR: Just tell me: you say that when you saw the  
11 men pushing the cart, you thought that what was in the  
12 cart were munitions. What led you to conclude that,  
13 just by seeing what was in the cart?

14 A. I think, remembering back at the time, it was just the  
15 way the boxes looked, the shape, the size, the colour.  
16 It just resembled some sort of munitions.

17 THE INSPECTOR: So you were familiar with boxes of  
18 munitions?

19 A. Yes, sir.

20 THE INSPECTOR: From what you'd seen in Iraq or from other  
21 places?

22 A. Both. In Iraq and other places, sir, throughout my  
23 career.

24 MR POOLE: If we pick up your statement at paragraph 16.

25 Having seen the 20 or 30 metal boxes, you asked one of

1 the men that you'd seen pushing the cart, where the  
2 boxes had come from. You described that man as being  
3 "dressed in a blue shirt, about 6'2/3 tall, broad  
4 shoulders and black hair."

5 Then you say you recall:

6 "He had a thin moustache connecting to a beard  
7 joining his sideburns."

8 Was this a young man or an old man?

9 A. I'm sorry, I just don't remember. I have to base  
10 everything off the statement at this point, I'm sorry.

11 Q. From your description you give there, I would be right  
12 in saying, fairly well built?

13 A. Again, I can't remember, I'm sorry, I can only go on  
14 what's on the statement.

15 Q. When you asked him -- and your question was  
16 translated -- and you asked, "Where did you get this  
17 from?" he pointed across to the other side of the road  
18 and then you accompanied him to where he was pointing.  
19 And at paragraph 17 you describe seeing a pit that had  
20 some water at the bottom and some further boxes, the  
21 same as the ones you'd seen in the cart. Is that right?

22 A. Yeah, that's correct.

23 Q. Do I take it that you believe that the boxes you had  
24 seen in the cart had come from this pit you saw by the  
25 side of the road?

1 A. Yeah. Again, I think at the time, that was the  
2 assumption we made, it was the same boxes on the cart  
3 and in the pit.

4 Q. You call Lt Halloran over, you show him one of the big  
5 bullets, as we have seen in the photograph, and he says,  
6 "Right, we'll arrest them". Is that right?

7 A. That's correct.

8 Q. That was then translated to the man that you had been  
9 dealing with, in the blue shirt?

10 A. Yeah, I think so, yeah, must be.

11 Q. You then cross back over the road with Lt Halloran, the  
12 interpreter and the man in the blue shirt. And you  
13 describe seeing the man in the blue shirt take a couple  
14 of quick steps forward, as if he was going to run-off.  
15 I'm right, aren't I, you didn't have hold of the man at  
16 this stage?

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

18 Q. Your suspicion was right because the man did in fact run  
19 away from you?

20 A. That's correct.

21 Q. I think you say you shouted at least once, if not twice,  
22 "Stand still!" but the man continued running away?

23 A. Correct.

24 Q. You gave chase. Were you instructed to do that or was  
25 that something you did on instinct?

1 A. I would have to say it was probably instinct.

2 Q. You describe, at paragraph 19, the man having about  
3 a five metre head start on you. And because you were  
4 wearing some heavy equipment, whereas he was wearing  
5 lightweight clothing, the distance between you and the  
6 man was increasing. Is that right?

7 A. Yes, correct.

8 Q. You were aware that S009 also gave chase because you say  
9 you could see him to your left. Is that right?

10 A. If I'm honest, I can't remember, I'm just basing this on  
11 the statement again, so I have to say correct.

12 THE INSPECTOR: So, if I can just clarify now: you haven't  
13 got any recollection of this event now, apart from the  
14 statement or have you got a rather vague one?

15 A. It's mostly a vague one, sir, to be honest. Bits and  
16 pieces, reading through the statement, I'll remember  
17 certain events but on the whole, the detail, not a lot  
18 of detail, to be honest, sir.

19 THE INSPECTOR: Do you think you could just try and give us,  
20 in your own words, what you do recollect of the event  
21 and then we can come back -- we've got the statement.  
22 You say that's your account and it's accurate.

23 A. (Nods).

24 THE INSPECTOR: Let's just hear in your own words what you  
25 do recollect, starting with this point of when you gave



1 chase. And take your time.

2 A. Okay. I remember giving chase. I can remember S009  
3 firing a warning shot. And I can remember continuing to  
4 chase and pausing at the corner of a wall, looking into  
5 the village across the ... I remember S009 pointing out  
6 the building or the doorway that the person we were  
7 chasing had entered in the village. I can remember  
8 going into the doorway and being -- and some sort of  
9 courtyard, I think, with a couple of buildings in the  
10 back corner, I think it was, or in one of the corners.  
11 And that's where we found the man we'd been chasing,  
12 hiding in one of those little sort of enclosures.

13 I can remember motioning him out, probably shouting  
14 at him, telling him to get out or come out. And then  
15 I can remember him being stood against the wall, facing  
16 myself and S009. And I can remember the struggle  
17 between myself and the man, trying to put the handcuffs  
18 on him.

19 THE INSPECTOR: Sorry, "I can remember a struggle"?

20 A. Yes.

21 THE INSPECTOR: Between you?

22 A. And the person we'd been chasing.

23 THE INSPECTOR: And the person you'd been chasing. Yes?  
24 Just a struggle between you and the person you'd been  
25 chasing?

1 A. Yeah, I mean -- I can remember S009 struck him with his  
2 rifle at some point.

3 THE INSPECTOR: S009?

4 A. Struck him with his rifle.

5 THE INSPECTOR: Struck him with his rifle. Which part of  
6 him do you remember him striking?

7 A. It would -- it was a butt stroke to the head -- to his  
8 face.

9 THE INSPECTOR: A butt?

10 A. The butt of his rifle into the -- into his face  
11 somewhere, I think it was.

12 I can remember it was just going up through the  
13 escalations. The subject, he wouldn't comply, he was  
14 being uncooperative. We went from the cuffs to the  
15 baton. Obviously, S009 struck him with the rifle. The  
16 more he wouldn't comply, the more we tried to make him  
17 comply and it just -- it sort of escalated from there.

18 And then I can remember the last time I went to  
19 strike him with the baton was when the shot sounded,  
20 almost simultaneously.

21 And I can remember the man screaming out in pain and  
22 sliding down the wall. At which point I think I turned  
23 to S009 and I think I asked him "Did you just shoot  
24 him?" to which he replied "Yes". I think I probably  
25 swore at him and called him an idiot. And then I told

1 S009 to wait there with the man and I went out to try  
2 and find the rest of the patrol because, obviously, we'd  
3 been split up.

4 I can remember we then -- we got the patrol vehicle  
5 round, the rest of the patrol. By that point there was  
6 a crowd gathered around. Quite a large crowd, I think.  
7 I think we put the man who had been shot on the back of  
8 the patrol vehicle and drove him into the village, to  
9 the medical centre. We then left the man at the medical  
10 centre. We then went back to the police station.

11 I think that's -- it was then that I ... I cautioned  
12 S009 and then phoned up my unit to seek further  
13 guidance.

14 I think pretty much that's about it really.

15 MR POOLE: Just a couple of questions on what you have just  
16 said. You referred to a warning shot being fired.

17 A. Yes.

18 Q. Why do you describe it as a warning shot?

19 A. I think it's sort of become -- or it sort of became  
20 pretty much accepted practice while we were out there.  
21 Most likely -- probably it's my own opinion. I think it  
22 was just an extra level in the escalation for the use of  
23 force. Starting from, very basically, shouldering your  
24 weapon, to making ready to show intent and then really  
25 from there, you've not got much more else to go. So

1 I think the warning shot became sort of accepted  
2 practice, where it was we would fire a warning shot  
3 rather than actually shoot somebody.

4 Q. You indicated, when answering that question, which the  
5 family of the deceased would not have seen, the gun or  
6 rifle being pointed towards the sky when firing  
7 a warning shot.

8 A. Correct.

9 Q. And that is your understanding of what S009 did, as  
10 opposed to firing at the man running away. Is that  
11 right?

12 A. That's correct.

13 Q. You describe coming to a stop at a dwelling. Roughly  
14 how far from your vehicle had you run before you reached  
15 that point?

16 A. I honestly -- I can't remember, I couldn't give -- I  
17 couldn't even give you an accurate guess, I'm sorry.

18 Q. In terms of, if it assists, rather than distance, in  
19 terms of timing, are you able to give us a rough idea of  
20 how long this entire incident took?

21 A. Maybe ten/15 minutes, start to finish?

22 Q. Just to be clear about the start. Do you mean from when  
23 you began to chase the man, to when the shot was fired?

24 A. No, probably from first laying eyes on the men with the  
25 munitions, right up to leaving with him (?).

1 Q. Was there any question of radio communications between  
2 the patrol you'd left and yourself or S009, during the  
3 incident?

4 A. No, I don't think we had them at that point.

5 Q. How confident are you that the man that came out of the  
6 outbuilding of the dwelling was the man that you and  
7 S009 had chased?

8 A. 100 per cent.

9 Q. Am I right that the man didn't have any understanding of  
10 English?

11 A. Didn't appear so, no.

12 Q. The strike with the rifle butt that you've described,  
13 can you recall whether any warning was given by S009  
14 before that?

15 A. I don't remember, sorry.

16 Q. Have you had to use your baton on someone before?

17 A. (Pause) I don't remember. I don't think so, but I'm not  
18 sure. I don't think so ...

19 Q. You describe saying to S009 that he was an idiot, after  
20 the shot had been fired. Why did you say that?

21 A. I think just because my initial instinct was "I don't  
22 think you should have done it" at the time.

23 THE INSPECTOR: Well as you know, I am not concerned in my  
24 investigations, to decide any question, such as whether  
25 or not he should have done it. I am investigating what

1           happened.

2   A.   (Nods).  Yes, probably just to clarify that, it was just  
3           a gut reaction to what happened, just ...

4   THE INSPECTOR:  Can I ask you -- this is a general question  
5           really -- you were pretty heavily kitted up and you had  
6           a pack on your back, as well as your rifle, the baton,  
7           the belt, the pistol and your -- are they sometimes  
8           called plasticuffs?

9   A.   Yes.

10  THE INSPECTOR:  Now, in that situation, if it's necessary to  
11           arrest a man who resists, could you do that on your own,  
12           if he was really resisting quite strongly?  Or do you  
13           need more than one person to do it?

14  A.   It's a very good question, sir.  Again, it would all  
15           depend on the situation, the size of the man you're  
16           trying to arrest, the level of cooperation --

17  THE INSPECTOR:  Let's assume no cooperation at all.  
18           Physical resistance and a man who's at least your size,  
19           young, strong and there you are, trying to arrest him,  
20           namely, to put cuffs on him.  How realistic is it for  
21           you in that situation, to believe you could do it -- not  
22           you, personally, a soldier -- doing it on his own or  
23           does he really need help?

24  A.   It can be extremely difficult to do it on your own, sir,  
25           it's always better to find help.

1           And in most cases I would say you probably do need  
2           help, sir, yes.

3   THE INSPECTOR:   Were you, in any sense, in charge of the  
4           arrest because you were a member of the RMP or was it  
5           just happened that you took over?

6   A.   Most likely a combination of both, sir.

7   THE INSPECTOR:   I mean, would S009 be carrying plasticuffs?

8   A.   Some of the guys had them, some of the guys didn't, it  
9           would depend on their availability at the time.  I know  
10          later on through the operations, they then -- I think  
11          they became almost standard issue.  I think at that  
12          point, that early stage, they weren't as readily  
13          available.

14   THE INSPECTOR:   I believe there are techniques which police  
15          officers and military police, no doubt, can be taught  
16          how best to deal with somebody you want to arrest who's  
17          being -- strongly objecting and violent in response.  
18          Are there techniques?

19   A.   There are, sir, yes.

20   THE INSPECTOR:   At the time you were in Iraq, had you  
21          received any training in those techniques?

22   A.   Yes, sir.

23   THE INSPECTOR:   Did you employ them on this occasion?

24   A.   Yes, sir.

25   THE INSPECTOR:   What were they, the techniques in

1 particular, you employed?

2 A. Again, starting from your very basic, you've got verbal  
3 commands and physical motioning. Obviously, the verbal  
4 commands were -- always going to be a struggle because  
5 I think there was a very definite language barrier.  
6 However, the motioning of the hand, motioning him down  
7 to the floor to calm down, again, that was ... not  
8 effective. So from there, you sort of move up to  
9 physical contact.

10 THE INSPECTOR: Let's get to the physical contact. Are  
11 there techniques that you can employ by way of  
12 arm-locks -- I don't know, I'm just using what might be  
13 said, common sense. Are there particular techniques you  
14 can employ which enable you, perhaps, to take control of  
15 a man who is physically resisting arrest?

16 A. There are, sir, yes.

17 THE INSPECTOR: Had you been taught them?

18 A. Yes, sir.

19 THE INSPECTOR: Did you use them?

20 A. I attempted to use them, sir, yes.

21 THE INSPECTOR: What sort of things did you attempt to do?

22 A. I attempted initially, I think, with what we call a  
23 goose net, trying to take control of the man's wrist at  
24 the pressure point.

25 However, it's ... a bit of a grey area in the fact



1           that because I was carrying firearms, when you're  
2           getting to close proximity with a man who's  
3           uncooperative, you can end up rolling about on the  
4           floor, getting into a tangle, and at which point he does  
5           then have access to any of the kit that you're carrying  
6           as well, and so you're very conscious of the fact  
7           you don't want to get too close to your subject.

8   THE INSPECTOR:  There may be a limit to how much detail we  
9           need to go into on this, but I get the impression that  
10          when you are loaded up, as you were, it's quite  
11          a difficult task to control a person who's resisting  
12          you.  Is that right?

13  A.  Yes, sir, it can be, yes.

14  THE INSPECTOR:  In general terms, are there any lessons that  
15          you think can be learned from what happened on this  
16          occasion?  By lessons, I mean by way of a situation like  
17          this not getting to the point to which you say it  
18          reached.  I don't want comments on other people's  
19          behaviour, I just want -- if there's a lesson, there may  
20          be none, but is there a lesson that could be learned  
21          which might prevent this sort of struggle getting into  
22          the extremes that happened on this occasion?

23  A.  Yes, I think there are.

24  THE INSPECTOR:  There are?

25  A.  I think so, sir, yes.

1 THE INSPECTOR: Do you want to offer them to me?

2 A. Well, this is probably all my own opinion, sir. But

3 I think -- I'm fairly certain now, the rules of the use

4 of force have been expanded upon and the techniques

5 available.

6 THE INSPECTOR: Sorry?

7 A. The techniques available for the use of force now have

8 been -- they're a lot more.

9 I think they are widely more used by the Army in

10 general, not just the police.

11 THE INSPECTOR: But are you saying you feel that those would

12 tend, if adopted, to reduce the extremes of the

13 situation which occurred?

14 A. I think so, sir, yes, I just think that the difference

15 in background and training between myself and S009, led

16 us to view the same situation very differently.

17 THE INSPECTOR: Thank you.

18 MR POOLE: I just want to ask you one question to clarify

19 something. Other than yourself and S009, at the time

20 the shot was fired, were there any other witnesses that

21 you're aware of?

22 A. I don't remember seeing anybody else at the time and

23 I think I said in my statement the same thing, so ...

24 MR POOLE: I'm grateful. I have no further questions.

25 Thank you.

1 THE INSPECTOR: Ms Al Qurnawi? We've finished with the  
2 questions we have for the witness. Is there anything  
3 that you would like us to do or have we asked and  
4 covered the questions you had?

5 MS AL QURNAWI: Again, do you mind (inaudible).

6 THE INSPECTOR: Sorry, I didn't quite hear that?

7 MS AL QURNAWI: I said could I have a word with the clients?

8 THE INSPECTOR: You would like to have a word with the  
9 clients?

10 MS AL QURNAWI: Yes. Yes, please.

11 THE INSPECTOR: Yes, have a word with the clients. If there  
12 appear to be a number of things, then we can put them in  
13 writing.

14 MS AL QURNAWI: Yes, will do. I don't think I have any  
15 further questions from my side. But I need to speak to  
16 them, just to see if they have any further comments or  
17 questions they would like to put to yourself and then to  
18 the witness.

19 THE INSPECTOR: We will wait.

20 MS AL QURNAWI: Won't be long.

21 THE INTERPRETER: Your comment, your reference to a cart,  
22 I heard "car" initially but then I did correct it  
23 halfway through so, that's just ...

24 (Pause).

25 MS AL QURNAWI: Hello. Can you hear me?

1 THE INSPECTOR: Yes, I can.

2 MS AL QURNAWI: We don't have any further comments or  
3 questions to S008, thank you.

4 THE INSPECTOR: Thank you. Ms Al Qurnawi, I am now, quite  
5 slowly, going to dictate to you all, the present  
6 position that I have taken in relation to S009. Okay?

7 MS AL QURNAWI: Okay.

8 Outstanding Matters

9 THE INSPECTOR: You have received, so far, a summary which  
10 is based upon a number of lengthy statements which S009  
11 made for the purpose of the criminal proceedings.

12 Would you like to translate from now on.

13 The position so far as S009 is concerned, is that,  
14 despite repeated requests from me, he has made a number  
15 of very hostile and uncooperative responses.

16 He has, at one stage, informed me that he has  
17 nothing more to say than he had already said in the  
18 statements.

19 I am, therefore, in a position where I have had to  
20 decide whether to compel him to give evidence to me.  
21 There are a number of reasons which have led me to  
22 a conclusion, subject to hearing from you, making any  
23 point to me in response.

24 My conclusion is as follows: my task is to find the  
25 facts. I have studied, as has my team, the evidence

1 given by S008, which you have now all heard, and I have  
2 compared it with the evidence given by S009, which has  
3 been summarised for your benefit.

4 I am satisfied that, so far as the facts are  
5 concerned, there is no difference between the account  
6 given by S008 and S009. The only difference is in the  
7 area which is not for my investigation, namely the  
8 extent of the threat which was perceived from the facts,  
9 which led S009 to shoot.

10 Since the facts are as clear as they are, and even  
11 if I could force S009 to come here, I do not believe  
12 that he would say anything more than he says he's  
13 already said.

14 In order to force him to come, there would have to  
15 be an application to the High Court, and that will take  
16 time. That could take some time, namely a number of  
17 weeks, if not months, to get a final result.

18 I do not want to delay my findings by taking a step  
19 which seems to me, not capable of adding to the clear  
20 picture that is already presented to me by the evidence  
21 of S008.

22 The position is, therefore, that -- by all means  
23 come back to me with any observation or representation  
24 that you wish me to take account of, but I trust from  
25 what I have said, that you understand why I am minded to

1 do what I have said.

2 Thank you.

3 MS AL QURNAWI: Thank you. Do you want our response,  
4 Sir George, now, or would you want us to come back to  
5 you? If you want it now, I could have a word with the  
6 client.

7 THE INSPECTOR: Yes, by all means have a word with the  
8 clients.

9 MS AL QURNAWI: Yes. Okay. Just a second.

10 THE INSPECTOR: Thank you.

11 (Pause)

12 MS AL QURNAWI: Sir George?

13 THE INSPECTOR: Yes.

14 MS AL QURNAWI: Can you hear me? We agree with your  
15 conclusion and we are happy for you to rely on the  
16 written statement of S009, without the need for you to  
17 make an application for the court to force him to come  
18 and give oral evidence.

19 THE INSPECTOR: Thank you very much. Finally, in both the  
20 case of Abdullah and Said, it remains for me to consider  
21 material which I have got, in connection with training  
22 of soldiers. Both training relevant for the Abdullah  
23 case and for the Said case.

24 I will keep you informed of that, Ms Al Qurnawi. My  
25 present position is that the material that I have can be

1 used by us by way of written statement and that will be,  
2 obviously, the most economic and speediest way of  
3 covering that subject. And that will leave me open to  
4 commence writing my reports as soon as I can.

5 Thank you.

6 MS AL QURNAWI: Excuse me, Sir George, I am not quite clear  
7 about this. Are you now talking about -- are you now  
8 talking about the point we discussed yesterday in  
9 relation to the Abdullah family, ie whether they would  
10 like to come and give oral evidence or you just rely on  
11 their written statements? Is that the point you're  
12 talking about, because I missed the beginning?

13 THE INSPECTOR: No, I'm sorry. I'm waiting to hear from  
14 you --

15 MS AL QURNAWI: Okay, since we are talking about this point,  
16 so you are waiting to hear from me about the Abdullah  
17 family?

18 THE INSPECTOR: Yes.

19 MS AL QURNAWI: My question is, if the same applies to the  
20 Said family, I need to come back to you and say whether  
21 we are happy for you to rely on the written statement or  
22 you would like as well, to give oral statement; are you  
23 saying now applies to this Said family?

24 THE INSPECTOR: I think I can hear you. Let me say I await  
25 from you, to tell me whether I can proceed on the

1           written statements from the Abdullah family.

2   MS AL QURNAWI:   What about the Said family?

3   THE INSPECTOR:   And if you wish to let me know what evidence  
4           you wish, other than the statements I already have, from  
5           the Said family.   All right?

6   MS AL QURNAWI:   All right.   So I need to come back to you on  
7           two points.   One regarding the Said family and the other  
8           regarding the Abdullah family and whether we are happy  
9           for you to rely on the written statement or they would  
10          like to give oral evidence as well, whether all of them  
11          or some of them.

12   THE INSPECTOR:   Exactly.

13   MS AL QURNAWI:   Have I understood you correctly?

14   THE INSPECTOR:   Exactly.

15   MS AL QURNAWI:   Okay.   Now we go back to the earlier  
16          comments you made, the last comment, not about this  
17          point, about the one before.   I am not quite sure  
18          I understood this one.

19   THE INSPECTOR:   Okay.   You remember that I have said in the  
20          past that I need to consider whether there is any need  
21          for me to make recommendations on any point arising out  
22          of what I've considered.

23                 And I have said that I had been enquiring into what  
24          training the soldiers in these cases received, for the  
25          purposes of discharging their duties.



1 I have got a number of statements, which if  
2 I consider it necessary, I can put into the  
3 investigation. But what I am saying is that I do not  
4 expect, if I do take that course, that it will be  
5 necessary for any oral evidence.

6 Is that clearer?

7 MS AL QURNAWI: Yes, that's clear, thank you.

8 THE INSPECTOR: Thank you. All right. Well, we look  
9 forward to hearing from you. Thank you very much for  
10 everything, and my regards and thanks to the family for  
11 attending today.

12 MS AL QURNAWI: Thank you, Sir George, thank you.

13 THE INSPECTOR: Thank you, bye-bye.

14 MS AL QURNAWI: Bye-bye, thank you.

15 THE INSPECTOR: Thank you very much.

16 A. Thank you, sir.

17 (12.44 pm)

18 (The hearing concluded)

19  
20 MR FRANCO TOMEI (called) .....2  
21 Questions from MR POOLE .....2  
22 S008 (called) .....11  
23 Questions from MR POOLE .....11  
24 Outstanding Matters .....36

25

