



# The Iraq Fatality Investigations

Inspector: The Right Hon. Baroness Hallett D.B.E.

CONSOLIDATED REPORT  
into the death of Saeed Radhi Shabram Wawi Al-Bazooni

Presented to Parliament by the Secretary of State for Defence  
by Command of Her Majesty

September 2020



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## The Iraq Fatality Investigations Team

### [Julia Lewis, Assistant to the Inspector](#)

Julia Lewis was called to the Bar in 2013 and has a broad public, commercial and civil practice, focused on human rights law at 3 Hare Court, Temple.

### [Natasha Jackson, Assistant to the Inspector](#)

Natasha Jackson was called to the Bar in 2015 and has a broad public, commercial and civil practice, focused on human rights law, at 3 Hare Court, Temple.

### [Farah Doctor, Paralegal to the Investigations](#)

Farah Doctor is on a secondment to the Ministry of Defence from BDB Pitmans LLP and joined the IFI as a Paralegal in April 2019, with a particular interest in public law.

## GLOSSARY OF TERMS

Armd	Armoured
BF	British Forces
BG	Battle Group
BW	Black Watch
DSP	Director of Service Prosecutions
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FPE	Formal Preliminary Examination
FRAGO	Fragmented Order
ICC	International Criminal Court
IFI	Iraq Fatality Investigations
IHAT	Iraq Historic Allegations Team
HQ	Headquarters
Lt	Lieutenant
MOD	Ministry of Defence
Ops	Operations
Op TELIC	Codename for operation to invade Iraq in 2003
PTSD	Post-Traumatic Stress Disorder
QSMI	Quartermaster Signals Master Instructor
RAP	Regimental Aid Post
RE	Royal Engineer
Regt	Regiment
RMP	Royal Military Police
RSI	Regimental Signals Instructor
SSgt	Staff Sergeant
SIO	Senior Investigating Officer
SITREP	Situation Report
SPLI	Service Police Legacy Investigations
Spr	Sapper
Sqn	Squadron
TOR	Terms of Reference
2IC	Second-in-Command

## GUIDE TO THE REPORT

- 1 The body of the report is designed to be self-standing. Further information can be found in the documents which are referenced in the report and which are published on the [Iraq Fatality Investigations](#) website under the section named '[Investigation into the death of Saeed Radhi Shabram Wawi Al-Bazooni](#)'. Photographs, plans, and key documents of relevance are to be found in the Annexes of the report.
- 2 A summary of the evidence I have taken into account is contained in Section 4 of the report. My findings and conclusions are in Section 5 of this report.
- 3 For the sake of clarity, Saeed Radhi Shabram Wawi Al-Bazooni will be referred to throughout this report as 'Shabram' and Iraq Fatality Investigations will be referred to as 'IFI'.
- 4 For reasons set out in Section 2 below, I have granted anonymity to all British military witnesses in this Investigation.

## SECTION 1: INTRODUCTORY OBSERVATIONS AND CONSIDERATIONS

- 1.1** This report records the outcome of the eighth Investigation into civilian deaths referred to the IFI by the Secretary of State for Defence. The Investigation was into the death by drowning of Saeed Radhi Shabram Wawi Al-Bazooni ('Shabram'<sup>1</sup>) on 23 May 2003, whilst allegedly in the custody of the UK Armed Forces. It was begun by Sir George Newman, but he sadly died in June 2019. I took over the Investigation in October 2019 and I have been greatly assisted by the IFI team who supported Sir George and who have supported me throughout.
- 1.2** On 23 May 2003, four soldiers from 26 Armoured ('Armd') Engineer ('Engr') Squadron ('Sqn'), 32 Royal Engineer ('RE') Regiment ('Regt'), drove their vehicles to the nearby dockside at the Shatt Al-Arab river to wash them. Whilst there, one of them observed and allegedly detained two Iraqi men on suspicion of stealing electrical cables. Both the Iraqi men entered the water and Shabram, who could not swim, drowned. Shabram's family believe he was pushed into the water by one or more of the British soldiers. The incident has been investigated by the Royal Military Police ('RMP') and, following a case review, by the Iraq Historic Allegations Team ('IHAT'), but no-one has ever been charged and no prosecution has been brought.
- 1.3** The Investigation into the circumstances surrounding the death of Shabram has involved a review of all the available evidence, consisting of contemporaneous material, evidence produced by the IFI and earlier investigations, and evidence produced for civil and judicial review proceedings. What follows in the body of the report is an analysis of that evidence. For reasons which are given in the report, it has not been necessary to hold public hearings.
- 1.4** There has been satisfactory disclosure from all those requested to make disclosure but in the seventeen years since Shabram's death, memories have undoubtedly faded and some potentially relevant material has gone missing.
- 1.5** I have been guided throughout the investigation by my Terms of Reference ('TOR') and the principles of Article 2 of the European Convention on Human Rights ('ECHR') underlying my TOR. Shabram was an Iraqi civilian and the UK Armed Forces, an occupying force. Members of his family are entitled to an effective investigation into the circumstances of his death.
- 1.6** A large number of witnesses have been interviewed by the RMP and the IHAT but many of them were rejected as unreliable by Sir George Newman. With the agreement of the interested persons, I also rejected them. I have therefore considered the accounts of the British military witnesses present when Shabram went into the water, namely, SO70, SO71, SO72, and SO75, four civilian witnesses of fact, other British military witnesses, the deceased's father and the pathologists who examined Shabram's body or, many years later, photographs of his body.<sup>2</sup>

<sup>1</sup> I have referred to Iraqi witnesses by their surnames throughout. In doing so, I intend no disrespect.

<sup>2</sup> The photographs of Shabram's body have been available to me, but out of respect for his family, and because I do not consider publication to be necessary, I have not published them on the website or in the report.

## SECTION 2: THE ORIGIN AND REACH OF THE INVESTIGATIONS

- 21** The origin and purposes of the IFI (sometimes referred to as the Iraq Judicial Investigations) appear from the reports, rulings and public statements published on the website at <https://www.gov.uk/government/collections/iraq-fatality-investigation>. The website carries an extensive record from which the legal background, objectives, and the course of each of the Investigations can be seen.
- 22** The jurisdictional remit of the IFI has its origins in various judgments of the European Court of Human Rights ('ECtHR') at Strasbourg. A succinct summary is contained in the judgment of the Divisional Court,<sup>3</sup> the judgment of the Grand Chamber of the Strasbourg Court in Al-Skeini and Others v United Kingdom,<sup>4</sup> and more recently judgments from Leggatt J (as he then was) in the Administrative Court in Al-Saadoon and Others v Secretary of State for Defence.<sup>5</sup>
- 23** The detailed legal background to the IFI is set out in full in the consolidated report into the death of Nadheem Abdullah and Hassan Abbas Said, published in March 2015.<sup>6</sup> It is sufficient to record that the specific obligations which govern the reach and purpose of this Investigation are set out in two judgments of the Divisional Court in the action of R (Ali Zaki Mousa and others) v the Secretary of State for Defence (No. 2).<sup>7</sup> By an order of the Divisional Court dated 31 October 2013, the Secretary of State for Defence was ordered to hold inquiries into civilian deaths in Iraq in any cases where there existed an Article 2 ECHR obligation to hold an inquiry and where it was clear that there would be no prosecution of any British soldiers alleged to have been involved in the deaths.

### Terms of Reference

- 24** On 15 February 2018, Sir George Newman was appointed to conduct an inquiry into the death of the deceased, Shabram. His appointment was subject to the following TOR:

#### ANNEX A: TERMS OF REFERENCE

##### The Scope of the Investigation

1. The investigation into the death of Saeed Radhi Shabram Wawi Al-Bazooni on 23 May 2003 ('the death') is to be conducted to establish the relevant facts and accountability for the death, thereby discharging the positive obligations of the State pursuant to Article 2 of the European Convention on Human Rights.

<sup>3</sup> [2013] EWHC 1412 (Admin)

<sup>4</sup> [2011] 53 E.H.R.R 18

<sup>5</sup> [2015] EWHC 715 (Admin)

<sup>6</sup> Iraq Fatality Investigations, "Consolidated Report into the death of Nadheem Abdullah and the death of Hassan Abbas Said" (March 2015)

<sup>7</sup> [2013] EWHC 1412 (Admin) and [2013] EWHC 2941 (Admin) respectively.

2. The investigation must be accessible to the family of the deceased and to the public, thereby bringing the facts to public scrutiny.
3. The investigation should look into and consider the immediate and surrounding circumstances in which the death occurred.
4. The investigation should encompass the wider circumstances of the death, including the instructions, training, and supervision given to the soldiers involved.
5. Where facts are found in connection with the instructions, training and supervision given to the soldiers, consideration should be given to whether it is proportionate or necessary to make recommendations on the issues raised taking into account the extent to which the issues raised have already been considered by the Ministry of Defence or other inquiries.
6. The investigation is to be conducted so as to bring to light all the facts, including failures on the part of the State and facts from which such failures could be properly inferred.

### **The Conduct of the Investigation**

7. The procedure and the conduct of the investigation are to be such as the Inspector may direct so as to achieve the aims and purposes set out above and to comply with the terms of the Court's judgements, Orders and directions.
8. The Inspector will draw up and publish the procedures which are to be followed to progress the investigation, and so far as appropriate conduct the investigation in accordance with the published procedures established in previous investigations. In this regard he will follow the guidance given by the Court about the extent to which legal representation will be necessary, the questioning of witnesses and the opportunity to be given to the next of kin to raise lines of inquiry.
9. The Inspector will from time to time consider and keep under review the need for procedures to be made public in connection with any of the aims and purposes of the investigation.
10. The Inspector has the power to require any person or organization to provide evidence in writing, to produce relevant material in their possession or control and to attend a public hearing to give oral evidence.
11. The Inspector is to commence his investigation by considering all the relevant documentation in the possession of the Ministry of Defence and any relevant information emanating from the Royal Military Police Special Investigations Branch (RMP SIB), Iraq Historic Allegations Team (IHAT) and Service Prosecution Authority.
12. Having considered all the documents which are to be supplied to him and any further documents or information which he may have requested the Inspector will decide what needs to be disclosed to interested persons, the next of kin of the deceased or the public to enable the investigations to be accessible and subject to public scrutiny.
13. Where it appears to the Inspector a risk exists that the public reputation of the armed forces could be adversely affected by the outcome of his investigations he should consider whether he should receive representations in connection with that risk.
14. Where the Ministry of Defence considers publication or disclosure would be damaging to national security, international relations of the State, or the safety of any individual it shall bring

its considerations to the notice of the Inspector who, having heard such representations from the Ministry as may be necessary, will determine the extent to which publication or disclosure is required in order to achieve the aims and purpose of the investigations.

15. At the conclusion of an investigation the Inspector will produce a written report which sets out:

- a) a narrative account of the circumstances in which the death occurred; and
- b) any recommendations he has decided to make.

16. The report will not be concerned to determine or address any person's criminal or civil liability. But the investigations are not to be inhibited by the likelihood of liability being inferred from the facts found or recommendations made.

**25** By the letter of appointment, Sir George was notified that the Director of Service Prosecution's ('DSP') decision not to prosecute in the case of the death of Shabram removed the earlier obstacle to his investigation of systemic issues that contributed to the death of Ahmed Jabbar Kareem Ali, and he was also requested to resume that wider investigation ('Ali Part II').<sup>8</sup>

**26** The Investigation was begun by Sir George and his work is set out in the summary below. I was appointed as the Inspector of the IFI to succeed Sir George in this role on 7 August 2019 by the Secretary of State for Defence, the Rt Hon Ben Wallace MP.<sup>9</sup>

**27** By the letter of appointment, the first two investigations I have been assigned in my role as Inspector are Part II of the Investigation into the death of Ali on 8 May 2003 and this Investigation into the death of Shabram on 23 May 2003. The TOR remain unchanged for both investigations.

## Assurances from ICC and AG

**28** The IFI is not concerned with determining civil or criminal liability. Appropriate cases are referred by the Ministry of Defence ('MOD') only after it has been decided that there is no realistic prospect of a criminal conviction and all criminal investigations and review processes have been completed.

**29** Witnesses should be encouraged to be full and frank in giving their evidence. The burden and uncertainty to which historic investigations can give rise should not be underestimated. For those reasons such protection as might be available to them both domestically and internationally has been provided. Accordingly, at the start of each investigation, the Inspector requested undertakings from the Attorney General and the Prosecutor of the International Criminal Court ('ICC').

**210** On 17 May 2018 the IFI received an email from the Office of HM Attorney General confirming that the undertaking given to Sir George by letter dated 4 August 2014, to the effect that no evidence given before the IFI would be used in evidence against that person in any subsequent criminal proceedings, also applied to soldiers giving evidence to the IFI in the Investigation into the death of Shabram.<sup>10</sup>

<sup>8</sup> Letter of Appointment and Terms of Reference dated 15 February 2018

<sup>9</sup> Letter of Appointment dated 7 August 2019

<sup>10</sup> MOD-83-0000476-A Email from the Attorney General's office dated 17 May 2018

**211** The IFI received a similar assurance by letter dated 16 March 2018 from Fatou Bensouda, the Chief Prosecutor at the ICC regarding the use by the ICC of any self-incriminating evidence given by soldiers to the IFI.<sup>11</sup>

## Support Available

**212** Both my predecessor, Sir George Newman, and I have been acutely aware that many soldiers asked to assist the IFI find the process of giving evidence distressing. They may also be suffering from Post-Traumatic Stress Disorder ('PTSD') and other psychological trauma dating back to their service in Iraq and elsewhere. Accordingly, from the first point of contact, the IFI has made soldiers aware of the availability of mental health support, legal advice and assistance. However, there are no parties to these proceedings and legal assistance is not intended to cover the role of an advocate having a right of audience to cross-examine and make representations on the facts and law. The principal aim is that witnesses should understand the procedure and have the benefit of legal advice and support to enable them to cooperate. Similarly, the family of the deceased and witnesses in Iraq are also entitled to legal assistance and advice.<sup>12</sup>

**213** It is within the discretion of the Inspector to adopt whatever measures are likely to assist justice. Further, whilst the process of these Investigations has obvious similarities to the purpose and procedure adopted in statutory and other inquiries, it is a unique process modelled on the judgment of the Divisional Court in the case of Ali Zaki Mousa.<sup>13</sup>

## Anonymity

**214** Applications for anonymity were received from five witnesses to the Investigation. I considered each application on its merits and granted each of them with reference to the criteria set out in Sir George Newman's General Ruling on Anonymity dated 4 October 2016.<sup>14</sup>

**215** I have also determined that it is appropriate to grant anonymity to other soldier witnesses from whom I have not received applications for anonymity, but whose evidence I have taken into account. Those witnesses were less directly involved in the incident, and the public interest does not require the publication of their identities, so long after the event. Nor is the publication of their identities necessary in order to fulfil the Article 2 requirements to determine the facts and circumstances of Shabram's death.

**216** Each witness who has been granted anonymity has been allocated a cipher which is used throughout this report and in documents published on the website.

## Course of the Investigation

**217** At the outset, I noted that according to the TOR, both Sir George Newman and I were instructed to conduct this Investigation expeditiously, proportionately and economically. I am conscious that the death occurred over seventeen years ago and that it is in the interests of all involved, and in particular of the family of the deceased, that this Investigation is brought to a conclusion.

<sup>11</sup> Letter from Ms Bensouda dated 16 March 2018

<sup>12</sup> As in previous investigations, this was provided by QC Law in Basra.

<sup>13</sup> [2013] EWHC 2941(Admin)

<sup>14</sup> General Ruling on Anonymity 4 October 2016

- 218** After Sir George had considered the material supplied to him for this Investigation, he set out the factual scope and broad lines of inquiry in the First Outline Statement of Issues for the Investigation dated 8 November 2018.<sup>15</sup> The factual summary provided a framework that identified the main boundaries of the Investigation. He stated that the conduct and adequacy of previous investigations into this incident were not within his TOR. Sir George also identified a number of Iraqi witnesses whose evidence he had seen which was plainly unreliable and would not form part of the Investigation.
- 219** However, Sir George confirmed that this framework should neither be regarded as exhaustive of the range of facts that would fall for consideration, nor should the facts as outlined be regarded as his conclusions on the facts. Sir George intended to set out his conclusions in the report. The facts of Shabram's case have therefore remained open for consideration throughout the course of this Investigation and the issues to be investigated have been under constant review.
- 220** Sir George published a second statement on 12 April 2019 to explain the legal process which is engaged when carrying out an Investigation under Article 2 of the ECHR.<sup>16</sup>
- 221** The first Directions Hearing for this Investigation was held on 14 May 2019.<sup>17</sup> At this hearing Sir George set out the progress which had been made regarding contact and cooperation with witnesses, matters which had hampered the Investigation's progress (including the fact that more than one British soldier witness was now resident abroad), and matters which were in the process of being resolved in order to secure the cooperation of those witnesses immediately involved in events (SO70, SO71 and SO72). He noted that, pending any formal requests for anonymity, he had accorded provisional anonymity to all soldier witnesses, and invited any representations from the media if they wished to make representations about the grant of anonymity on their freedom to report.<sup>18</sup> He also recited various extracts from radio logs which form part of the evidence and invited assistance from the Iraqi and soldier witnesses as to the events surrounding their contents. He identified further areas on which he sought assistance from witnesses, in particular whether any of the soldiers were aware of an alleged practice of putting suspected looters into water (as relevant to Ali Part II). Sir George emphasised that, by that time, it had been sixteen years since the incident, and the need to conclude the Investigation as expeditiously as possible.
- 222** Following the Directions Hearing, there was a meeting in June 2019 between the IFI team and the soldiers' representatives concerning requests for further disclosure and requests by SO70 and SO71 for permission to obtain expert psychiatric evidence regarding their mental health and their ability to participate in the Investigation. Permission was given by Sir George for the two soldiers to nominate psychiatric experts to examine them and produce reports for the IFI.
- 223** It had been Sir George's intention to hold public hearings in the summer of 2019. Sadly, he died in June 2019 and this timetable could not be followed. I was appointed as Inspector in August 2019, but officially took over from Sir George in October 2019 when I retired as a Lady Justice of Appeal. From the outset, I had every intention to resume the Investigation into the death of

<sup>15</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/754960/First\\_Outline\\_Statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/754960/First_Outline_Statement.pdf)

<sup>16</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/796589/Shabram\\_2\\_GN\\_Statement\\_12\\_Apr\\_2019\\_Final\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796589/Shabram_2_GN_Statement_12_Apr_2019_Final_.pdf)

<sup>17</sup> [14 May 2019 Directions Hearing Transcript \(English\)](#); [14 May 2019 Directions Hearing Transcript \(Arabic\)](#)

<sup>18</sup> No such representations have been received.

Shabram as expeditiously as possible and to conclude this Investigation without any further unwarranted delay. I was provided with a comprehensive reading list to get up to speed with the background of the IFI and have since received all the material evidence of this Investigation. After sufficiently reading in to the Investigation and reviewing the evidence, I notified representatives that I had provisionally decided to abide by the findings and statements made public by Sir George, unless I received any representations to the contrary. None were received by 31 October 2019. I have therefore considered all the material before me except the statements of those witnesses deemed unreliable by my predecessor, as set out in his First Outline Statement of Issues.

- 224** The second Directions Hearing was held on 11 December 2019, during the course of which I set a timetable for the receipt of expert psychiatric evidence on behalf of SO70 and SO71, the receipt of written evidence from SO70, SO71 and SO72, and the holding of public hearings in order to conclude the Investigation. Two days of public hearings were scheduled for 17 and 18 March 2020.
- 225** By mid-February 2020 I had received medical reports from psychiatric experts who had been appointed on behalf of SO70 and SO71. I posed questions to the experts and received their responses in late February 2020. After considering the reports and replies in respect of both witnesses, I concluded that requiring either of the soldiers to give written or oral evidence to my Investigation would be likely to have an adverse impact on their mental health which would outweigh the likely usefulness of any evidence they could now give. I communicated this decision to both witnesses on 3 March 2020. In particular I took into account the evidence of their medical experts that the clarity of their recollections was affected by their mental health conditions, that seventeen years have now passed since the incident, and that I have evidence available to me which was given by both witnesses in the course of previous investigations, that was taken under oath or verified by statement of truth, and from which I am able to draw conclusions and inferences. A full summary of the psychiatric evidence and relevant considerations in reaching my decision can be found in my Public Ruling dated 13 March 2020.<sup>19</sup>
- 226** I received applications from both SO71 and SO70 permanently to suspend the Investigation on 10 and 11 March 2020 respectively. The applications were made on the basis, *inter alia*, that the continuation of the Investigation risked worsening the mental health of both witnesses and heightening the risk of suicide. It was alleged that this would be disproportionate in relation to my duty to investigate alleged breaches of Article 2 ECHR and that continuation of the Investigation would be capable of infringing upon both applicants' rights under Article 3 ECHR. For the reasons set out in my Public Ruling dated 13 March 2020 I concluded that the potential risks to either SO70 or SO71 were not such as to outweigh the public interest and legitimate interests of the family of the deceased in an Article 2 investigation being concluded. I dismissed both applications. Furthermore, I decided that it would be in the best interests of all the soldiers, the family of the deceased, and the available Iraqi witness if I pressed ahead with the Investigation and concluded it as soon as possible.
- 227** I scheduled public hearings to take place over two days on 17 and 18 March 2020. When I was first appointed as Inspector, my intention had been to hear oral evidence from one Iraqi witness, Auda, and from SO70, SO71 and SO72, being the three soldiers immediately involved in the

<sup>19</sup> Public Ruling dated 13 March 2020

events at the dockside.<sup>20</sup> As a result of my decision that SO70 and SO71 would not be required to give further evidence, it followed that the only witnesses from whom I intended to hear oral evidence at the public hearings were Auda and SO72. All the arrangements were in place for those hearings, however the COVID-19 pandemic meant it proved impossible to call Auda and, despite my decision to grant him anonymity and to deploy special measures for his evidence, SO72 decided at late notice he would not attend. He stated he had nothing to add to his previous statements. I had no choice but to postpone the hearings.<sup>21</sup>

**228** I was advised that I may apply to the High Court for a witness summons to compel SO72 to give evidence at a future hearing. However, I reached the conclusion that, in light of the statements which had been made by SO72 during the course of previous investigations as well as his evidence to the IFI, calling him would not add further to those accounts and I could conduct an effective investigation without taking his oral evidence publicly. Since, as a result of the coronavirus pandemic, it was uncertain when it would be possible to rearrange a hearing via a video link from Iraq, I then considered whether I could conduct an effective investigation consistent with the Article 2 duties of the State without hearing oral evidence from Auda.

**229** I concluded that it was in the best interests of the family of the deceased, the soldiers and Iraqi witnesses, and in the public interest to conclude my Investigation as expeditiously as possible on the basis of the written documentation which has been made available to me (both from previous investigations and as evidence given to the IFI), without public hearings. Full reasons are set out in my Public Ruling dated 11 May 2020.<sup>22</sup> I add that, in reaching my decisions during the course of the Investigation, I have had particular regard to the considerations set out by Leggatt J (as he then was) in R (Al-Saadoon) v Defence Secretary (No2).<sup>23</sup>

**230** I decided to circulate a draft of this report to certain witnesses, including Auda and the family of the deceased. I carefully considered the comments and submissions received and have reflected them in the contents of this report where appropriate. One of the main complaints made by Auda was that he had not had the opportunity to give oral evidence before me. I therefore revisited my previous decision to complete the Investigation without hearing any oral evidence. I also considered whether, in the alternative, it was necessary or appropriate to put further written questions to him. However, for the reasons previously given and in the light of the many opportunities Auda has had to give his account of the incident, I remained of the same view. I am satisfied that the totality of the accounts given to date by Auda and the forums in which they have been given have provided the requisite opportunity to test and probe that evidence in order to satisfy the requirements of Article 2.<sup>24</sup> Moreover, I have considered the submissions made on his behalf at their highest and, for the reasons given in Section 5, I am satisfied that oral testimony or responses to further written questions from Auda would not cause me to depart from the findings that I have made. If anything, I have reason to believe, on the basis of his response to the draft

<sup>20</sup> See Section 3 for a summary of the circumstances of the incident, and Section 4 for a summary of the evidence.

<sup>21</sup> Notice Regarding Public Hearings posted 16 March 2020

<sup>22</sup> Public Ruling dated 11 May 2020

<sup>23</sup> [2016] 1 WLR 3625

<sup>24</sup> Finucane's Application for Judicial Review, Re [2019] UKSC 7

report relayed to me by the lawyers acting for him, that further evidence from Auda would lead me to further doubt his credibility and reliability as a witness.

**231** While the bulk of this Investigation was completed before the COVID-19 pandemic, the report itself was prepared during the crisis. The IFI team and I were therefore subject to unusual constraints. Nonetheless, I am confident we have conducted as full and fair an investigation as possible in the circumstances and that this report properly reflects my findings.

### [Link to Ali Part II and an alleged practice of ‘wetting’](#)

**232** As set out above, by his Letter of Appointment Sir George was informed that the decision of the DSP not to prosecute in this case removed the earlier obstacle to his investigation of systemic issues that contributed to the death of Ahmed Jabbar Kareem Ali, and he was also requested to resume that wider investigation (Ali Part II). By my Letter of Appointment, the first two investigations referred to me were this Investigation into the death of Shabram, and the Ali Part II Investigation.

**233** The alleged practice of ‘wetting’ refers to deliberately forcing suspected looters into water as a means of a degrading punishment, intended to deter those individuals or others from looting. The death of Shabram bears some similarities to the death of Ali in the following ways:

- i. Shabram’s death occurred a mere fifteen days after the death of Ali;
- ii. Both incidents involved members of the 1 Black Watch Battle Group (‘1 BW BG’);
- iii. Both incidents concerned the death by drowning of an individual engaged in looting, or alleged to have been engaged in looting, encountered by British soldiers;
- iv. Both incidents gave rise to allegations that the deceased had been deliberately forced into dirty water by British soldiers.

**234** In the light of those similarities, investigations into the death of Shabram have gathered a large body of evidence from both Iraqi witnesses and British soldiers on their awareness of any practice of wetting. I have considered that evidence for the purposes of determining whether, if any such practice did exist, the death of Shabram may have formed a part of it. I have also considered evidence which has been made available to me by the Service Police Legacy Investigations (‘SPLI’) regarding all known incidents in which any practice of wetting may have occurred. I set out my conclusions in respect of the death of Shabram in Section 5 below. I will also take into account this evidence in Ali Part II, which will form a separate report.

## SECTION 3: BACKGROUND TO THE SHABRAM INVESTIGATION<sup>25</sup>

- 3.1** The incident occurred on 23 May 2003, three weeks after the war had ended in Iraq.<sup>26</sup> The invasion and occupation of Basra led to the overthrow of both the civil and military sections of the regime of Saddam Hussein. Looting swiftly spread throughout the city as a result of the collapse of the Iraqi army, the extent of which is set out in the report of my predecessor, Sir George Newman, into the death of Ahmed Jabbar Kareem Ali.<sup>27</sup>
- 3.2** Several Fragmented Orders ('FRAGOs')<sup>28</sup> were issued prior to 23 May 2003 that gave instructions on how to deal with looters in particular and Iraqi civilians in general. These included FRAGO 010<sup>29</sup> (in force from 8 April 2003) that gave directions for dealing with civilian looters including powers to stop, search and temporarily detain; FRAGO 091<sup>30</sup> (in force from 9 April 2003) with Annex A "Looting – Guide for Commanders" which explained that British Forces ('BF') were permitted to intervene to prevent a crime taking place and may use reasonable force in doing so; FRAGO 152 (in force from 14 May 2003) and FRAGO 063 (in force from 21 May 2003) both of which dealt with the treatment of civilians with humanity and dignity and that the minimum force necessary should be used in the detention of civilians.
- 3.3** 26 Armd Engr Sqn, 32 RE Regt, were part of 1 Black Watch ('BW') Battle Group ('BG'). Following the end of the war, they were based in part of the former Iraqi Naval Academy in Basra which ran parallel with the West bank of the Shatt Al-Arab river. The role of the Engineers following the war was predominantly to help with the restoration of the infrastructure and human support services for the local population including the provision of an electrical supply.
- 3.4** About 11.00 on 23 May 2003, four soldiers from 26 Armd Engr Sqn drove their vehicles to the nearby dock area at the Shatt Al-Arab river, a distance of about 200m, in order to wash them down.<sup>31</sup> One vehicle contained SO70 and its driver was SO75, and the other contained SO71 and its driver was SO72.
- 3.5** Whilst at the dockside the soldiers' attention was drawn to an oil tanker which was on fire. According to SO70, he called his Headquarters ('HQ') to alert the civil fire brigade and then went on

<sup>25</sup> See Section 4 for a summary of the evidence.

<sup>26</sup> The war-fighting phase in Iraq was between the 19 March and 1 May 2003.

<sup>27</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/552911/Iraq\\_Fatality\\_Investigations\\_report\\_into\\_the\\_death\\_of\\_Ahmed\\_Jabbar\\_Kareem\\_Ali\\_Report\\_web-ready-20160915.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/552911/Iraq_Fatality_Investigations_report_into_the_death_of_Ahmed_Jabbar_Kareem_Ali_Report_web-ready-20160915.pdf)

<sup>28</sup> During Op TELIC instructions regarding training, prisoner handling and looting were disseminated by way of FRAGOs sent to Brigade and then BG level. The verbal dissemination further down the chain of command to squadron and troop level is unknown, but the weight of the material from soldiers suggests that they did not receive specific instructions on the content of the FRAGOs.

<sup>29</sup> MOD-83-0000493-A, FRAGO 10, Annex A

<sup>30</sup> MOD-08-0000324-Z, FRAGO 091, Annex B

<sup>31</sup> The dock area had sustained fairly extensive damage as a result of Coalition operations and looting, but a number of Iraqi civilians had nonetheless moved into some of the buildings to use them as makeshift accommodation. Photographs of the Iraqi Naval Base, a sketch plan produced by investigating officers during the course of the RMP investigation, and aerial view of the former Iraqi Naval Academy are at Annexes C, D and E of the report.

foot to search for a fire extinguisher. In the course of his search at the dock complex SO70 came across two young Iraqi men, Saeed Shabram and Auda, exposing a length of electrical cable and attempting to steal it. According to Auda, they were not stealing cable but were tending to their animals.

- 3.6** SO70 attempted to ask the men what they were doing but they did not understand, and so he took them to the dockside. At the dockside, an Iraqi male, Walid Jasim, was available to act as interpreter. SO70 claimed a crowd gathered and became hostile to Auda and Shabram, so that both men ran away to the edge of the dock and either slipped or jumped into the water. Auda claimed that it became apparent that it was the soldiers' intention to throw him and Shabram into the dock, and they walked them both to the water's edge. On his account they were then pushed into the water.
- 3.7** The central issue for previous investigations and for my Investigation has been to determine whether Shabram and Auda jumped or fell into the river, or whether they were pushed or otherwise forced into the river by the soldiers.
- 3.8** Auda was able to swim to the other side of the dock and pull himself out using a rope. Shabram sank and did not surface. SO70 and SO72 both entered the water and attempted to rescue him but were unsuccessful.
- 3.9** After a radio call to the Operations ('Ops') room two other soldiers, SO77 and SO78 attended the dockside. The situation became very volatile and the soldiers were ordered to return to their base.
- 3.10** About 13.30 a group of seven Iraqis, which included Shabram's father, attended the army base where they confronted the Second-in-Command ('2IC'), SO76, through the BW's interpreter, **The Interpreter**. Later that day, a diver hired by Shabram's father recovered Shabram's body from the river bed. A post-mortem examination carried out on 24 May 2003<sup>32</sup> gave the cause of death as drowning.
- 3.11** An RMP investigation commenced on 23 May 2003. Between 29 and 30 May 2003, investigators interviewed several Iraqi witnesses: Auda, Abdul Nabi Abdullah, Basim Jabir Al Akaili, Sabah Mutalib, **[REDACTED]**, **[REDACTED]**, **[REDACTED]**, **[REDACTED]** and **[REDACTED]**.
- 3.12** On 2 June 2003 SO70, SO71, SO72 and SO75 were identified as suspects, but they were not yet interviewed.<sup>33</sup> Between 6 - 8 June 2003 witness statements were taken from SO76, SO77 and SO78. On 8 June 2003 Walid Jasim was interviewed, on 9 June 2003 **The Interpreter** was interviewed, and on 14 June 2003 Abdullah was re-interviewed.
- 3.13** The majority of the Iraqi witness interviews conducted by the RMP tended to support the allegation that the soldiers had pushed Shabram and Auda into the water, and the only independent Iraqi witness who supported SO70's assertion that they entered the water of their own volition was Walid Jasim (who had acted as interpreter at the dockside). However, as determined by Sir George in his First Outline Statement of Issues, of the Iraqi witnesses, only the evidence of Auda and of Abdullah and Walid Jasim (the latter two now deceased) as eyewitnesses has been taken into

<sup>32</sup> MOD-83-0000496-A, MOD-83-0000497-A, Post-mortem report of Dr Saeed Abdol Razak Seedy dated 27 May 2003, Annex F

<sup>33</sup> It was decided that they would not be interviewed until the Iraqi interviews had been translated into English.

account for the purposes of this Investigation. The evidence of the others has been deemed to be plainly unreliable.

- 3.14** On 24 June 2003 SO70, SO71, SO72 and SO75 were arrested for the purposes of an evidential search. Nothing of value to the Investigation was found and they were released.
- 3.15** One year later, on 23 June 2004, SO70, SO71 and SO72 were formally interviewed under caution. They each gave evidence by way of pre-prepared statement and made no comment to questions asked (see Section 4 below). On 24 and 30 June 2004 SO75 was interviewed as a witness. On 1 July 2004 SO70, SO71 and SO72 were formally interviewed under caution and reported for alleged manslaughter. They made no comment.
- 3.16** Between 15 and 17 March 2006<sup>34</sup> a Formal Preliminary Examination ('FPE') took place in Basra in order to assess the credibility of the witnesses. Only Auda and Abdullah gave evidence, and they were cross-examined by Counsel on behalf of SO70, SO71 and SO72<sup>35</sup>. The Conducting Officer received submissions that there were significant inconsistencies in the Iraqi witnesses' evidence, suggesting that they had colluded and were dishonest. On 17 March 2006 the Conducting Officer ruled that there was no realistic prospect of a conviction of the three soldiers so that they should not be tried by Court Martial.
- 3.17** In 2010 a claim for damages was submitted against the MOD on behalf of Shabram and Auda. In July 2011 the MOD made compensation payments to both the family of Shabram and Auda in respect of their claims.<sup>36</sup>
- 3.18** In 2013 the IHAT reviewed the case and the Reviewing Officer identified three main areas of concern: firstly, deficiencies in the RMP investigation, secondly the FPE process, and thirdly the similarity between the death of Shabram and that of Ahmed Jabbar Kareem Ali.
- 3.19** The alleged deficiencies in the RMP investigation included:
- i. The failure to re-interview Iraqi witnesses and show them sketch plans which had been gathered during the course of the RMP investigation;
  - ii. The failure to question SO75 about what he saw at the dockside and failure to question SO75 and SO76 about any discussions they had once the soldiers returned to the base;
  - iii. The failure to trace and interview the radio operator who received the original message about the circumstances surrounding the death of Shabram;
  - iv. The failure to make enquiries to locate all the relevant radio logs for 23 May 2003 which had been said to, or might have contained communications relating to the drowning of Shabram;

<sup>34</sup> In the intervening period there had been some difficulty in tracing Iraqi witnesses and proceedings had been temporarily discontinued.

<sup>35</sup> A summary of their evidence is in Section 4 below.

<sup>36</sup> I am told that payment of compensation in Iraqi culture may denote an acceptance of culpability and that this payment seems to have led to Shabram's family misunderstanding the basis of the payment. It is important to note that in making the payment, the British Army did not accept any responsibility for Shabram's death.

- v. The use of Basim Jabir to arrange witness attendance at the FPE, even though it had been known from an early stage that his own evidence was unsound. This had led to accusations of collusion by the Iraqi witnesses at the FPE;
- vi. The poor quality of interpreters used to interview Iraqi witnesses and a failure to follow the applicable Achieving Best Evidence guidelines in those interviews;
- vii. The failure to question SO76 properly to establish the existence or otherwise of any notes or reports made following the debriefing of the soldiers on their return from the dockside. If such notes did exist, these had not been located;
- viii. The inadequate record-keeping in the Senior Investigating Officer's Policy Book regarding key decisions and the rationale for making them;
- ix. The failure to seize the opportunity at an early stage to arrest the four soldiers who had been at the dockside, put the Iraqi witnesses' allegations to them, and obtain their early accounts;
- x. The unacceptable delay generally between the incident in May 2003 and the FPE in March 2006;
- xi. The failure to explore whether abrasion injuries on Shabram's back (shown in the pathology photos) might be consistent with some Iraqi witness' accounts that he had been subjected to force from the butt or barrel of a soldier's rifle.

**3.20** Criticism of the conduct of the FPE process was made on the basis that the Conducting Officer had not allowed either Iraqi witness (Auda and Abdullah) to refresh their memories from their taped interviews, which had been given in 2003, three years before the FPE. The Reviewing Officer considered that this was not in accordance with general and best practice.

**3.21** Similarities were noted between the death of Ali and the death of Shabram on the basis that:

- i. Ali was a fifteen year old boy who, on 8 May 2003, fifteen days before the death of Shabram, had drowned in the Shatt Al-Basra canal having been taken there by soldiers from No 1 Coy, 1<sup>st</sup> Battalion Irish Guards, who were attached to the 1 BW BG;
- ii. The evidence at the Court Martial regarding the death of Ali had suggested that a punishment known as 'wetting' was practised by British soldiers on Iraqis suspected of looting at the time of Shabram's death;
- iii. Looting was widespread and could not be controlled by British soldiers, but orders as to how looters should be dealt with appeared to have provided discretion;
- iv. SO70's account was that he had apprehended Shabram and Auda on suspicion of looting, but it was not clear what he had intended to do with them;
- v. There was a consistent theme in the Iraqi witness evidence that Shabram and Auda had both been pushed into the Shatt Al-Arab river by British soldiers.

**3.22** The Reviewing Officer concluded that there was no clear reason as to why Shabram and Auda would put themselves in danger by entering the water, especially when the weight of the evidence was that Shabram could not swim. He recommended that there should be a fresh full investigation of the alleged manslaughter of Shabram. In addition to the deficiencies and matters set out above, the Reviewing Officer specifically commented that:

- i. There were inconsistencies in the accounts of the soldiers at the dockside regarding whether or not Shabram and Auda had been jostled by the crowd, and the fact that neither SO71 or SO75 reported having seen Shabram enter the water;
- ii. It had been suggested at the FPE that there was clear evidence of collusion between the Iraqi witnesses, but it could not be discounted that the soldiers may also have colluded, either immediately following the incident or in the year before they were interviewed.

**3.23** On 5 September 2013 the IHAT investigation into the alleged unlawful killing of Shabram commenced. This included a review of all witness accounts provided to date; identification of any potential new witnesses to confirm or refute the allegation that the actions of the soldiers at the scene directly led to the death of Shabram; re-interviews of key witnesses; and identification of any new and compelling evidence relating to the circumstances of Shabram's death. The evidence generated by the IHAT during the course of the re-investigation was voluminous and has all been made available to me for the purposes of my Investigation.<sup>37</sup> It included further evidence of fact from Iraqi and British soldier witnesses, video-walkthroughs of the dockside,<sup>38</sup> maps and satellite images of the area,<sup>39</sup> background expert evidence, psychological evidence in respect of the witnesses, and analyses of documentary evidence.

**3.24** In addition to the Iraqi witnesses who had originally been identified and interviewed in 2003, a number of new Iraqi witnesses who had not previously been identified by the RMP came forward and gave their accounts to the IHAT. These were Jassim Lafta Al Quatrani, Qasim Al Quatrani, Lazim, and the four sons of Abdullah. As explained above, their evidence has not been taken into account for the purposes of determining the circumstances of Shabram's death. By the time of the IHAT's investigation, a number of the Iraqi witnesses were either confirmed dead or were missing, presumed dead. They included Abdullah, Walid Jasim, and **The Interpreter**.

**3.25** The majority of military personnel from 26 Armd Sqn RE who were interviewed could not provide any direct evidence in respect of the death of Shabram. The IHAT interviewed over twenty members of 26 Armd Sqn RE looking for evidence of collusion between the British soldiers. I have taken into account all their statements. The evidence I have considered relevant is summarised in Section 4.

**3.26** The three accused were each re-interviewed in the summer of 2015 and again gave no comment interviews.

**3.27** A significant strand of the IHAT re-investigation concerned attempts to locate all relevant radio logs pertaining to the incident, and an analysis of the radio communications which were recovered. Although a total of twenty-seven radio and telephone messages relating directly and indirectly to the death of Shabram appeared on various recovered military Radio and Watch Keepers' logs dated between 23 May 2003 and 25 May 2003, the IHAT concluded that as many as seven relevant radio logs were missing. Most pertinently, all attempts by the IHAT to locate the radio logs for 26 Armd Sqn RE were unsuccessful, despite it seeming clear that the logs were sent to Hohne in Germany after the redeployment of the unit later in 2003.<sup>40</sup> The absence of documents and records, which it

<sup>37</sup> The disclosure schedules themselves amounted to nearly 700 pages.

<sup>38</sup> MOD-83-0000495-A; MOD-83-0000502-A

<sup>39</sup> MOD-83-0000494-A, Aerial view, Former Iraqi naval academy, Annex E

<sup>40</sup> See evidence of SO80, summarised below in Section 4.

is reasonable to believe once existed, inevitably generates suspicion on the part of investigators. It has therefore been necessary for me to consider whether there is evidence that any documents were deliberately destroyed or withheld so as to avoid them having to be disclosed. I address this issue in Sections 4 and 5.

**3.28** Following the IHAT's re-investigation the matter was referred to the DSP under s.116 (2) of the Armed Forces Act 2006. A decision was taken by the DSP not to prosecute on 14 September 2017. This decision was reached on the basis that the new evidence gathered by the IHAT was insufficiently reliable to overcome the original conflict in the evidence between the 2003 Iraqi witnesses on the crucial issue as to whether Shabram was unlawfully pushed or jumped into the water. The DSP's decision was reviewed by external Queen's Counsel according to the 'Victim's Right to Review Policy'. He concluded that the decision was not wrong.

## SECTION 4: SUMMARY OF EVIDENCE

### British military witnesses who were present when Shabram went into the water

#### SO70

- 4.1 SO70 was a Second Lieutenant ('2 Lt') and Troop Commander in 26 Armd Sqn, 32 Regt RE, 1 BW BG. He was in charge at the dockside on 23 May 2003.
- 4.2 SO70 gave a pre-prepared witness statement to the RMP in June 2004.<sup>41</sup> He was also interviewed by the RMP in June 2004 and in July 2004. During both interviews he gave no comment and relied upon his pre-prepared statement. He was interviewed by the IHAT in 2015 and gave no comment. For reasons set out in Section 2 and in my Public Ruling dated 13 March 2020,<sup>42</sup> I concluded that SO70 was not required to give further written or oral evidence to my Investigation and I have proceeded on the basis of his account given in 2004.
- 4.3 He stated<sup>43</sup> that 23 May 2003 was a maintenance day for 26 Armd Sqn, and they were required to clean their vehicles. This was the reason why he and SO75 in one vehicle, and SO71 and SO72 in another vehicle, travelled to the dock, approximately 200m from their camp. When they arrived at the dock they realised they had brought the wrong pump. SO71 and SO72 returned to the camp to get the correct pump, whilst SO70 and SO75 remained at the dock.
- 4.4 SO70 was then approached by an Iraqi who told him that a tanker in the dock was on fire. He verified this and then returned to his vehicle to inform his HQ and request a civilian fire service. At that point there were ten to twenty children on the docks and a few adults, some of whom were fishing.
- 4.5 When SO71 and SO72 returned to the dock with the correct pump they began cleaning their vehicle. SO75 remained on his and SO70's vehicle, whilst SO70 decided to see if he could find a fire extinguisher within the dock complex to put out the fire.
- 4.6 As he was looking for a fire extinguisher, he came across two young men digging a trench exposing a length of cable. He asked what they were doing and accused them of trying to steal the cable, but they did not understand him. They willingly followed him back to the docks, where SO70 intended to enlist a fisherman whom he had seen and who spoke English to translate.<sup>44</sup> Back at the docks, SO75 was responsible for "comms", whilst SO71 and SO72 were cleaning the vehicles. There were also children attempting to help them.
- 4.7 SO70 asked the fisherman to rebuke the two men for attempting to steal the cable, and a heated argument ensued between the fisherman and the two men. At the same time, the children began shouting "*Ali Baba, Ali Baba*" and more adults arrived.

<sup>41</sup> SO70 MOD-83-0000451-A

<sup>42</sup> [Public Ruling dated 13 March 2020](#)

[2020https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/87277/0/Public\\_Ruling.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/87277/0/Public_Ruling.pdf)

<sup>43</sup> SO70 MOD-83-0000451-A

<sup>44</sup> Other sources indicate this to be Walid Jasim.

- 4.8** Because the situation was escalating, SO70 decided to diffuse the situation and told the men to “*get lost*”. They appeared relieved. One of the men ran towards a gap between the edge of the dock and a building, and as he did so he seemed to slip and fall into the water. SO70 walked towards the edge of the dock and saw him swim to the other side before pulling himself out of the water by a rope which was hanging into the water from an anti-aircraft gun on the side. The other man, who was behind SO70, was still being taunted by the crowd. SO70 told him again to “*get lost*”. He ran to the edge of the dock, jumped in feet first, and sank like a stone. SO70 stated that he did not restrain, strike or abuse either man before they jumped into the water. He further stated that they were not pushed or thrown into the water by anyone, and at no stage was their swimming ability mentioned.
- 4.9** After the second young man went into the water, SO72 took off his boots and trousers and dived in to save him. SO72 performed two surface dives without success. SO70 told SO71 to send a Situation Report requesting diver and “*medics*”, and then SO70 entered the water himself. Both SO70 and SO72 tried for some time to rescue the man, but to no avail. Whilst SO70 was in the water, SO71 shouted to him to speak to Sqn 2IC, SO76, so SO70 climbed out of the water. As he did so the crowd were becoming agitated. SO70 spoke with SO76 over the radio and explained the position. He was advised to stay out of the water but returned for one last attempt to find the man.
- 4.10** When he and SO72 were too exhausted to continue they climbed out of the water, at which point SO77 and SO78 arrived at the dock. SO70 explained to them what had happened. The atmosphere from the crowd had become very hostile. SO70 told the troops they had to extract, which they did.

## SO72

- 4.11** SO72 was a Sapper (‘Spr’) in 26 Armd Sqn, 32 Regt RE, 1 BW BG.
- 4.12** SO72 gave a pre-prepared witness statement to the RMP in June 2004.<sup>45</sup> He was also interviewed by the RMP in June 2004 and on two occasions in July 2004. During all three interviews he made no comment to questions and relied upon his pre-prepared statement. He was interviewed by the IHAT in 2015 and gave no comment. SO72 cooperated with my Investigation and gave a further written statement to the IFI.<sup>46</sup>

### Account to the RMP on 23 June 2004

- 4.13** His account in 2004<sup>47</sup> was that 23 May 2003 was a maintenance day for 26 Armd Sqn, and they were required to carry out the weekly cleaning of their vehicles. He was the driver of vehicle call sign 40D, in command of which was SO71. He travelled to the dock, which was approximately 200m from the camp, in one vehicle with SO71, following SO70 and SO75 in another vehicle.
- 4.14** There were a number of children at the dock who were swimming and jumping off the side when they arrived. He and SO71 then realised that they had brought the wrong pump and returned to the camp to get the correct one, leaving SO70 and SO75 at the dock. After a short

<sup>45</sup> SO72 MOD-83-0000453-A

<sup>46</sup> SO72 IFI MOD-83-0000454-A

<sup>47</sup> SO72 MOD-83-0000453-A

while they returned to the dock and began washing their vehicle down, leaving their weapons in the vehicle. SO70 then informed them that a tanker was on fire and asked them to keep an eye on it whilst he went to look for a fire extinguisher. SO75 remained on his vehicle.

- 4.15** As he and SO71 were cleaning their vehicle they were swarmed by children trying to help. After about twenty minutes he became aware that SO70 had returned and that he had a group of Iraqis with him. Although he could tell that there was a crowd gathering, he did not take much notice as this was quite an everyday occurrence.
- 4.16** SO72 was in the process of shutting the pump down when, out of the corner of his eye, he saw someone go into the water. He then saw this person pull himself out of the water by climbing up a rope hanging off an anti-aircraft gun. As this happened, SO72 saw another “*lad*” run to the edge of the dock and jump into the water. SO72 walked to the edge of the dock to see what was going on but could not see any sign of the man who had jumped in, so he took off his boots and trousers and jumped in to try and find him. He could not see anything so tried to find him by diving down and feeling his way. At some point he also saw SO70 jump into the water. He carried on diving down, trying to find the man, until he was exhausted and had to get out, along with SO70. After a short rest they both went back in. Eventually they got out because they were ordered out of the water.
- 4.17** By that time a crowd had gathered and was becoming agitated, pushing and shoving SO72. The crowd grew more hostile and people were pushing and pulling SO71 and SO77, who was also now present. A decision was made to “*extract*” and return to camp.
- 4.18** SO72 stated that he did not restrain, strike or abuse the men and did not see any other soldier do so. He did not see either of the “*lads*” being pushed or thrown into the water, and he did not hear their swimming ability being discussed or mentioned.

[Account to the IFI on 30 January 2020](#)<sup>48</sup>

- 4.19** In his written statement to the IFI, SO72 confirmed and repeated the entire contents of his statement made in 2004 regarding the incident on 23 May 2003. He also commented on the swimming training he had received and whether he was aware of a practice of “*wetting*”.<sup>49</sup>
- 4.20** He stated that as a Spr he had been required to take an enhanced swimming test as part of his training, which required being able to swim 200m in uniform without rest. He was also qualified as a safety boat operative, which involved surface level practice rescues from boats, but he did not receive any dive instruction and did not have any previous experience of diving. He was not instructed in underwater searching, which is a specialist skill performed by the diving team.
- 4.21** SO72 further stated that at the time of the incident he had no knowledge of the concept or practice of “*wetting*”. He now understood this to refer to the alleged practice of forcing suspected looters into a river or canal.

<sup>48</sup> SO72 IFI MOD-83-0000454-A

<sup>49</sup> SO72’s comment on this had been sought by Sir George Newman in his [directions hearing dated 15 May 2019](#).

## SO71

- 4.22** SO71 was a Lance Corporal in 26 Armd Sqn, 32 Regt RE, 1 BW BG.
- 4.23** SO71 gave a pre-prepared witness statement to the RMP in June 2004.<sup>50</sup> He was also interviewed by the RMP in June 2004 and in July 2004. During both interviews he gave no comment and relied upon his pre-prepared statement. He was interviewed by the IHAT in 2015 and gave no comment.
- 4.24** As with SO70, for the reasons set out in Section 2 and in my Public Ruling dated 13 March 2020,<sup>51</sup> I have concluded that SO71 was not required to give further written or oral evidence to my Investigation and I have proceeded on the basis of his account given in 2004.
- 4.25** He stated in 2004<sup>52</sup> that 23 May 2003 was a maintenance day and they had to wash their vehicles. He was aware that the previous day some other soldiers had washed their vehicles down at the dock near to the camp. The driver of his vehicle was SO72, and they set off for the dock along with SO70 and SO75 who were together in another vehicle.
- 4.26** When they arrived at the dock they all got out except for SO75, who remained inside his vehicle on “*comms*”. SO72 and SO71 realised that they had brought the wrong pump and SO70 told him they should return to the camp to bring the correct pump. They returned to the dock after a short while. SO70 informed him that a tanker had caught fire and either that he had, or was going to, report it, and he then said he was going to have a look for something with which to put out the fire.
- 4.27** SO71 and SO72 remained with the vehicles. Some of the local children were trying to help and SO75 was still in his own vehicle. After a short time SO70 came back with two locals who, he said, had been stealing some cable. A crowd gathered around SO70 and SO72 and he believed the children were shouting “*Ali Baba, Ali Baba*”. This was quite common so he did not take much notice and continued cleaning the vehicle
- 4.28** SO71 did not say when, but his attention was drawn to a man swimming across the dock. He saw him grab a rope hanging off an anti-aircraft gun and pull himself out of the water. SO71 did not think anything of this because he had already seen people playing in the water. He then saw SO72 strip off and jump into the water. SO70 told him that someone had gone into the water and asked him to request divers and “*medics*”. He spoke to SO76 over the radio and the captain wanted to speak with SO70. By this point SO70 was also in the water.
- 4.29** A hostile crowd had gathered and SO71 retrieved his rifle from his vehicle. He called for assistance and was told that SO77 was on his way. When SO77 arrived the crowd started threatening him. They were becoming increasingly hostile and attempted to grab SO71’s rifle. The soldiers made the decision to extract from the scene.
- 4.30** SO71 stated that he did not see any person restrained, struck or abused by any soldier, and did not see either of the “*lads*” being pushed or thrown into the water. He did not hear the two young men’s swimming ability discussed or mentioned.

<sup>50</sup> SO71 MOD-83-0000452-A

<sup>51</sup> [Public Ruling dated 13 March 2020](#)

<sup>52</sup> SO71 MOD-83-0000452-A

## SO75

**4.31** SO75 was a Spr in 26 Armd Sqn, 32 Regt RE, 1 BW BG. SO75 was interviewed by the RMP and gave two statements in June 2004.<sup>53</sup> He was also interviewed by the IHAT in March 2015.<sup>54</sup>

**4.32** SO75 is now resident in [REDACTED]. He was notified of this Investigation by post and email on numerous occasions and was asked to make himself available to be questioned and to confirm whether he had anything that he wished to add to the previous accounts he had given. No response was received. I have therefore taken into account his previous statements. In doing so, as can be said for all witnesses whose previous accounts I have taken into account, I specifically note that those previous accounts were verified by statements of truth.

### Accounts to the RMP on 24 and 30 June 2004<sup>55</sup>

**4.33** His account in June 2004 was that sometime in the morning of 23 May 2003, he, SO70, SO71 and SO72 set off from their base in Basra to wash their vehicles by the dockside of the Naval Base. This was about a five minute drive away from the base. SO75 was driving a vehicle carrying himself and SO70, and SO71 and SO72 were in another vehicle. He recalled that none of them were wearing helmets or webbing.

**4.34** As per standard operating procedures at the time, when they arrived they reversed their vehicles to the edge of the dock, first the vehicle carrying SO71 and SO72 and second the vehicle carrying SO75 and SO70. SO75 recalled that to the right of his vehicle there was a boat which was on fire. He did not recall any flames but there was a lot of smoke. There was a metal platform in the corner of the dock, a few metres away from which was a metal ladder coming out of the water. At the far end of the dock, about 30m from his vehicle there was an old anti-aircraft gun which had a rope hanging from it into the water. SO75 was about 10m away from the closest dockside edge.

**4.35** As they arrived at the dock SO75 noticed about twenty Iraqi children who were playing at the edge, some of whom were jumping into the water and using the ladder to climb out. There were also a few adults walking around. The adults who were at the dockside looked at them and the children gathered around, which happened whenever British troops stopped in Basra.

**4.36** SO70 and SO75 got out of the vehicle and SO75 sat on top with the radio head set on. After about five or ten minutes SO70 told him that SO71 and SO72 had to return to the base because they had brought the wrong pump to wash the vehicles. SO75 moved his vehicle so they could leave, after which he and SO70 reported that the boat was on fire and requested that someone come and extinguish it.

**4.37** SO71 and SO72 returned not long after and the vehicles were moved into the same position they had been in originally. SO70 then told SO75 that he was going to try to find something to put the fire out. As SO71 and SO72 started up the pump, the Iraqi children began to gather around the vehicles again.

<sup>53</sup> SO75 MOD-83-0000455-A and MOD-83-0000456-A

<sup>54</sup> SO75 MOD-83-0000475-A

<sup>55</sup> SO75 MOD-83-0000455-A

- 4.38** After about ten minutes SO70 returned to the vehicles with two Iraqi boys who were aged between sixteen and twenty. They were walking freely. SO70 and the two boys stopped by the other vehicle, and people began to crowd around them. SO75 saw an Iraqi man come out of the crowd and begin talking to SO70, but he could not hear what was being said due to the noise from the pump. SO75 then turned back to see what the children were doing around his vehicle.
- 4.39** After about another ten minutes, he heard the volume of the crowd begin to rise and when he turned, he saw the crowd start to move towards the dockside. He then noticed that one of the Iraqi boys who had been with SO70 was climbing out of the water using the rope by the anti-aircraft gun, and then saw that SO72 was taking his boots and his trousers off, following which he jumped into the water.
- 4.40** SO75 then saw that the Iraqi boy who had been climbing out of the water was now running away. He thought that SO72 was in the water for about five or ten minutes before SO70 also took off his boots and jumped into the water. SO71 then used the radio on his vehicle before running over to use SO75's radio. He requested a diver and a "medic" and mentioned that a callsign was in the water.
- 4.41** After this SO75 recalled either SO70 or SO72 getting out of and back into the water. As the crowd became restless SO71 shouted to SO70 that he was wanted on the radio and to get out of the water. At this time, the crowd became very hostile and were picking things up off the floor which SO75 thought could be used as weapons. SO70 then requested that another callsign attend the scene. All of a sudden the children left the vehicle and ran away, and a load of women began running towards them. SO75 felt threatened for the soldiers' safety and cocked his weapon. At this time SO77 arrived. The women had been joined by a group of Iraqi men who were beating their chests like gorillas and screaming and shouting at them.
- 4.42** SO75 looked down and saw an Iraqi man who was trying to hit him with a cam pole. Someone then shouted to extract from the scene, and the soldiers left.
- 4.43** SO75 stated that he did not see anyone herding any sheep or other animals in the dockside area.
- 4.44** In his second statement given later in June 2004<sup>56</sup> SO75 stated that when SO70 and the two boys came back to the vehicle they were all walking freely and SO70 was armed with his SA80 rifle. He stated that he had spoken with SO70, SO71 and SO72 after the incident. He recalled that SO70 had told him that the two boys were stealing cable and he had brought them to the vehicles to speak with an English speaking local. He stated they had jumped into the water one after the other after the crowd had become hostile towards them.

[Account to the IHAT on 4 March 2015<sup>57</sup>](#)

- 4.45** SO75 was interviewed by the IHAT in March 2015. He stated that 23 May 2003 was the first day he recalled having washed their vehicles at the dock.<sup>58</sup> At that date, the war had been

<sup>56</sup> SO75 MOD-83-0000456-A

<sup>57</sup> SO75 MOD-83-0000475-A

<sup>58</sup> SO75 MOD-83-0000475-A (part II) p.4 of 79

finished for three weeks, but in respect of security, they “*obviously had to be aware of...what was going on.*” They each had their personal weapon, an SA80, on them at all times.<sup>59</sup>

**4.46** He described how when they had got to the docks, he, SO71 and SO72 were preparing their vehicles to be washed. SO70 went off to do a “*recce*” of the area. SO75 could not remember exactly what he said, but recalled “*whenever we pulled up anywhere he’d have a little look around, um, y’know, it was just something he did...I’ve no idea, the reason why he walked off, I have no idea, I really can’t tell you like what was in his mind when he decided to just walk away from the vehicle.*”<sup>60</sup> At this point, the situation at the dock was calm.

**4.47** When SO70 came back he had two “*guys*” who were walking in front of him, and he was also talking to a local. SO75 said that SO70 was not particularly gesturing or making any movements towards the two men. He was telling the local that the men had been stealing cables from the back of a house. They were about 5m away from SO75, and about 8m away from the edge of the dock. SO70 was talking in his broken Arabic and English. SO75 said that SO70, the two men and the local man were just chatting for a good ten to fifteen minutes, and there were no raised voices. It was not an unusual occurrence for SO70 to talk to the locals, and so SO75 lost interest and resumed what he was doing. He was half on the radio whilst he tidied up and cleaned the vehicle.<sup>61</sup>

**4.48** He said that SO70 and the other men must have been there chatting for quite a while, then SO75 heard two big splashes from the river. He got down from the vehicle to see what was going on and saw that SO70 and SO72 were down by the dock:

*“Now they must have been there for quite a while, just chatting and talking and then I heard the splashes from the...from the...from the river, um I got down to see what was going on and by that time SO70 was up near the dock and I think SO72 had come over as well and then I briefly got down off the wagon just to see what was going on and one guy was swimming across to the other side and basically the other guy didn’t...didn’t go across...”*<sup>62</sup>

**4.49** Later in the interview he stated that when he looked up after hearing the splashes he saw that SO70 and SO72 were walking towards the edge of the dock:

*“A: So I would’ve still been in and around this vehicle somewhere because I heard the splashes and then that’s what drew my attention to this area and that’s when I saw SO70...SO72 had come out from around the side of the vehicle and he was walking up this way as well, so they were both walking up towards the top, I don’t recall where SO72 was at all.*

*But that’s what drew me to come down off the vehicle and see what...what was going on.*

Q : *What drew you?*

A: *The splashes and the people walking towards the dock.*

<sup>59</sup> SO75 MOD-83-0000475-A (part II) p.9 of 79

<sup>60</sup> SO75 MOD-83-0000475-A (part II) p.23 of 79

<sup>61</sup> SO75 MOD-83-0000475-A (part II) pp.31-36 of 79

<sup>62</sup> SO75 MOD-83-0000475-A (part I) p.31 of 34

*Q: Ok. Why did the splashes cause you to want to go out and see what was going on?*

*A: Because it was two big splashes or big splashes, uh and then, y'know, there was obviously clearly something going on coz there was movement all towards the dock, this guy, SO70, SO72, everything was centred around that point.*

...

*I don't recall being splashes...it being splash splash, as in two, so maybe it was just one big one or it could've been two separate ones, I just remember the splashes and the movement of people.”<sup>63</sup>*

**4.50** SO75 stated that SO70 and SO72 were about 2-3m apart from each other as they moved towards the dock. He did not recall seeing SO71 at this stage. When asked how he believed the boys had ended up in the river, SO75 said:

*“Well they've either...they've either jumped in or they've been pushed in...or they've fallen in...*

...

*Well from what I saw, jumped, obviously something happened and they've, they've tried to run or they've jumped or...that was...y'know I never really thought at the time what's the most likely way these guys have gone in, it was a case of what, y'know, what's happening.”<sup>64</sup>*

**4.51** He saw one young man swim across to the other side of the river, promptly get out and run off, but *“the other guy just didn't, didn't...he just didn't appear from behind the wall.”<sup>65</sup>*

**4.52** At this point SO72 was either told or decided to jump in to try and get the man. SO75 had got about halfway to the edge of the dock, and SO71 told him to return to the vehicle to radio in the incident. SO71 also returned to his vehicle and SO75 believed it was SO71 who actually radioed the incident in, as it was not him. During this time people were turning up from everywhere. By the time SO72 got out of the water, it *“seemed like hundreds and hundreds”* of women dressed in black came out of nowhere towards the soldiers, they were screaming, and *“then it just felt like all hell's breaking loose...”*<sup>66</sup> Later in the interview he said that the size of the crowd was:

*“Twenty maybe, twenty, maybe a few more, it just seemed like it was just one big crowd of women.”<sup>67</sup>*

**4.53** Both SO71 and SO75 had climbed onto the top of their vehicles because the situation had *“turned into mayhem”*.<sup>68</sup> He did not know how SO72 had got out of the water but remembered SO71 getting on top of his vehicle and that SO70 was *“in the mix of it trying to calm things down.”* He described how the crowd of women were trying to grab SO71's rifle from him, whilst SO75 climbed back on top of his vehicle. It felt like it all happened in seconds, and he could

<sup>63</sup> SO75 MOD-83-0000475-A (part II) pp.38-39 of 79

<sup>64</sup> SO75 MOD-83-0000475-A (part II) pp.42-43 of 79

<sup>65</sup> SO75 MOD-83-0000475-A (part I) p.32 of 34

<sup>66</sup> SO75 MOD-83-0000475-A (part I) pp.31-32

<sup>67</sup> SO75 MOD-83-0000475-A (part II) p.61 of 79

<sup>68</sup> SO75 MOD-83-0000475-A (part II) p.47 of 79

only assume that the women were screaming because the other man had not got across to the rope.

**4.54** When asked how many soldiers had gone into the water, SO75 stated that, as far as he could recall, *“just one, just SO72”*.<sup>69</sup>

**4.55** Shortly after SO75 and SO71 got on top of their vehicles, SO77 and SO78 arrived. SO70 then told everyone to leave *“and then all three vehicles left at the same time”*.

**4.56** When asked to describe the situation, SO75 stated that it was very scary, and there were elevated screams *“like a football crowd”*. Regarding his knowledge of whether the second man had drowned he said:

*“A :...at the time, y’know, and by the time we’d left, the guy was still not anywhere to be seen, so assumption tells you that he’s probably drowned, y’know, um but you’ve still got stuff to do, you got...you got...you’ve still got a job to do.*

*Q: Ok, so just...just going back to that then, so when you left you’re saying that the guy hadn’t pitched up, so the assumption was that he’d drowned?*

*A: That’s what I’d assumed yeah.*

*Q: Ok, so as you left you think that lads drowned.*

*A: Prob...yeah, probably yeah.*

*Q: OK. Why do you think the crowd was so hysterical? The women?*

*A: Obviously they...they must have known who this lad is.*

*Q: Yeah*

*A: Um and they must’ve known that he was in a dock or that he’d drowned, so that...y’know that’s why they were there I’d assume.”*<sup>70</sup>

**4.57** SO75 was asked about the radio traffic concerning the incident, and responded:

*“...I can’t tell you specifics about that, I just don’t remember. There would have been a call, obviously at some point before, that was why the other vehicle turned up, so there would’ve been a call in there for another call sign to come in so there must be that...that radio log must be there somewhere. The other call sign’s turned up and I would imagine there would’ve been*

<sup>69</sup> SO75 MOD-83-0000475-A (part II) p.48 of 79

<sup>70</sup> SO75 MOD-83-0000475-A (part II) p.60 of 79

*another call to HQ or whatever, to say we were leaving but I don't...I don't recall hearing it, so y'know what I mean?"*<sup>71</sup>

**4.58** SO75 was asked about discussions that he had had following the incident. He said that he did not specifically recall sitting down with individuals and talking directly about the chain of events, but *"the gist of it"* from SO70 and SO72 was:

*"...by all accounts they'd run and jump into the dock and tried to swim across and get out the other side, that was...that was the account to me."*<sup>72</sup>

**4.59** Pressed further about whether he discussed the incident with SO70, he replied:

*"A: We would've had a conversation at some point.*

*Q: About that incident?*

*A: We would've had a conversation at some point about that incident, yeah.*

*Q: And what was said?*

*A: The same...the same thing that was said before, that the guys had jumped into the river.*

*Q: And why had they jumped into the river?*

*A: Because they were trying...trying to get away from him?*

*Q: And why were they trying to get away from him?*

*A: I have no idea, they'd obviously got scared and they were trying to run away, that was the...that was the...that's what I've been told, then he tried to get across, jump across the riv...across the dock and get out the other side and scarper but one of the guys and one of the guys didn't, y'know, so that's the information I was given.*

*Q: Have you had a conversation with SO72...*

*...*

*A: I...I would've had a conversation at some point with all...all of the people that were involved.*

*...*

*The people that were down there at the time*

*...*

*SO72, SO70, SO71, myself, those were the four people that were down there, um, y'know, we would've spoken about with the other people in the camp as well, other...other troop members.*

<sup>71</sup> SO75 MOD-83-0000475-A (part II) p.54 of 79

<sup>72</sup> SO75 MOD-83-0000475-A (part II) p.55 of 79

*Q: Let's focus on you four then, did you have a conversation altogether about it? All four of you in the same room or in the same place about it?*

*A: We would've done at some point yeah, I can't be specific...*

...

*Q: Altogether?*

*A: Whether or not it was altogether or separately but there would have been a conversation about it at some point, between y'know, the individuals, but whether or not it was in a group and where and when, I just can't give you the answer."<sup>73</sup>*

**4.60** SO75 said that there was a "possibility" that he spoke to the 2IC after the incident, but when asked if he was asked to write anything about it he replied "No I don't think I was, I don't remember ever writing an account for it."<sup>74</sup>

## Civilian witnesses who were present when Shabram went into the water

### Munem Auda Bale Al-Okaili ("Auda")

**4.61** Auda's father was a cousin of Shabram's father, and he and Shabram were close friends. He was with Shabram on the Naval Base on 23 May 2003 when both were taken by SO70 to the waterfront, and claims that he and Shabram were pushed into the water by one or more of the British soldiers.

**4.62** Auda was interviewed by the RMP on 29 May 2003<sup>75</sup> and gave evidence to the FPE held between 15 and 17 March 2006.<sup>76</sup> He was interviewed again by the IHAT in January 2014.<sup>77</sup> He also produced a signed witness statement dated 28 February 2010<sup>78</sup> for the purposes of a civil claim in the High Court. Auda has been cooperative with this Investigation and provided a written statement to my Investigation dated 17 August 2019<sup>79</sup> in response to certain matters put to him by Sir George Newman. He was willing to give evidence at a public hearing, but this was not possible or, in my view, necessary for the reasons set out in section 2 above.

### Account to RMP on 29 May 2003

**4.63** At the time of the incident, Shabram's family lived on the vacated Naval Base on the outskirts of Basra on the bank of the Shatt Al-Arab waterway. Auda visited Shabram around twice a week and would help him tend to the sheep and goats Shabram's father owned.<sup>80</sup>

<sup>73</sup> SO75 MOD-83-0000475-A (part II) pp.56-57 of 79

<sup>74</sup> SO75 MOD-83-0000475-A (part II) p.58 of 79

<sup>75</sup> Auda MOD-83-0000423-Part 1-A; MOD-83-0000423-Part 2-A

<sup>76</sup> MOD-83-0000498-A

<sup>77</sup> Auda MOD-83-0000481-A; MOD-83-0000482-A

<sup>78</sup> Auda MOD-83-0000479-A

<sup>79</sup> Auda MOD-83-0000485-A

<sup>80</sup> Auda MOD-83-0000423-Part 1-A p.3 of 18

**4.64** Auda claimed he and Shabram were grazing their animals at the Naval Base on the morning of 23 May 2003. At some point, British soldiers in armoured vehicles drove past them, which was not unusual as the British base was nearby and the soldiers would come to wash their vehicles in the canal.<sup>81</sup> Auda knew the number of the tank<sup>82</sup> was 400, because “his people” had recorded it.<sup>83</sup>

**4.65** After a short time, one of the British soldiers who had driven past, known to be SO70, came towards him and Shabram. At first, the soldier did not seem aggressive and Auda thought the soldier had lost his way, but he then pointed his weapon at them because he believed they might try and escape.<sup>84</sup> He searched them and did not find anything, and Auda denied that he and Shabram had been looting.<sup>85</sup> Neither Auda nor Shabram could speak English to communicate with the soldier, and SO70 gestured to them to go with him back to their tanks by the waterfront.<sup>86</sup>

**4.66** There were people nearby, who told him and Shabram not to be afraid.<sup>87</sup> But Auda explained that the people stayed back as they did not want to become involved:

*“they were scared from us not from [the British soldier], because they didn’t want problems ... it is better to stay away ... if someone is caught by the British they will hurt him – they will ask him to be a witness or they want him to show them around, so you ask them why don’t you go to the British and he will tell I don’t want that responsibility I have nothing to do with it.”<sup>88</sup>*

**4.67** SO70 walked Auda and Shabram to the armoured vehicle at the waterfront while pointing his gun at them, and gestured for them to sit and wait by the vehicle while he went off to find an interpreter.<sup>89</sup> While they waited, people were coming over to them and telling them they might be taken away with a sack on their heads and would then be released.<sup>90</sup>

*“People were coming over close to us and telling us they are not going to take you with them, they are going to release you – people were walking around they had nothing to do with us, and the soldiers were washing the armour with a motor they had nothing to do with us ... Strangers came and told them it is usual that British soldiers take some people away and put a sack on their heads and then they release them afterwards after some time.”<sup>91</sup>*

**4.68** About ten minutes later, SO70 returned with an Iraqi who could interpret for them.<sup>92</sup> Auda did not know this man, who came to the area to fish, but he has been identified as Walid Jasim. Auda told the RMP:

<sup>81</sup> Auda MOD-83-0000423-Part 1-A p.6 of 18

<sup>82</sup> The vehicles at the dockside were a CVR(T) Spartan and FV432. The word ‘tank’ was used by Iraqi witnesses / in the translation of their evidence and is not intended to be determinative of the particular vehicles in question.

<sup>83</sup> Auda MOD-83-0000423-Part 2-A p.11 of 20

<sup>84</sup> Auda MOD-83-0000423-Part 2-A p.4 of 20

<sup>85</sup> Auda MOD-83-0000423-Part 2-A p.6 of 20

<sup>86</sup> Auda MOD-83-0000423-Part 2-A p.4 of 20

<sup>87</sup> Auda MOD-83-0000423-Part 2-A p.6 of 20

<sup>88</sup> Auda MOD-83-0000423-Part 2-A pp.5-7 of 20

<sup>89</sup> Auda MOD-83-0000423-Part 2-A p.15 of 20

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Auda MOD-83-0000423-Part 2-A p.18 of 20

*“I told [Walid Jasim] I live in this area Hajji, can you tell that – they don’t know this – this is the first time they see me here – we are from this area we tend sheep. He said I will tell them don’t worry.”*

The interpreter told the British soldier that the two men were *“just honest herdsmen”* and went away after about five minutes.<sup>93</sup>

**4.69** There were four British soldiers, all of whom were armed, who put them on the riverbank/dock *“with the butt of the rifle”* and told Auda and Shabram that they were going to be pushed in.<sup>94</sup> Auda told the soldiers that he did not know how to swim, but the soldiers did not understand him and seemed to be joking around.<sup>95</sup> Auda explained that he was not a good swimmer, and had to prepare himself slowly to go in. Shabram could not swim at all.<sup>96</sup> All four of the soldiers surrounded them and wanted to push them in, but:

*“There was someone who wanted to push us more than the others – he was behind us and he wanted to push us more than the others – that was the same person who brought them to waterside – he was pushing us more than the others”.*<sup>97</sup>

**4.70** It is clear from the transcript of Auda’s interview on 29 May 2003 that he had been asked earlier that morning at the Naval Base to identify to the RMP those civilians who had been present when he and Shabram had been at the waterfront. Auda had identified three witnesses other than himself who, he claimed, had seen everything, and who had come with him to give their accounts to the RMP at Basra Palace. Those people included Abdullah, Basim Jabir and Sabah Mutalib.<sup>98</sup> During the course of his interview, Auda explained that up to fifty people had been present at the time of the incident, who had pleaded with the British not to push them in as they did not know how to swim.<sup>99</sup> When pressed on why he did not tell the RMP about these witnesses sooner, he told the interviewer that they were strangers who came to the base to swim and fish,<sup>100</sup> and that they had not been close and they stayed away from the British soldiers out of fear.<sup>101</sup> Auda told investigators that the witnesses he had brought with him were the ones who had *“defended”* them to the British, and that Basim Jabir was among those who had told him and Shabram that everything would be fine.<sup>102</sup>

**4.71** Auda told the soldiers that they did not know how to swim, but *“immediately they pushed us in ... they threw us in”*. Auda told the RMP that Shabram was afraid of the water so resisted:

<sup>93</sup> Auda MOD-83-0000423-Part 1-A p.7 of 18; Auda could not speak English or understand what Jasim said.

<sup>94</sup> Ibid.

<sup>95</sup> Auda MOD-83-0000423-Part 2-A p.9 of 20; MOD-83-0000423-Part 1-A p.11 of 18

<sup>96</sup> Auda MOD-83-0000423-Part 1-A p.15 of 18

<sup>97</sup> Auda MOD-83-0000423-Part 1-A p.3 of 18

<sup>98</sup> Auda also stated that Walid Jasim was present.

<sup>99</sup> Auda MOD-83-0000423-Part 1-A p.10 of 18

<sup>100</sup> Auda MOD-83-0000423-Part 1-A p.12 of 18

<sup>101</sup> Auda MOD-83-0000423-Part 2-A p.16 of 20; MOD-83-0000423-Part 1-A p.11 of 18

<sup>102</sup> Auda MOD-83-0000423-Part 1-A pp. 9-16 of 18; Auda MOD-83-0000423-Part 2-A p.16 of 20

*“my friend didn’t want to be thrown, they pushed him with the weapon, we were both thrown at the same time”*. This was translated by the interpreter for the interview as *“they were he was hit with the butt of the gun.”*<sup>103</sup>

*“He was afraid of the water ... they hit him like that [gesturing] with a push”*.<sup>104</sup>

**4.72** Auda went into the water and felt himself going down and then rising to the top of the water. Shabram also went into the water but did not surface. Auda watched the soldiers lock their tanks and go into the water to look for him while he was still in the canal and climbing out.<sup>105</sup> Some of the Iraqi people nearby also went into the water to look for his friend.

**4.73** The guard at the base, Abdullah, threw Auda a rope and he was able to climb out. When he came out of the water, Auda felt dizzy from the oil and vomited and then fell unconscious for about fifteen mins. He was carried home by people at the waterfront and woke up at about 3 o’clock.<sup>106</sup>

**4.74** Auda told the RMP that Walid Jasim, the interpreter, had still been there when he came out of the water and was walking away. Auda said that he challenged Walid Jasim when he got out of the water and asked him why he had not helped them:

*“I told him uncle you should have told him and save us – he was still there when they pulled me out with the rope – he was walking away fast – I told him uncle why didn’t you save us you should have talked to them – he left me there – he said don’t blame me – he walked away – I told him my friend got hurt.”*<sup>107</sup>

#### Account to FPE in March 2006

**4.75** Auda maintained to the FPE that he and Shabram had been grazing animals when SO70 came up to them on the morning Shabram died. The soldier came over at around 10am or 11am, and patted him on shoulder, searched them both by hand and then escorted them to the British tanks.<sup>108</sup> Auda told the FPE for the first time that Shabram *“tried to escape from the soldier but the soldier touched him with the tube of the rifle ... He hit him on his back. He beat him at his back”*.<sup>109</sup>

**4.76** Auda told the FPE that he did not understand that they were accused of looting; yet at the same time, he said that he was afraid because the soldiers had no proof that he and Shabram had been stealing anything:

<sup>103</sup> Auda MOD-83-0000423-Part 2-A p.2 of 18

<sup>104</sup> Auda MOD-83-0000423-Part 2-A p.3 of 18

<sup>105</sup> Auda MOD-83-0000423-Part 2-A p.5 of 18

<sup>106</sup> Auda MOD-83-0000423-Part 2-A p.9 of 18

<sup>107</sup> Auda MOD-83-0000423-Part 2-A p.18 of 20

<sup>108</sup> MOD-83-0000498-A pp.9-10

<sup>109</sup> MOD-83-0000498-A, p.14

*“Normally all the people was arrested in this area. When any person who has been arrested in this area he look like suspected person. The British forces will never release them. After they took me to another place and picked this location with me. When the police discovered this person was not suspected we can’t release him after. We are afraid because the British has no evidence against us. The British forces has not interpreted or discuss or something. The British soldier didn’t understand from us any information.”<sup>110</sup>*

**4.77** Auda confirmed that he had not been aware that three youths had been shot near the scene of the incident a short term before Shabram’s death and that they had been trying to steal weapons stored on the site. However, he was aware that there was a lot of looting going on after the war and that *“sometimes the British patrol came around the camp and if the British forces found any thief or any hijackers they will shoot them”* and sometimes take them prisoner.

111

**4.78** At the waterfront, Shabram and Auda were made to sit by the vehicles.<sup>112</sup> There were people nearby who spoke to Auda and Shabram when SO70 went off to get an interpreter:

*“They were saying that you would be taken to another place where they would put a sack on your head ... They said maybe tortured, maybe they put bags on your hands and maybe you will be shot – what people were saying ...”<sup>113</sup>*

**4.79** Some of the people, Abdullah in particular, spoke to the British soldiers (in Arabic) and told them Shabram and Auda were *“poor people from my village and they have sheeps”*.<sup>114</sup> There were others around, including children shouting *“Ali Baba”*<sup>115</sup>, but they stayed back as they did not want to become involved. In direct contradiction of what he told the RMP in 2003, Auda agreed at the FPE that a number of witnesses put to him, including Basim Jabir and Sabah Mutalib, were not present when he went into the water and stated that they only came to the dock afterwards.<sup>116</sup> In his response to the draft report he again asserted that Basim Jabir was present at the scene and a witness to events.

**4.80** Auda stated that SO70 brought over Walid Jasim, a person Auda did not know, to interpret. Walid Jasim did not tell Auda and Shabram what the soldier had told him and said nothing

<sup>110</sup> MOD-83-0000498-A p.46

<sup>111</sup> MOD-83-0000498-A pp.44-45

<sup>112</sup> MOD-83-0000498-A p.22

<sup>113</sup> MOD-83-0000498-A p.46

<sup>114</sup> MOD-83-0000498-A p.17

<sup>115</sup> MOD-83-0000498-A p.8; pp.51-53

<sup>116</sup> MOD-83-0000498-A p.36. Auda knew Basim Jabir well and he was the son of Auda’s father’s cousin. In his response to the circulation of the draft report Auda reverted to his original claim that Basim Jabir “was present at the scene throughout the incident and was a witness to events but Basim Jabir told him he was scared of the soldiers and therefore kept his distance from them”. However, he also added that Basim Jabir “worked close to the military airport” and “was used as a messenger to transport notices and communications by the Army” to Shabram’s father.

about stealing, but he told Auda he would “ask the soldier in order to free you or to release you”.<sup>117</sup>

**4.81** Auda and Shabram sat where they were for approximately fifteen minutes before SO70 took them to the end of the wooden pier and stood behind them. Auda told the FPE that SO70 was “angry”, but in contrast to his evidence to the RMP, Auda was clear that it was only SO70 who wanted to push them in the water. “[The] other three soldiers still standing, in one queue one beside the other – not near to us. None of them appeared angry.”<sup>118</sup>

**4.82** Auda told the FPE that SO70 told them to jump into the water and “when we refused to do that immediately he push us to the water ...he push us to the water ... he push us with his hand ... he was behind us and we are facing the water”.

**4.83** He confirmed that Abdullah had thrown him a rope and he had got out of the water, but when he got out the people were saying that Shabram had not surfaced.<sup>119</sup> Auda told the FPE that he was exhausted and sick when he got out of the water, but in contrast to his evidence in 2003 he said that he stayed conscious. He denied remembering speaking to anyone when he got out of the water, and said that he was very afraid.<sup>120</sup>

**4.84** On 29 May 2003, Auda attended Basra Palace to be interviewed by the RMP. Radhi Shabram and Basim Jabir also attended.<sup>121</sup> Basim Jabir had also arranged for other witnesses to come to the police station to give evidence.<sup>122</sup> Auda told the FPE that the witnesses selected by the RMP to be interviewed were “chosen randomly”.<sup>123</sup>

**4.85** Radhi Shabram had mentioned about the British forces compensating the death, but Auda told the FPE that he had not discussed with anyone “blood money” to compensate Shabram’s family for the death or discussed compensation from the British Forces at the time of the RMP interview.<sup>124</sup> But about six months after the death, Radhi Shabram told Auda and Basim Jabir that Shabram’s death was their responsibility because they did not save him.<sup>125</sup><sup>126</sup>

#### Civil witness statement dated 28 February 2010

**4.86** Auda provided a signed statement for the purposes of a civil claim for damages in the High Court. In this statement, Auda maintained that he and Shabram had been grazing their animals

<sup>117</sup> MOD-83-0000498-A p.49

<sup>118</sup> MOD-83-0000498-A pp.26-28

<sup>119</sup> He had been “delayed”.

<sup>120</sup> MOD-83-0000498-A p.32

<sup>121</sup> MOD-83-0000498-A p.38. Sabah Mutalib also attended to give his account.

<sup>122</sup> MOD-83-0000498-A p.39

<sup>123</sup> MOD-83-0000498-A pp.41-43

<sup>124</sup> MOD-83-0000498-A p.38

<sup>125</sup> MOD-83-0000498-A p.35

<sup>126</sup> In representations received in response to the draft report, Radhi Shabram stated that Basim Jabir “was never authorised by Radhi Shabram to undertake any settlement talks or compensation claims on their behalf.”

on the base on 23 May 2003. He stated he was surprised to see a British tank pass them by as he knew there were no British Forces based at the Naval Base.<sup>127</sup>

**4.87** They were led by the soldier to where the tank was parked at the waterfront, on a jetty that jutted out over the waterway. Auda stated that the canal always seemed dirty and covered in engine oil so none of the residents used to swim or fish in this part of the river.<sup>128</sup>

**4.88** There were three soldiers around the tank washing it with an electric pump, and another soldier was inside the tank.<sup>129</sup> SO70 led Shabram and Auda to the jetty and instructed them to sit down.<sup>130</sup> They sat down about 1m from the tank, with Auda sitting closer to the water.<sup>131</sup> Auda makes no reference in this statement to SO70 going to find an interpreter. His account is that there were four soldiers at the waterfront. After a few minutes, all four of the soldiers approached them and SO70 gestured for them to stand. The soldiers were “*laughing amongst themselves and seemed to be playing around*”.<sup>132</sup>

**4.89** His account of entering the water was as follows:

*“The soldier with the gun [SO70] then started pushing us towards the edge of the jetty. He still had his gun in his hand. When we were close to the edge he said something in English and gestured for us to jump into the water. Saeed and I were very afraid and started begging the soldier to stop. I shouted ‘for God’s sake’ in Arabic and gestured to the sky with my hands. The soldier with the gun was pushing us towards the water and the 3 other soldiers were standing around us, so that we could not move to our left or right.*

*The soldier continued to push us towards the edge. He seemed to get agitated that we would not jump in and, at one point, I thought he was getting so angry he would shoot us. The soldiers were laughing. We kept saying in Arabic that we could not swim but they could not understand us and did not seem to care. At this stage I heard other Arabic voices; the people were shouting at the soldiers to let us go. The soldiers ignored them.*

*... By this time we were at the edge of the jetty and the soldiers started speaking very aggressively. The soldier with the gun suddenly pushed us into the water.”*

**4.90** Auda’s account was that people holding a rope pulled him out of the water. He was in “*total shock*” when he was pulled out and he laid on the ground surrounded by people. He next remembered waking up at home and was told by his parents that people had taken him home by car and that it was early in the next day.

<sup>127</sup> Auda MOD-83-0000479-A Para 23 p.7

<sup>128</sup> Auda MOD-83-0000479-A Para 21 p.6

<sup>129</sup> Auda MOD-83-0000479-A Paras 26-27 p.8

<sup>130</sup> Auda MOD-83-0000479-A Para 27 p.8. He told them to sit down in English and gestured for them to do so.

<sup>131</sup> MOD-83-0000498-A p.22

<sup>132</sup> Auda MOD-83-0000479-A Para 28 p.8

**4.91** A few hours later, Radhi Shabram came to his house and told him that Shabram was dead.<sup>133</sup> He informed Auda that the soldiers had jumped into the river and searched for Shabram but could not find him. A private diver hired by the family later found the body.<sup>134</sup> Radhi Shabram told Auda that he had to go with him to the British base at Basra Palace to speak to the British. Auda was scared that the British would arrest and hurt him, but he did not feel he could refuse so went with Radhi Shabram by taxi.

**4.92** At Basra Palace, there was a translator at the gate, identified as **The Interpreter**, who led them inside and a soldier informed Radhi Shabram that his son's body had been taken to the local hospital for an autopsy. Radhi Shabram went off with another soldier, and Auda remained at the Palace. The interpreter told him that the soldiers from the military police were kind and were there to help him and wanted him to go to the site of the incident to explain what had happened. Auda then went with the soldiers to the Naval Base, where he showed and told them what had happened.<sup>135</sup>

**4.93** Shabram's funeral took place the following day, but Auda did not attend because his family were concerned that Shabram's parents would be upset if he was there.<sup>136</sup> He next saw Radhi Shabram when he was asked by the military police a short while after the funeral to attend the Naval Base and direct them to Shabram's home. After speaking with the police, Auda stayed behind with Shabram's family.

**4.94** About one year after the incident, he was called by Basim Jabir, who was working as an Iraqi policeman at the British base at Basra airport. Basim Jabir told him that it had appeared on local news that the British authorities were requesting that he and Abdullah go to the airbase. He contacted Abdullah the next day and they travelled by taxi together to the airbase to give evidence.<sup>137</sup>

**4.95** Between this date and 2006, Auda did not hear anything further regarding the incident. In March 2006, he received a letter, given to him by Basim Jabir, asking him to attend the FPE. He attended and gave evidence but had told no-one about the letter because he was concerned about being seen by militia groups and suspected of colluding with British Forces.<sup>138</sup>

#### Account to the IHAT between 18 and 21 January 2014

**4.96** Auda travelled to Istanbul in January 2014 and was interviewed at some length by the IHAT investigators with the assistance of maps and photographs of the area.

<sup>133</sup> Auda MOD-83-0000479-A Para 37 p.10

<sup>134</sup> Auda MOD-83-0000479-A Paras 38-39 pp.10-11

<sup>135</sup> Auda MOD-83-0000479-A Paras 39-46 pp.11-13

<sup>136</sup> Auda MOD-83-0000479-A Paras 47-48 p.13

<sup>137</sup> Auda MOD-83-0000479-A Paras 55-57 pp.14-15; it is not clear what evidence this refers to and it is likely that Auda is referring to the FPE.

<sup>138</sup> Auda MOD-83-0000479-A Paras 60-61 p.16

**4.97** Auda told the IHAT for the first time that after SO70 approached him and Shabram while they were grazing their animals, Shabram had said to him that they should run away and that SO70 had hit Shabram on the leg.<sup>139</sup>

**4.98** Auda was asked by the IHAT in 2014 about his knowledge of how British troops dealt with people who committed criminal offences or looted, and whether he had seen any of this taking place himself. His understanding was:

*“It depends, some people, they were treating such people who refer to in a very bad way, some no they just deal with them and then release them afterwards, if they suspect someone who has committed such things, they would normally put a black plastic bag on his head and they would take him away. After they carry some investigation with him more, they would release him afterwards and we heard a lot of stories, some people were treated badly, thrown in the water etc. It depends ... I’ve seen both cases, the good treatment and the bad treatment, for instance but most of them were good treatment.”*<sup>140</sup>

*If they ask somebody, a looter for instance, it is known that they would push them in the water and they just make fun of him and they help him to get out of the water ... It happened many times there and when they throw somebody in the water they later on jump and take him out ...”*<sup>141</sup>

**4.99** Auda’s account was that SO70 took them to the waterfront and went to get an interpreter. He told the IHAT that one of the soldiers, SO70, became very angry with them after talking to the interpreter, and made them stand up by the dock facing the water. There were four soldiers behind them, but it was only the one soldier, SO70, who was close to them and wanted them to jump into the water. The others were not as close and did not care<sup>142</sup>, and none of them touched him or Shabram<sup>143</sup> Auda’s account was that they were “very scared” as SO70 “used a weapon to push us towards the water and we were scared he might shoot us”.<sup>144</sup>

**4.100** The thrust of Auda’s account was that he and Shabram were pushed into the water by this soldier, and both entered the water at the same time. But he did also indicate at one point that he and Shabram jumped into the water because they were given no other option:<sup>145</sup>

*“Q.... you've described what it was like standing on the edge of the harbour wall. What made you think that you had no option but to jump in the Shatt Al-Arab river?”*

*A: It's better than being shot by this one, because he was angry and he was carrying his weapon, he was really angry, that's why.*

<sup>139</sup> Auda MOD-83-0000481-A p.3 of 11

<sup>140</sup> Auda MOD-83-0000481-A p.2 of 7

<sup>141</sup> Auda MOD-83-0000483-A p.6 of 10. Auda clarified that he was aware of this happening elsewhere but had only heard about these instances and had not seen them with his own eyes. Other Iraqi witnesses gave accounts of having witnessed instances of looters being thrown in water by British soldiers, near where Shabram drowned.

<sup>142</sup> Auda MOD-83-0000482-A p.2 of 10

<sup>143</sup> Auda MOD-83-0000482-A p.10 of 12

<sup>144</sup> Auda MOD-83-0000482-A p.2 of 10

<sup>145</sup> Auda MOD-83-0000482-A p.9 of 10

*Q: Do you think that the, if you wouldn't have jumped, you would have been shot by the Soldier?*

*A: This is actually was my expectation because we saw him very angry, so what else he might do, because he didn't let us go back when he look you four soldiers behind you and they were very close towards us and we were on the edge of this platform, I thought I might find a way to escape but I wasn't able to do so.*

*...they didn't care even after they ask us to jump, they didn't come" as close as this Soldier was.*

*Q: And did you and Sa'eed have any conversation; do you say anything before, immediately before you jumped into the Shatt Al-Arab?*

*No we didn't but we were frightened. Each one of us was thinking of his destiny basically."*

**4.101** Auda told the IHAT investigators that there were people in the area at the time they went into the water but denied that anyone was calling them "*Ali Baba*". He confirmed that Basim Jaber was at the docks that day but was not close to the incident and did not see events with his own eyes.<sup>146</sup>

**4.102** Auda was asked whether he spoke to Shabram's father about the incident after it occurred. Auda said that, after the wake, he explained to Radhi Shabram that there was nothing he could have done to save Shabram, but Shabram's parents blamed Auda for not doing enough to save their son. They said "*you are older than him and you should have helped him ... he blamed me.*"<sup>147</sup>

**4.103** After the British Forces started their investigation in 2003, they sent the interpreter from the base, **The Interpreter**, as a messenger to Radhi Shabram offering money or compensation, which he refused.<sup>148</sup> He told investigators that the British tried to "*solve the problem but (sic) offering money and they tried to negotiate*".<sup>149</sup> Auda explained to the interpreter that the tribes have their own traditions and that the British should not escalate this problem.<sup>150</sup>

#### Account to the IFI on 17 August 2019

**4.104** Auda, with the assistance of his legal representative, provided evidence to my Investigation on questions put to him by Sir George Newman.

<sup>146</sup> Auda MOD-83-0000483-A p.7 of 10. In contrast he now claims that Basim Jabir was a "witness to the events".

<sup>147</sup> Auda MOD-83-0000483-A p.5 of 10; 7-8 of 10

<sup>148</sup> Auda MOD-83-0000483-A p.3 of 11

<sup>149</sup> Auda MOD-83-0000482-A p.3 of 10

<sup>150</sup> Auda MOD-83-0000483-A p.3 of 11

**4.105** In response to a question about why he was on the Naval Base at the time of the incident, Auda told my Investigation that:

*“ We were not in the Naval Base to steal electric cables. However, on that day, there were a lot of people digging the ground to remove electrical cables to take them and sell them. Some of those people lived in the area (i.e. the Naval Base) and some did not. This area (the Naval Base) was generally deserted; therefore, it was not unusual to see a lot of looting and theft taking place.*

*... if we ever found any abandoned electrical cables, aluminium or other materials, we would take them and sell for money because of the difficult financial situation and the high rate of unemployment back then. However, I repeat that on the day of the incident, we were only at the Naval Base to graze the sheep. We did not even have the necessary equipment to cut and remove the cables. The British soldier that arrested us, searched us and did not find any scissors, saws or other equipment. As stated earlier, if we were however to find any deserted cables or any abandoned materials, we would take them and sell them for money.”<sup>151</sup>*

**4.106** He was also asked about the conversation he had with the interpreter, Walid Jasim, at the waterfront. His evidence was as follows:

*“In relation to the discussion we had with [Walid Jasim], I would like to state as follows: It was obvious the British soldier asked [Walid Jasim] to talk to us. Walid asked us whether we lived in this area and whether we were at the base to steal electrical cables. We told him that we lived in the area. Walid then told us that he had never seen us before and did not know us. I informed him that we were from this area, that our house was close to this place and that a member of our family could be called to confirm this to him. [Walid Jasim] then asked us whether we were stealing electrical cables from the Naval Base. I denied that and told him that we did not steal and did not even have any equipment to use to cut and steal the cables, such as scissors or a saw. [Walid Jasim] then turned to the British soldier and spoke to him in English, a language we do not understand. However, we understood one word: (Ali Baba) which meant that us (myself and Saeed) were thieves. This is evidenced by the fact that after the conversation between the [Walid Jasim] and the British soldier, the British soldier showed signs of anger and aggression against us, even though we asked [Walid Jasim] to speak to the British soldier to forgive whatever we were supposed to have done and release us, being from the area and not having stolen anything at the time.”<sup>152</sup>*

**4.107** Auda repeated his denial that he and Shabram had been running and had tripped or fallen into the water. He confirmed that “we fell into the water because we were pushed”, and described events as follows:

*“The soldiers placed us on the edge of the harbour or the sea platform, facing towards the water, and they were behind us, and because of their raised voices and tones and the British*

<sup>151</sup> Auda MOD-83-0000485-A pp.2-3

<sup>152</sup> MOD-83-0000485-A p.2

*soldiers' gestures as stated above, we understood that the soldiers were asking us to jump in the water. This was confirmed to us because they took us and requested us to stand on the edge of the harbour. However, we refused to jump into the water as we did not know how to swim. I raised my hand to heaven and hoped they would perhaps let us go. The British soldier remained angry (the only soldier carrying a weapon was the one who brought us to the harbor). Saeed and I were standing on the edge of the harbour facing the water and 3 unarmed soldiers were behind me. The armed soldier who led us to the harbour was behind Saeed. When we refused to jump, I felt hands pushing me into the water. At that moment, I saw, out of the corner of my eye, that Saeed was pushed by the British soldier with the butt of his rifle into the water as well. I confirm that Saeed and I were both pushed at the same time into the water.”<sup>153</sup>*

**4.108** Auda acknowledged that there may be confusion arising from his accounts of his state of awareness while he was in the water. He claimed that he:

*“was paying close attention to the movements of the British soldiers by the side of the harbor, fearing that they might shoot us while we were in the water. This state of awareness on my part continued even when the rescue rope was thrown to me by Abdel Nabi (the water station guard) and continued when I was climbing my way out of the water. I was frightened the whole time of being shot by the soldiers).”<sup>154</sup>*

**4.109** Auda drew attention to what he called “*inaccuracies and incorrect statements*” in Walid Jasim’s account to the RMP in relation to the clothing Walid Jasim stated that Shabram and Auda were wearing at the time.<sup>155</sup>

#### Abdullah Abdul-Nabi Hamid (“Abdullah”)

**4.110** Abdullah worked as a guard on the Naval Base. He was interviewed as an eyewitness to events by the RMP on two occasions in 2003<sup>156</sup> and gave evidence to the FPE in 2006.<sup>157</sup> He was aged fifty-two at the time of the FPE and had died before the IHAT began investigations.

#### Account to the RMP on 23 May 2003

**4.111** Abdullah lived on the Naval Base and worked as a guard for the Um Qasr water project, which was situated about 10m from the place where Shabram drowned.<sup>158</sup>

**4.112** British soldiers from the base nearby would come to wash their tanks in the Shatt Al-Arab waterway. On the afternoon of 23 May 2003,<sup>159</sup> some British soldiers that he had not seen before arrived at the Naval Base and the soldier in charge asked him where the British usually

<sup>153</sup> MOD-83-0000485-A pp.2-3

<sup>154</sup> MOD-83-0000485-A p.3

<sup>155</sup> Ibid.

<sup>156</sup> Abdullah MOD-83-0000489-Part 1-A; MOD-83-0000489-Part 2-A; MOD-83-0000489-Part 3-A; MOD-83-0000490-Part 1-A; MOD-83-0000490-Part 2-A.

<sup>157</sup> MOD-83-0000498-A

<sup>158</sup> Abdullah MOD-83-0000489-Part 1-A p.13 of 59

<sup>159</sup> Abdullah MOD-83-0000489-Part 1-A p.1 of 59

wash their tanks. Abdullah pointed him to the place, and the soldier went and brought the tanks and started washing them.<sup>160</sup> One of the tanks had the number 400.<sup>161</sup>

**4.113** He went back to sitting at the front of his house, about 12m from where the tanks were parked.<sup>162</sup> A short while later, he saw a British soldier carrying a weapon bring two people, Auda and Shabram, to the tanks and sat them down between them.<sup>163</sup> Abdullah was unsure whether he had seen this soldier, who has been identified as SO70, before. Abdullah walked forwards and stood at the gate, about 8m from SO70.<sup>164</sup>

**4.114** SO70 shouted to a boy/young man who knew how to speak English, who was identified as Walid Jasim, to come over and told him that he had caught two “*Ali Baba*”. Abdullah did not know Walid Jasim at the time, but had seen him before as he used to come over to fish from time to time.<sup>165</sup> The interpreter told the soldier “*they are not Ali Baba.. they went inside the project they are wandering around*”.<sup>166</sup> The interpreter then left.<sup>167</sup> Abdullah told the RMP that the soldier held the two men by the ears.<sup>168</sup>

**4.115** His account of how the two men ended up in the water is not wholly clear. He told investigators that the soldiers:

*“Brought them and pushed them... one of them was held by two soldiers and the other one from behind pushing him with the rear of the rifle and pushed him in the river... and that second one started shouting at me uncle... uncle... uncle I don’t know how to swim and also someone pushed him and I saved him ... The one I got out was pushed by one person. He was shouting I cannot swim”<sup>169</sup>*

**4.116** This would suggest that Auda, who survived, was the second person who was pushed into the water. Referring to the boy who drowned, Abdullah continued:

*“And that one he was pushed by two – he didn’t accept [he could mean he was struggling or resisting] it ... he was doing like this [he is shaking his upper body]... he was shouting I don’t know how to swim ... then someone came from behind ... And a third one came from behind he put the rear of the rifle on his back and they pushed him ...”*

**4.117** Abdullah later confirmed that it was Auda who was pushed first, and that Shabram struggled and was then pushed in by the third soldier “*with the rear of the rifle.*”<sup>170</sup> He also told

<sup>160</sup> Abdullah MOD-83-0000489-Part 1-A p.31 of 59

<sup>161</sup> Abdullah MOD-83-0000489-Part 1-A p.28-30 of 59; p.33 of 59; MOD-83-0000489-Part 2-A p.5-6 of 73

<sup>162</sup> Abdullah MOD-83-0000489-Part 1-A p.20 of 59

<sup>163</sup> Abdullah MOD-83-0000489-Part 2-A pp.14-15 of 73

<sup>164</sup> Abdullah MOD-83-0000489-Part 1-A p.20 of 59; p.22 of 59

<sup>165</sup> Abdullah MOD-83-0000489-Part 1-A p.40 of 59

<sup>166</sup> Abdullah MOD-83-0000489-Part 1-A p.26 of 59. It appears that the interpreter for the RMP translated: “*the interpreter said to them those people not Ali Baba.. but they are owner of land or sheep*”, although Abdullah does not mention land or sheep himself.

<sup>167</sup> Abdullah MOD-83-0000489-Part 1-A p.49 of 59

<sup>168</sup> Abdullah MOD-83-0000489-Part 1-A p.26-27 of 59

<sup>169</sup> Abdullah MOD-83-0000489-Part 1-A p.49-50 of 59

<sup>170</sup> Abdullah MOD-83-0000489-Part 1-A p.52 of 59

the RMP the two soldiers holding Shabram carried or lifted him “*roughly*”,<sup>171</sup> and were holding his hands before pushing him in.<sup>172</sup> Abdullah was asked later on in his RMP interview about how he knew about the gun being pointed at Shabram, and he told investigators that “*some people told me that this happened*”. When asked about who the people were, he said “*by God I don’t know*”.<sup>173</sup>

**4.118** There was a rope by the waterfront, tied to a gun.<sup>174</sup> Abdullah ran forward when the young men were in the water, and threw the rope in. Auda took the rope and climbed up, and Abdullah gave him a hand to pull him out.<sup>175</sup> He then ran away.<sup>176</sup> Shabram was still in the water, about 5-6m away. The rope was big and heavy after being in the water, so he could not throw this back to Shabram.<sup>177</sup> He was on top of the water for a few seconds, and dipped in and out four or five times.<sup>178</sup> Abdullah threw him a plastic hose, but he could not get hold of this and he sank.<sup>179</sup>

**4.119** When Shabram dipped into the water, all four soldiers jumped in after him to look for him.<sup>180</sup> There were seven or eight people swimming in the water already, who came over to help, and others also came and jumped in to look.<sup>181</sup> These people had been afraid of the British so had stayed 10m away before Shabram sank.<sup>182</sup> Abdullah told investigators that Sabah Mutalib, who was also present to give an account to the RMP on 29 May 2003, was one of those who was present at the time.<sup>183</sup>

**4.120** At some point, the British soldiers telephoned their HQ and more soldiers arrived. One of these British soldiers explained that they will help and “*we are responsible for everything*”, and that there would be compensation.<sup>184</sup>

<sup>171</sup> Abdullah MOD-83-0000489-Part 2-A p.16 of 73

<sup>172</sup> Abdullah MOD-83-0000489-Part 1-A p.57 of 59

<sup>173</sup> Abdullah MOD-83-0000489-Part 3-A p.18 of 39

<sup>174</sup> Abdullah MOD-83-0000489-Part 2-A pp.20-22 of 73; MOD-83-0000498-A p.79

<sup>175</sup> Abdullah MOD-83-0000489-Part 2-A p.25 of 73: Abdullah’s evidence was that Auda climbed out, he was not just pulled out.

<sup>176</sup> Abdullah MOD-83-0000489-Part 2-A p.25 of 73

<sup>177</sup> Abdullah MOD-83-0000489-Part 2-A pp.28-29 of 73

<sup>178</sup> Abdullah MOD-83-0000489-Part 2-A p.40 of 73

<sup>179</sup> Abdullah MOD-83-0000489-Part 1-A p.17 of 59; MOD-83-0000489-Part 2-A p.28 of 73

<sup>180</sup> Abdullah MOD-83-0000489-Part 2-A pp.40-41 of 73: Abdullah said all four were wearing their clothes, but one of them took off his boots first.

<sup>181</sup> Abdullah MOD-83-0000489-Part 2-A pp.34-37 of 73; p.42 of 73; pp.46-47 of 73. Abdullah told the investigators that there are areas of the canal that are dangerous because there are sunken boats, but it was ‘okay’ to swim in places: MOD-83-0000489-Part 2-A pp.32-34 of 73

<sup>182</sup> Abdullah MOD-83-0000489-Part 2-A pp.32-34 of 73

<sup>183</sup> Abdullah MOD-83-0000489-Part 2-A p.44 of 73

<sup>184</sup> Abdullah MOD-83-0000489-Part 2-A / MOD-83-0000489-Part 3-A pp.56-58 of 73; p.65 of 73. An old man referred to as ██████ translated what the soldier said about compensation: MOD-83-0000489-Part 3-A p.64 of 73

### Account to the RMP on 14 June 2003

**4.121** Abdullah was interviewed again by the RMP on 14 June 2003 in order to clarify and correct his first account.

**4.122** Abdullah told the investigators that, in fact, none of the people who gave evidence to the RMP, apart from Auda and the interpreter, were within 50 to 75m of the incident.<sup>185</sup> Basim Jabir and Sabah Mutalib came walking over after the incident, but had not been there at the time the boys were pushed in.<sup>186</sup> He told the RMP that after the first interview he had spoken to certain witnesses claiming to have been present and they had admitted to him that they were not actually there.<sup>187</sup> He told investigators that the reason Sabah gave for going to the police was “*resistance/opposition and national jealousy*”,<sup>188</sup> and offered to tape-record these witnesses saying to him that they were not there at the time of the incident.<sup>189</sup> Abdullah was asked whether “*he came in because he wanted something done about what had happened and he thought to help that he would come in and tell us that he saw it as well.*” Abdullah replied “yes”, but it is clear from the transcript that this question was not properly interpreted.<sup>190</sup>

**4.123** Abdullah then told the RMP that he had been “*standing in the window watching*” when the two men were pushed in. He had returned to check on his machines as he wanted to check they were still working, after hearing the interpreter say that cable was being stolen.<sup>191</sup> He had his back to the soldiers, but turned around when a woman shouted to him “*they are going to throw them in*”<sup>192</sup>. He maintained that he had seen events with his own eyes<sup>193</sup> and told investigators: “*I saw them pushed in the river*”.<sup>194</sup> He also told the RMP that it was a lady who had seen the soldiers holding Shabram and Auda by the ears.<sup>195</sup> Abdullah thought that the British were just having a joke and did not intend to kill anyone.<sup>196</sup>

### Account to the FPE in March 2006

**4.124** Abdullah gave a similar account to the FPE of the British soldiers arriving at the base to wash their vehicles on 23 May 2003, now stating this to have been between 11am and midday.<sup>197</sup> There were two tanks and one Land Rover, with four to six soldiers.<sup>198</sup>

<sup>185</sup> Abdullah MOD-83-0000490-Part 1-A pp.14-30 of 64. There may also have been a black man fishing or selling ice who witnessed the incident, but the evidence is unclear: MOD-83-0000490-Part 2-A pp.46-49 of 64

<sup>186</sup> Abdullah MOD-83-0000490-Part 1-A pp.17-21 of 64

<sup>187</sup> Abdullah MOD-83-0000490-Part 1-A pp.18-19 of 64; MOD-83-0000490-Part 2-A pp.9-11 of 24

<sup>188</sup> Abdullah MOD-83-0000490-Part 2-A p.11 of 24

<sup>189</sup> Abdullah MOD-83-0000490-Part 1-A pp.18-19 of 64; MOD-83-0000490-Part 2-A pp.9-11 of 24

<sup>190</sup> Abdullah MOD-83-0000490-Part 2-A 14 p.9-11 of 64

<sup>191</sup> Abdullah MOD-83-0000490-Part 2-A p.5 of 24

<sup>192</sup> Abdullah MOD-83-0000490-Part 1-A 14 June 2003 p.13 of 64

<sup>193</sup> Abdullah MOD-83-0000490-Part 1-A 14 June p.8 of 64

<sup>194</sup> Abdullah MOD-83-0000490-Part 1-A 14 June p.13 of 64

<sup>195</sup> Abdullah MOD-83-0000490-Part 1-A 14 June, p.39 of 64. It is not clear from the transcript if he is referring to the same woman.

<sup>196</sup> Abdullah MOD-83-0000490-Part 1-A p.14 of 64; MOD-83-0000490-Part 2-A p.61 of 64

<sup>197</sup> MOD-83-0000498-Ap.60

<sup>198</sup> MOD-83-0000498-Ap.63

- 4.125** There was a big ship moored alongside the quay that had smoke coming from inside it. Abdullah informed the British soldier<sup>199</sup> in charge of this and went with one of the soldiers onto the ship. The soldier told his boss about the fire and his boss communicated with his unit or HQ about this.<sup>200</sup>
- 4.126** He was sitting at the front of his house, which he told the FPE was 15-20m from the water project,<sup>201</sup> when thirty or forty five minutes later he saw a British soldier leave for a while and come back with the two Iraqis.<sup>202</sup> Diverging from his evidence in 2003, Abdullah told the FPE that he spoke to the two men himself and they told him that they had been with their animals.
- 4.127** Abdullah asked the soldier for an interpreter<sup>203</sup> and went with the British soldier to find one. On the way, the soldier “*told me Ali Baba and I said to him no*”; he told the soldier that the men were only grazing sheep on the grass.<sup>204</sup> Abdullah brought the interpreter over and left him with the British soldiers.<sup>205</sup> The interpreter was not someone he knew, but he had seen him speak to the British before.<sup>206</sup>
- 4.128** Abdullah went back to his machines, which were about 5m away. He denied doing so because he believed the two men had been stealing cable.<sup>207</sup> He had his back to the soldiers when he heard a woman he did not know say to him “*Allah they will throw them into the river*”, causing him to turn around.<sup>208</sup>
- 4.129** When he turned around, he saw that there were four British soldiers by the waterfront. The two Iraqis were positioned about 1½ to 2m away from the tanks, towards Abdullah’s side of the tanks.<sup>209</sup> There was another British soldier on top of the tank, and another far away doing nothing.<sup>210</sup>
- 4.130** Abdullah told the FPE that he saw the four soldiers together pushing first one and then the other Iraqi into the water.<sup>211</sup> His account was as follows:

<sup>199</sup> SO70’s account confirms that it was him who spoke to Abdullah about the fire.

<sup>200</sup> MOD-83-0000498-A pp.95-96

<sup>201</sup> MOD-83-0000498-A p.60

<sup>202</sup> MOD-83-0000498-A pp.65-66; MOD-83-0000489-Part 2-A pp.14-15 of 73

<sup>203</sup> MOD-83-0000498-A p.70

<sup>204</sup> MOD-83-0000498-A p.69

<sup>205</sup> MOD-83-0000498-A p.68

<sup>206</sup> MOD-83-0000498-A p.60

<sup>207</sup> MOD-83-0000498-A pp.88-89

<sup>208</sup> MOD-83-0000498-A p.70

<sup>209</sup> MOD-83-0000498-A p.77

<sup>210</sup> MOD-83-0000498-A p.78. Abdullah told the FPE that the person standing away from the others was the soldier in charge.

<sup>211</sup> MOD-83-0000498-A p.76

*“I’ve seen those British caught those Iraqis by their ears and they took them to the river pushing them and those Iraqis start shouting ‘we don’t know how to swim. One of the group of soldiers took him to the water and force him and they put the gun in his back and they push him and then they push the other one into the river.”<sup>212</sup>*

**4.131** Abdullah told the FPE that he went to search for Walid Jasim at his house during the RMP investigation to tell him that the British wanted him to be a witness, but Walid Jasim had escaped because he was afraid that Shabram’s family would kill him.<sup>213</sup> Abdullah denied under cross-examination receiving any threats from Shabram’s family, but told the FPE that they did come to him to ask what he had seen and said that they wanted compensation for their loss.<sup>214</sup>

**4.132** Abdullah confirmed that he had spoken to **The Interpreter**, an interpreter working at the British HQ nearby, who gave evidence that he had spoken to Abdullah after the incident. Under cross-examination, he denied telling **The Interpreter** that the British soldiers had tied the hands of the two local Iraqis, and denied that the family of the dead boy had threatened him.<sup>215</sup>

**4.133** He was asked about those who had been present at the time of the incident, and confirmed that Sabah Mutalib and Basim Jabir had not been present at the time of the incident. He told the FPE that Basim Jabir was *“like a psycho, a crazy”*, and that he knew that they had gone to the police on 29 May 2003 to tell lies.<sup>216</sup> He maintained that the only other people in the area were the woman who had shouted to him and a boy on a bicycle, and that he had told Basim Jabir that there were no other people in the area.<sup>217</sup>

## Walid Jasim

**4.134** Walid Jasim lived on the Naval Base and was asked to interpret for the British soldier at the waterfront. He came forward to give evidence to the RMP on 8 June 2003,<sup>218</sup> but subsequently could not be traced to give evidence and is believed to be dead.

### Account to the RMP on 8 June 2003

**4.135** On 23 May 2003, Walid Jasim was sitting on a landing place and fishing in the Shatt Al-Arab canal.<sup>219</sup> He arrived at the canal to fish at about 9am and two British tanks arrived with a generator to wash their vehicles about an hour later.<sup>220</sup> There were five soldiers in total,

<sup>212</sup> MOD-83-0000498-A p.60

<sup>213</sup> MOD-83-0000498-A pp.85-87. Abdullah found Jasim through asking other fishermen. Jasim did not tell him the reason he had run away.

<sup>214</sup> Abdullah MOD-83-0000490-Part 2-A p.19 of 24

<sup>215</sup> MOD-83-0000498-A pp.83-85; Abdullah made no mention of a conversation with **Interpreter** in his interview of 29 May 2003.

<sup>216</sup> MOD-83-0000498-A pp.91-92

<sup>217</sup> MOD-83-0000498-A pp.91-92

<sup>218</sup> Jasim, MOD-83-0000486-A

<sup>219</sup> Jasim, MOD-83-0000486-A p.17 of 54. Jasim would fish every Friday at the same place, on the landing place / dock made from wood or sitting under a crane to shield from the sun: see pp.41-42 of 54

<sup>220</sup> Jasim, MOD-83-0000486-A pp.48-49 of 54; p.12 of 69

although there was possibly a sixth soldier on the other side of the vehicle, and one of the soldiers stayed inside one of the tanks with a headset on.<sup>221</sup>

**4.136** About half an hour after the British arrived, the guard who worked guarding the pumps, Abdullah (who Walid Jasim knew as Abu Ali), shouted for Walid Jasim to come over and talk to the soldiers because there was a fire inside a ship.<sup>222</sup> The guard knew Walid Jasim spoke English because he had seen British soldiers come over to talk to him several times before.<sup>223</sup> Walid Jasim went to one of the British soldiers and told him that there is a fire inside the ship<sup>224</sup> and it was dangerous. The soldier, who can be identified as SO70, said he needed to see it himself so Walid Jasim went with the soldier and the guard to find the fire. After seeing the fire at the bottom of the ship, SO70 said something about getting an extinguisher, and Jasim returned to fishing.

**4.137** About five minutes later, the same soldier came over to him and said that he needed his help as he had caught some thieves. Walid Jasim could speak a bit of English, so tried to help him.<sup>225</sup> He walked over with the soldier to the two Iraqis, who were beside the vehicles on the side of the pump.<sup>226</sup> One of them looked to be seventeen or eighteen years old and the other twenty-five years old. The older one was wearing a black dish-dash and the younger one was wearing a white dish-dash.<sup>227</sup> They were squatting, but were not tied up.<sup>228</sup> Two of the soldiers were washing the vehicle, and another soldier was on the side listening to what Walid Jasim was saying to SO70. The fifth soldier was with the vehicle.<sup>229</sup>

**4.138** His account of this conversation was as follows:

*“The soldier told me to tell them why they stealing the cable ... they said it is true we wanted to steal the cable ... but we didn't steal it ... Then I went back to the soldier ... and told him.. I mean.. I mean.. the British a thief Ali Baba.. I told him these Ali Baba.. it is correct.. they confessed that you saw them stealing the cable.. and you caught them.. but they said that they didn't steal the cable.. the cable is still there.. they said forgive us this time,, and we will not do it again ... I told [the soldier] that is what happened.. what do you want to do with them.. I don't know any more.. that is your job.. so I am going fishing”<sup>230</sup>*

**4.139** Later during his interview, Walid Jasim stated that the two Iraqis told him they tried to steal cable but did not succeed. The older one, wearing the black dish-dash, was the one doing the talking:<sup>231</sup>

<sup>221</sup> Jasim, MOD-83-0000486-A p.53 of 54; p.4 of 69

<sup>222</sup> Jasim, MOD-83-0000486-A p.13 of 69

<sup>223</sup> Jasim, MOD-83-0000486-A p.10 of 69

<sup>224</sup> The ship was identified as the Al-Khansaar.

<sup>225</sup> Jasim, MOD-83-0000486-A p.23 of 54; pp.29-31 of 69

<sup>226</sup> Jasim, MOD-83-0000486-A pp.32-33 of 69

<sup>227</sup> Jasim, MOD-83-0000486-A p.40-41 of 69

<sup>228</sup> Jasim, MOD-83-0000486-A pp.20-22 of 54

<sup>229</sup> Jasim, MOD-83-0000486-A p.48 of 69

<sup>230</sup> Jasim, MOD-83-0000486-A pp.22-24 of 54

<sup>231</sup> Jasim, MOD-83-0000486-A pp.45-48 of 69

*“[The soldier] first told me to ask them why were they stealing cables ... They came back to me.. they told me.. we were not stealing., and tell the soldiers that we were not stealing ... [the soldier] told me to tell them that I saw them with my eyes.... They came back to me.. they said.. huh.. correct ... it is correct that we were trying to steal but we didn’t steal anything ... Because it is still there ... they didn’t say no they said you are right ... one of said.. my brother help us with this.. we will not steal anymore.. we will not I don’t know what.. I mean it was like.. talk to the British.. please.”*

**4.140** Walid Jasim returned to fishing, leaving the soldier and another soldier talking with the two Iraqis.<sup>232</sup> He was sitting opposite and directly in front of the British soldiers and the Iraqis on the other side of the dock.<sup>233</sup> After about ten minutes,<sup>234</sup> he saw the two Iraqis run and throw themselves in the water. He told the RMP:

*“I was fishing... suddenly I saw someone run like this and the other one like that and they through themselves in the water ... a distance of about five metres ... they didn’t push him.. he jumped.. they didn’t push him ... He didn’t have to push them.. because they originally ran in separate directions.. one of them went four meters from here.. and that young one he stayed at the edge of the water.. I think I mean.. the way I saw it.. that other one either his foot/leg slipped and fell in the water..or he was afraid that he might kill him the British ... Then [the first one] fell into the water ... The second one threw himself into the water because he thought that he was going to be shot at.”*<sup>235</sup>

**4.141** Jasim claimed that the two Iraqis ran in the direction of the gate to get outside.<sup>236</sup> He witnessed the first Iraqi stumble and thought he might have fallen over his dish-dash as it was quite tight over his legs. This Iraqi was confused and was definitely afraid.<sup>237</sup> The other boy moved at the same time, and seconds later went into the water. Walid Jasim did not see whether he jumped or fell into the water but he might have done either.<sup>238</sup>

**4.142** Jasim said he did not hear what the British soldier told the Iraqi to make him run away. He did not know whether the soldier was intimidating the Iraqis, as he was far away at the time.<sup>239</sup> Walid Jasim suggested that the soldier was trying to threaten the Iraqis so they did not steal again: *“I mean like he was scaring them.. you can say scaring them... so they wouldn’t repeat it ... just he tried to say to threaten them don’t want to don’t steal again”.*<sup>240</sup> He also told

<sup>232</sup> Jasim, MOD-83-0000486-A pp.24-25 of 54

<sup>233</sup> Jasim, MOD-83-0000486-A p.30 of 54; pp.56-58 of 69

<sup>234</sup> Jasim, MOD-83-0000486-A p.3 of 64

<sup>235</sup> Jasim, MOD-83-0000486-A pp.25-27 of 54

<sup>236</sup> Jasim, MOD-83-0000486-A pp.5-7 of 64. The Iraqis had the tanks to their right and ran to their left, which was to Walid Jasim’s right since he was sitting opposite.

<sup>237</sup> Jasim, MOD-83-0000486-A, p.13 of 64: Walid Jasim described the first Iraqi as “one hundred percent” afraid.

<sup>238</sup> Jasim, MOD-83-0000486-A, pp.10-17 of 64

<sup>239</sup> Jasim, MOD-83-0000486-A p.28 of 54. Walid Jasim’s evidence on his distance from the incident varied, but he estimated this to be 30-35m away: see p.28 of 54; pp.56-57 of 69; p.61 of 69

<sup>240</sup> Jasim, MOD-83-0000486-A p.62 of 69

investigators that he was “*slightly busy*” at the time as he “*had a pull*” on his fishing line around the same time, although he was not asked further about this during the interview.<sup>241</sup>

**4.143** Walid Jasim confirmed that the soldiers were not pointing weapons at the two Iraqis.<sup>242</sup> When the men went into the canal, the soldiers were about 5m away from them and none of the British soldiers were near the edge of the water. When asked if it was possible that the soldiers pushed the two thieves into the water, Walid Jasim categorically stated “*No.. it is not possible*”.<sup>243</sup>

**4.144** Walid Jasim told the RMP that there were six or seven children swimming in the canal at the time that the Iraqis went into the water.<sup>244</sup> There was also a woman who wanted some water from the British soldiers, but they did not have any so she left. She was too far away to see anything.<sup>245</sup> The guard, known to be Abdullah, was there and stayed in his place near the water pump, but he was busy with the water machine and not focusing on the situation. His view was also blocked by the armoured vehicle.<sup>246</sup>

**4.145** After the two Iraqis went into the water, the guard threw in a rope to the first person who went in the water. The first person in the water knew how to swim and grabbed the rope straight away.<sup>247</sup> Walid Jasim checked his watch and saw thirty seconds pass without the second Iraqi coming out of the water, and he was “*panicking*” and “*afraid*”.<sup>248</sup> The soldier Shabram had been “*scared*” of, was the first to take off his boots and jump into the water. A second soldier followed and three soldiers in total went into the water.<sup>249</sup> One of the young soldiers, who was cleaning the warrior vehicle, was crying.<sup>250</sup> Walid Jasim did not see any Iraqis jump in the water to try and help find the Iraqi boy.<sup>251</sup>

**4.146** There was a man sitting beside Walid Jasim fishing, who told him to leave as “*there will be a disaster*” and that the man who went into the water, and possibly the family of the drowned man, will want to kill him for talking to the British.<sup>252</sup> Walid Jasim heard the person

<sup>241</sup> Jasim, MOD-83-0000486-A p.65 of 69

<sup>242</sup> Jasim, MOD-83-0000486-A p.63 of 69: the interviewer recorded that Walid Jasim actioned that the weapons were held across the front of the soldiers so the muzzle of the rifle would have been pointing to the soldiers side

<sup>243</sup> Jasim, MOD-83-0000486-A pp.17-19 of 64

<sup>244</sup> Jasim, MOD-83-0000486-A p.27 of 54; p.58 of 64

<sup>245</sup> Jasim, MOD-83-0000486-A p.29 of 54; p.54 of 64

<sup>246</sup> Jasim, MOD-83-0000486-A pp.31-32 of 54; pp.62-63 of 64: Walid Jasim’s evidence is unclear, but he suggested that the guard could see the first person who went into the water but not the second.

<sup>247</sup> Jasim, MOD-83-0000486-A p.19 of 64

<sup>248</sup> Jasim, MOD-83-0000486-A p.33 of 54; p.25 of 64

<sup>249</sup> Jasim, MOD-83-0000486-A p.28 of 64

<sup>250</sup> Jasim, MOD-83-0000486-A p.34 of 54. Jasim did not know whether this soldier had jumped into the water to try and find the boy: p.32 of 64

<sup>251</sup> Jasim, MOD-83-0000486-A pp.28-30 of 64

<sup>252</sup> Jasim, MOD-83-0000486-A p.35 of 54;p.34 of 64. Walid Jasim described this man as ‘dark-skinned’ or ‘black’. He did not know who this man was and had not met him before the incident. Efforts by the SIB to trace this man led to nothing.

who came out of the water, who was wearing a black dish-dash, saying “*where is that person who talked to the British*”. He got scared and disappeared, leaving before the soldiers came out of the water.<sup>253</sup>

**4.147** Walid Jasim did not go back to the scene and did not know what had happened until the guard, Abdullah, found him at his house four or five days before the interview and informed him that the boy had died.<sup>254</sup> The guard told him:

*“They are looking for you.. in order to not be a witness.. a statement or something like that.. or I meant be a witness against the British.. say that.. we will give you money.. we will give that.. they said.. I mean some people told me that.. that we will give him whatever he wants just no to ... because that one who came out of the water ... He told them that that person who as fishing...”*<sup>255</sup>

**4.148** As a result, Walid Jasim claimed: *“I am afraid of them.. I mean it is possible.. that they might reach my house and kill me and my family ... because they consider me as the cause of the incident.”*<sup>256</sup> This seems to be in reference to Shabram’s family, but the transcript is hard to follow at this point.

**4.149** Later in the interview, Walid Jasim was asked further about Abdullah’s visit to his house. He said the guard told him “*you and I are in danger*”,<sup>257</sup> and warned him not to come fishing as:

*“They might see you and kill you ... because they are afraid that I might go and be a witness.. against their son.. or for example say the truth.. or that.. they even said.. if that one wants anything.. we are willing. ... But he told them that I don’t...”*<sup>258</sup>

**4.150** Walid Jasim confirmed that he had not been offered money by the family, but that the guard told him they may do this so he would be a witness against the British. He also confirmed that the guard did not tell him what the family wanted him to say.<sup>259</sup>

**4.151** Walid Jasim told the RMP that he came to the British HQ after being visited by the guard and explained what had happened and that he was afraid that he might be targeted.<sup>260</sup>

<sup>253</sup> Jasim, MOD-83-0000486-A p.33 of 64

<sup>254</sup> Jasim, MOD-83-0000486-A pp.36-37 of 54; p.45 of 64. The same interpreter was interpreting for the recorded interview, but this was not recorded in the evidence.

<sup>255</sup> Jasim, MOD-83-0000486-A pp.37-39 of 54

<sup>256</sup> Jasim, MOD-83-0000486-A p.40 of 54

<sup>257</sup> Jasim, MOD-83-0000486-A p.46 of 64

<sup>258</sup> Jasim, MOD-83-0000486-A p.46 of 64

<sup>259</sup> Jasim, MOD-83-0000486-A pp.49-55 of 64

<sup>260</sup> There is some confusion arising from the translation as to exactly where Walid Jasim attended.

## Direct Family

### Radhi Shabram

**4.152** Radhi Shabram was the father of the deceased. He was interviewed by the IHAT in January 2014 and gave a witness statement to the IFI dated 17 August 2019 in response to questions posed by Sir George Newman.<sup>261</sup>

**4.153** Radhi Shabram lived on the Naval Base and dealt in livestock. His son, Saeed Shabram, would help tend to the animals at the weekend.<sup>262</sup> Radhi Shabram was aware of problems with looting after the fall of the regime and that people would steal ammunition and burnt weapons left on the base. There were British patrols on the base at that time, and Radhi Shabram claimed he had witnessed the British capturing, beating and shooting at looters.<sup>263</sup> He had warned Shabram and Auda to be careful around the British soldiers:

*“When I saw that I warned them, I warned Naeem (Munem Auda) and Saeed be careful don’t go near these don’t go close to them, the British, when they walk around, when they go patrolling. At the beginning there was some flexibility, they used to go across to each other, children used to go across to the British, they used to go and ask for water and so on. We didn’t have devices to record these things. I didn’t know the person who got shot. I told my sons, including Saeed that the British were shooting randomly, be careful. They were still very young, Saeed was slightly older. I told them that when you see the British coming over or walking about just lay down on the floor, lay down to be low, when they fire. My sons said OK. I also advised Naeem (Munem Auda) as he used to look after the livestock.”<sup>264</sup>*

**4.154** Radhi Shabram did not witness the events surrounding the drowning of his son. He was asleep at home on the morning of 29 May 2003 when one of his sons came to tell him that Shabram had been killed by the British. He ran straight over to the waterfront where many local people were gathering. Radhi Shabram’s evidence to the IHAT was that Basim Jabir was present at the waterfront at the time of the incident and that he had a clear view of events from the beginning.<sup>265</sup> The people there, including Basim Jabir, told him that the British soldiers had beat his son and Auda and thrown them in the river.

<sup>261</sup> Radhi Shabram MOD-83-0000488-A. There is nothing to indicate Radhi Shabram was formally interviewed by the RMP in 2003 and no action to take his evidence was recorded in the Case Diary. Efforts made by the IHAT in 2017 to locate the lead investigator’s case notebook were unsuccessful, but the lead investigator gave witness statements regarding the investigative process, which do not record interviewing Radhi Shabram. No further interview records or written statements from Radhi Shabram have been identified or located.

<sup>262</sup> Radhi Shabram MOD-83-0000487-A p.4

<sup>263</sup> Radhi Shabram MOD-83-0000487-A p.31; He said he had witnessed an incident where a British soldier shot a person in the leg who was trying to loot: Radhi Shabram MOD-83-0000487-A pp.7-8

<sup>264</sup> Ibid.

<sup>265</sup> Radhi Shabram MOD-83-0000487-A pp.15-16; It was established by the RMP that Basim Jabir was not an eyewitness to events.

- 4.155** Radhi Shabram went from the waterfront to the British base to request a diver be sent to find his son. He spoke to a British “*Commander*”<sup>266</sup> through the interpreter, **The Interpreter**, who told him that no-one would be available for several days. Radhi Shabram was angry about this and threatened the soldier repeatedly in response.<sup>267</sup>
- 4.156** He employed a diver<sup>268</sup> at his own expense to find his son and the body was retrieved about 4pm. While the diver tried to find the body, people at the waterfront were telling him that the British had taken his son and Auda down to the river, pointed their guns at them and thrown them in the river.
- 4.157** He returned to the British base with his son’s body and told the same interpreter, **The Interpreter**, to tell the Commander that he had managed to get his son out and that the death needed to be compensated.<sup>269</sup> In Iraqi culture, compensation can be understood as recompense for victims of crime.<sup>270</sup> An autopsy was performed the following day at the teaching hospital, after which he was told he could commence the burial and mourning ceremonies.<sup>271</sup>
- 4.158** Radhi Shabram told the IHAT that the only people who had told him what had happened were Auda, Basim Jabir and Abdullah. Auda had already left the waterfront by the time Radhi Shabram arrived and disappeared for two days after the accident,<sup>272</sup> but later told him that he, Auda, and Shabram had been looking after the animals when a British soldier took them over to the river. The person who had brought them over was very “*upset*”, stood them up by the waterside and started beating them with rifle butts before throwing or pushing them into the water.<sup>273</sup>
- 4.159** Radhi Shabram made a complaint at Basra Palace and gave his account to the British soldiers, with the assistance of a **████████** interpreter, in the days following the death.<sup>274</sup> Radhi Shabram went to the Palace with Basim, who also gave a statement at this time and told the RMP that he had himself tried to communicate with the British soldiers but that they had thrown Shabram and Auda into the water.<sup>275</sup>
- 4.160** He claimed he was approached a short time<sup>276</sup> later by the interpreter, **The Interpreter**, who was sent by the unit to offer compensation for him to settle the matter and withdraw his complaint. Radhi Shabram did not accept this offer as one of the investigators had told him

<sup>266</sup> Radhi Shabram MOD-83-0000487-A p.16

<sup>267</sup> Radhi Shabram MOD-83-0000487-A p.18

<sup>268</sup> The diver was Ali Solel, who gave evidence to the RMP in 2003.

<sup>269</sup> Radhi Shabram MOD-83-0000487-A p.19; p.32

<sup>270</sup> Radhi Shabram MOD-83-0000487-A p.32

<sup>271</sup> Radhi Shabram MOD-83-0000488-A p. 2 Para 10

<sup>272</sup> Radhi Shabram MOD-83-0000487-A p.27

<sup>273</sup> Radhi Shabram MOD-83-0000487-A pp.26-27

<sup>274</sup> Radhi Shabram MOD-83-0000487-A pp.25-26. These statements have not been located.

<sup>275</sup> Radhi Shabram MOD-83-0000487-A pp.25-26

<sup>276</sup> Radhi Shabram MOD-83-0000488-A p. 2 Para 11: This was after the 3 days of mourning but less than one month later.

right from the start not to accept any compensation if anyone offered it to him, and that if he had rights he would get compensation. Also, this compensation would have been very low and would have affected his rights.<sup>277</sup>

**4.161** It remains Radhi Shabram's view that the British soldier who took his son and Auda to the waterside is responsible for his son's death.<sup>278</sup> But, he has firmly denied to my investigation that he was behind any attempt to intimidate or persuade Iraqi civilians to give false evidence.

## Other Civilian witnesses

**4.162** I have explained in Section 3 that I adopt Sir George Newman's ruling regarding which witness accounts are to be taken into consideration as evidence of the events leading up to the death. That said, it is relevant to my investigation that a number of civilian witnesses came forward to give evidence to the RMP in 2003 and later to the IHAT in 2014-2016, and that it is a repeating feature of this evidence that witnesses claim others were not present at the time. I deal with this in my findings in Section 5 of this report.

**4.163** A witness whose account is relevant to these findings is **The Interpreter**, an interpreter attached to BW BG, who gave evidence to the RMP in 2003<sup>279</sup> regarding events following the death of Shabram. Unfortunately, he has since died and gave no further evidence to any investigation.

**4.164** **The Interpreter** had been working at the base at about 14:30 on 23 May 2003, when seven or eight Iraqi men including Shabram's father came to the gate and aggressively claimed that soldiers from the camp had tied up the boys and thrown them into the water.<sup>280</sup> The body was later recovered and Shabram's father accepted that his son's hands had not in fact been tied.

**4.165** He told the RMP that he spoke to Abdullah in the days following the death, and that Abdullah told him that he had seen everything and that the British soldiers had tied the hands of Auda and Shabram before pushing them in the water. **The Interpreter**'s evidence continued to state that he saw Abdullah again about a week later, and that Abdullah told him that he had actually only seen one of the men being pushed in the water and that his hands were not tied.

## Other British military witnesses

**4.166** SO77 was the Troop Staff Sergeant ('SSgt') of Support Troop within 26 Armd Sqn 32 RE, 1 BW BG. SO77 was interviewed by the RMP and gave a statement in June 2003.<sup>281</sup> He

<sup>277</sup> Radhi Shabram MOD-83-0000487-A pp.30-31

<sup>278</sup> Radhi Shabram MOD-83-0000488-A pp.1-2

<sup>279</sup> **The Interpreter** MOD-83-0000501-A

<sup>280</sup> This account of hands being tied was also given by Qasim Al-Qatrani.

<sup>281</sup> SO77 MOD-83-0000458-A

was also interviewed by the IHAT in November 2014<sup>282</sup> and gave a further statement to the IHAT in October 2015.<sup>283</sup>

**4.167** SO77 was notified of this Investigation and provided with his previous statements. He notified the IFI by telephone in January 2019 that he had nothing further to add to the previous accounts he had given. I have therefore taken into account his previous statements and interview record.

#### Account to the RMP on 5 June 2003<sup>284</sup>

**4.168** His account in June 2003 was that at about 11.55 on 23 May 2003 he was alerted by SO76 to the fact that SO70 had requested assistance at the quayside because someone had fallen into the water. He had requested a diver and a “*medic*”. SO76 also told him that SO70 and SO72 were in the water trying to locate the person who had fallen in. He was asked by SO76 to attend the scene, which he did, along with SO78.

**4.169** On arrival at the dockside he saw that one of the vehicles was parked onto the water’s edge and the other was parked about 10 feet away, away from the water. SO71 and SO75 were stood on the vehicle which was further away from the water, and SO70 and SO72, who were both extremely wet, were stood together at the water’s edge.

**4.170** SO70 approached SO77 and told him that some local people had been at the quayside stealing wire. He said that after he had warned them off, two of them had jumped into the water. One of them had managed to swim across the quayside and climb out but the other had sunk under the water. SO70 said that he and SO72 had been in the water for twenty minutes trying to locate the man.

**4.171** SO77 said that as he was talking to SO70 an Iraqi male in his forties or fifties who spoke reasonably good English approached them and began acting as an interpreter for the thirty to forty Iraqis who were at the scene and were keen to speak to them about what had happened. SO77 said that one particular male was hysterical and shouting, and at one point grabbed and pulled him towards him. SO77 also recalled four to six Iraqi women who were doing the same thing. SO77 tried to explain that a diver was being requested, but his message did not get through to them as the interpreter had by this point disappeared.

**4.172** SO77 said that as time went by more and more Iraqis arrived at the scene and tensions were running high. He decided that it was too much of a risk for SO70 and SO72 to enter the water again and ordered everyone there to pack up and leave; he considered that the scene had become too volatile to stay. They left the scene just before 13.00.

#### Account to the IHAT on 6 November 2014<sup>285</sup>

**4.173** SO77 was interviewed by the IHAT in November 2014. On the day of the incident, he had been in the camp when he was called forward by his Sqn 2IC (SO76). He told him there had been some trouble down at the docks where some of the men from his troop were washing

<sup>282</sup> SO77 MOD-83-0000477-A

<sup>283</sup> SO77 MOD-83-0000459-A

<sup>284</sup> SO77 MOD-83-0000458-A

<sup>285</sup> SO77 MOD-83-0000477-A

down their vehicles. A crowd was starting to gather and they were concerned because a boy had fallen into the river and not come up. He then went down to the dock, along with one other soldier (he thought it was SO71). When they got to the dock there were a couple of men in uniform who were drenched through. They told him that a kid had jumped into the water but had not come back up, and that his mate had also jumped in and had swum around the corner. He said that by this point a crowd of people started coming towards them, the women were shouting and crying and started to shake one of the soldiers who was there. SO77 thought that a situation was going to develop as it was “*getting a bit heavy*”, and so he then told the men to get into their vehicles and return to camp. He said:

*“...the situation was just loads of, hoards of people started to come and the women were shouting and balling and even the lad [SO71]...he was stood there you know, keeping sort of guard while we sort of pulled the pumps in, in the actual trucks and got rid of it in the tanks...you know it was just one of them situations where you had to make a split second decision to get everybody out otherwise a crowd of people could easily take over a few people.”<sup>286</sup>*

**4.174** It all happened really quickly and he estimated that he was only down at the dockside for about five to ten minutes before extracting back to camp.

**4.175** SO77 was asked whether soldiers would have been armed when they went to the docks to wash their vehicles. He replied that they would each have been armed with an SA80, and some would also have carried a pistol.<sup>287</sup>

**4.176** He described the dock as being an old Naval dockyard in a bad state of repair, with “*loads of rusty hulks*” knocking about in the water.

**4.177** SO77 described their duties at the time of the incident as including patrolling the areas in order to keep an eye on what was going on, especially as “*people were just taking all sorts of stuff*”. He described the looting as follows:

*“There was like big warehouses on the docks, I mean a lot of it, there’s all sorts of things in the warehouses, I mean there was a couple of missiles and sort of stuff and there’s all bits, all various bits of sort of stuff you’d have down in the docks really in the areas and you know they were just trying to come and take it, what they could and help themselves...  
...  
...so we were just trying to keep order and...protect the infrastructure...we was even trying to help keep the electric on and stuff like that but there was wires down, they’re more interested in taking the copper wire than they were us putting the electric on and stuff like that.”<sup>288</sup>*

**4.178** SO77 said that he could not recall whether he made a statement after the incident.<sup>289</sup>

<sup>286</sup> SO77 MOD-83-0000477-A (part III) p.13 of 36

<sup>287</sup> SO77 MOD-83-0000477-A (part III) p.20 of 36

<sup>288</sup> SO77 MOD-83-0000477-A (part II) p.8 of 30

<sup>289</sup> SO77 MOD-83-0000477-A (part III) p.30 of 36

Account to the IHAT on 20 October 2015<sup>290</sup>

**4.179** SO77 gave a further statement in October 2015 in which he stated that although there were some differences in the accounts he had given in 2003 and 2014, his original statement was the more reliable account. He confirmed that on 23 May 2003 he had been instructed by SO76 to attend the dock along with SO78. He recalled that on arrival at the scene there was a crowd of thirty to forty locals who were hysterical and he saw SO70 and SO72 who were both soaking wet in their clothing. SO70 told him that two people had jumped into the river, but he did not give any reasons why. One of them had got out of the river but the other had not. SO70 said he and SO72 had got into the river and tried in vain to find the second man.

**4.180** SO77 recalled talking to one Arabic person at the scene who spoke some English and telling him that he would try to get a diver to the scene, but “*at no time*” did he offer any compensation to anybody, nor did it cross his mind to do so. He decided to return to camp as the crowd were getting more irate. On return he recalled briefly informing SO76 of the limited information he had, but he did not recall asking any of the soldiers about what had happened after the event.

SO78

**4.181** SO78 was a Spr within 26 Armd Sqn 32 RE, 1 BW BG. SO78 was interviewed by the RMP and gave a statement in June 2003.<sup>291</sup> He was also interviewed by the IHAT in November 2014 and provided a further statement in December 2014.<sup>292</sup>

**4.182** SO78 was notified of this Investigation and provided with his previous statements. He notified the IFI in May 2018 that he had nothing further to add to the previous accounts he had given. I have therefore taken into account those previous statements.

Account to the RMP on 8 June 2003<sup>293</sup>

**4.183** His account in June 2003, given by way of statement, was that he recalled that 23 May 2003 was a day on which a pump had been set up at the dockside within the Naval Base in order for the troops’ vehicles to be washed. He recalled leaving for the dock at around 12.00 with SO77, and at this time he was unaware of any problems at the dockside. SO78 was driving the vehicle.

**4.184** On arrival at the dockside SO78 could see a crowd of people on the far side of two army vehicles, right against the water’s edge. He was instructed to stop alongside the vehicles, about 10m from the crowd. SO77 dismounted and headed over to the crowd, which was getting quite irate, while SO78 stayed with the vehicle. SO78 saw SO72 by the water’s edge being jostled and grabbed by people in the crowd, whilst he was trying to retrieve the pump, and SO75 who was stood on top of one of the vehicles holding his rifle, trying to give protection to the soldiers on the ground. He could also see SO71 by the commander’s hatch on the other vehicle, wearing a radio headset, and was aware that SO70 was also in the vicinity, but could

<sup>290</sup> SO77 MOD-83-0000459-A

<sup>291</sup> SO78 MOD-83-0000460-A

<sup>292</sup> SO78 MOD-83-0000469-A

<sup>293</sup> SO78 MOD-83-0000460-A

not see him and assumed he was amongst the crowd of people. SO78 then saw SO71 get down from his vehicle and go back into the growing crowd, where he was being jostled.

**4.185** During this time he heard over the radio that two thieves had been detained, and he presumed that they were being detained within the crowd. He did not know anything else about the incident. SO78 was then instructed to help SO72 retrieve the pump from the water's edge. As soon as he entered the crowd he was being jostled, with people pushing and shoving him towards the water. He recalled that one youth who appeared to be quite upset was trying to punch him, but because people were shouting at him in Arabic he did not know what they were trying to say or what the problem was. Once he and SO72 had retrieved the pump he was told to get back to his vehicle and they returned to camp.

**4.186** SO78 recalled that SO72 was completely soaked when he arrived at the scene. He also later heard that SO70 was also soaked, but he did not recall whether he had noticed this when he briefly saw him at the scene. SO78 stated it was not until he returned to camp after the incident that he was informed that two Iraqis had fallen or jumped into the water, and that one of them had not been recovered, but he did not say who had told him this. He stated that whilst at the quayside he did not see anybody in the water and was not aware that anyone was in the water.

[Account to the IHAT on 9 December 2014](#)<sup>294</sup>

**4.187** In regards to his knowledge of the looting situation at the time of the incident, he said:

*"In relation to my knowledge of looting by the local Iraqi population at that time I would describe it as having been a major problem for us. Basically speaking the Iraqis pulled their country apart and if it wasn't nailed down it would disappear. From recollection, this started pretty much straight away from the point of the initial invasion and there was no Iraqi police force to help stop this happening. As far as I was aware there were no orders in place to deal with them and in any case it was not something that we dealt with because we were dealing with engineering tasks. Looters were really the infantry's responsibility. I have never personally heard of the phrase 'wetting' and have no knowledge of Iraqis being thrown, or put into water as a form of punishment for looting, or anything else."*<sup>295</sup>

**4.188** SO78 stated that each of the vehicles was fitted with fire extinguishers, with one or two externally fitted to the back door and one internally at the front. The predominant purpose for these was for extinguishing fires on board the vehicle.

**4.189** SO78 stated that on the day in question he was told by SO77 that they had to go to a nearby dockside area quickly because something had happened there and they had to assist the rest of his section, who were already there, to pack up some equipment. The dockside was located approximately one to one and a half miles away from the base, and this was the only time that SO78 went to that location.

<sup>294</sup> SO78 MOD-83-0000469-A

<sup>295</sup> SO78 MOD-83-0000469-A pp.8-9

**4.190** When they arrived at the dockside he parked their vehicle alongside one of the other vehicles close to the water's edge. The scene was very hectic and he recalled seeing SO72 standing close to the water's edge with several Iraq civilians around him, who were pushing, gesturing and shouting at him. SO72 was soaking wet and his t-shirt was ripped. On arrival he estimated that there had been approximately ten Iraqis in the crowd, but this number grew the longer they were there. He noticed that SO72 was looking upset and it was obvious that something was up because of the way the Iraqis were behaving: they were irate and pointing at the water. He could not remember whether he was aware at the time, or was told later, but at some stage he found out that:

*"SO72 had gone into the water to try and rescue an Iraqi lad who had either fallen or jumped into the water after he had been fleeing either an argument, or after being caught stealing electrical cable with another Iraqi. One of the two Iraqis had climbed out of the water and the other didn't make it."*<sup>296</sup>

**4.191** SO78 said that is all he knew about the incident, and it must have occurred before he arrived because he did not see any of it. However, although he could not understand what they were saying, it was obvious from the crowd's actions that something bad had happened and that they needed to get out as quickly as possible. He recalled that as he was trying to pack the pump away an "*Iraqi lad*" began pushing at him whilst gesturing to the water and trying to grab his rifle. He prepared himself to take a swing at him but the young man released his grip on the rifle.

**4.192** SO78 recalled that at some point there was a big surge from the crowd towards the vehicles, and he anticipated that there was a possible threat approaching from behind them. SO78 jumped onto his vehicle and prepared to use the vehicle's machine gun, because he feared that what was coming might pose a threat to him and the rest of his section. However, at this point he was informed by an Iraqi male, in English, that it was the mother arriving. SO78 did not see anyone arriving, but the way that he was informed of this made him feel that there was no great risk to the soldiers.

**4.193** SO78 stated that the only individual from his troop who he specifically remembered seeing at the scene was SO72, who stuck in his mind because he was close to the pump and was wet and being shouted at by the Iraqis. He was aware that SO77, SO70 and SO71 were also there, but he did not see anything of them. He said that, because of the manic situation, his main focus and concern whilst at the dockside was on loading the pump onto his vehicle and packing it away, and not on what the other soldiers were doing.

**4.194** SO78 could not remember any specific conversations back at the base with anyone about what had happened, although he did remember that SO71 and SO72 were both quiet. He considered that SO70 and SO77 were both professional following the incident, and did not make it obvious they were upset by it, although he was sure that they were because the incident had happened on their watch. He stated that the incident occurred before Combat Stress became recognised as an addressable issue, and the expected thing to do was "*keeping your*

<sup>296</sup> SO78 MOD-83-0000469-A p.5

*head down and getting on with it*”,<sup>297</sup> which he considered might explain why no-one talked about it after the event.

## Other military witnesses

### SO76

**4.195** SO76 was a Captain and 2IC of 26 Armd Sqn 32 RE, 1 BW BG. SO76 was interviewed by the RMP and gave a statement in June 2003.<sup>298</sup> He was also interviewed by the IHAT in December 2015.<sup>299</sup>

**4.196** SO76 is now resident in [REDACTED]. He was notified of this Investigation by post and email on numerous occasions and was asked to make himself available to be questioned and to confirm whether he had anything that he wished to add to the previous accounts he had given. An agent instructed on behalf of the IFI made contact by telephone with him in February 2019, but no response was received to the IFI’s correspondence. I have therefore taken into account his previous statements.

### Account to the RMP on 7 June 2003<sup>300</sup>

**4.197** His account in June 2003 was that in May 2003 his unit were located within what used to be a Naval Base in Basra, where they had been since 8 or 9 April 2003. Also within that Base there was a port / quayside area where the unit periodically used to wash down their vehicles. The port area was also used by quite a large local community who had set up home there since the war.

**4.198** At about 11.30 hrs on 23 May 2003 he was in his office when he was alerted by a member of his unit that a message had been received in the Ops Room that someone had gone into the water at the Port. He requested an immediate SITREP over the radio and was told that an Iraqi civilian had gone into the water and members of the unit were in the water and were trying to get him out.

**4.199** He then spoke to SO70 on the radio. SO70 was noticeably panting, and confirmed that an Iraqi civilian was in the water and unit members were trying to get him out. At this point SO77, who was about to go to the dockside, entered the Ops Room, and SO76 received a message from SO70 that a crowd was building up at the location. SO76 told SO77 to go down and control the situation at the Port, and then sent a radio message ordering those at the Port to get out of the water because of the risk to his unit members. He said that by this time SO77 was also at the location and reported over the radio that the crowd was *“pretty hysterical”*. SO76 then ordered all troops back to base.

**4.200** When the troops returned, he identified those involved in the incident as being SO70, SO71, SO72 and SO75. SO76 was told by SO70 that whilst they were washing their vehicles

<sup>297</sup> SO78 MOD-83-0000469-A p.11

<sup>298</sup> SO76 MOD-83-0000457-A

<sup>299</sup> SO76 MOD-83-0000476-Part 1-A; MOD-83-0000476-Part 2-A; MOD-83-0000476-Part 3-A

<sup>300</sup> SO76 MOD-83-0000457-A

down at the quayside, he saw two Iraqi males digging up copper cable. He approached the men and, using a local as an interpreter, SO70 told them to stop and leave the area. According to SO70, the Iraqis then became quite nervous and eventually ran away from him and jumped into the water. One of the Iraqis swam across the quayside and got out the other side *“but the other just sank”*.

**4.201** SO76 stated that he spoke to SO71 and SO72 individually and they confirmed the account given by SO70. He asked them all to make notes.

**4.202** SO76 stated that later that same day, at about 13.30, he went to meet members of the drowned man’s family, who had come to the gate of the base. The deceased’s father was aggressive and hysterical and told SO76 (through the unit’s interpreter) that witnesses had told him that soldiers had tied his son’s hands and thrown him into the water. He demanded that the BF recover his son’s body. SO76 informed him that he had requested military divers, but they were working elsewhere. The deceased’s father issued an ultimatum for the recovery of his son’s body, threatening that he would start killing soldiers if he was not recovered within a week.

**4.203** SO76 informed him that his son had been stealing and had jumped into the water. The deceased’s father’s reply was *“that his son may have been a thief but he was only stealing from Iraq and not British soldiers.”*<sup>301</sup>

**4.204** Later that day SO76 was told by the unit’s interpreter that members of the deceased’s family had returned to the base and informed him that the body had been recovered from the water. They accepted that his hands had not in fact been tied but *“were still insistent that he had been pushed in the water by members of my unit.”*<sup>302</sup>

#### Account to the IHAT on 1 December 2015<sup>303</sup>

**4.205** SO76 was interviewed by the IHAT in December 2015. He described how 23 May 2003 was about three weeks into the *“peace enforcement”* phase of the occupation, which meant that part of the BF’s role was a policing role, although their first job remained as soldiers. A *“limited”* part of the policing role included restoring infrastructure and amenities. He described how during this period looting was a big problem and had become a major concern to Iraqi locals as well as to the soldiers. He said that the locals *“weren’t happy with the security situation, because the thieves were actually never from Basra, they were always coming into Basra.”*<sup>304</sup> He was asked specifically what instructions were given to troops regarding looters:

*“Q:…So, what instructions were given to the engineers, and I’m talking specifically about 26 squadron engineers regarding looters?”*

*A: Err try to stop them, it wasn’t err obviously, it was mainly if you were driving past an electricity sub-station and there was people in there trying to steal copper or something, stop it.*

<sup>301</sup> SO76 MOD-83-0000457-A p.3 of 4

<sup>302</sup> SO76 MOD-83-0000457-A p.3 of 4

<sup>303</sup> SO78 MOD-83-0000469-A

<sup>304</sup> SO76 MOD-83-0000476-Part 1-A p.107 of 383

...

Q: *And the stopping, by stopping I mean stop and arrest them.*

A: *Right, so your specific instruction to your troops.*

Q: *Yeah, from memory was mainly deal with the main stuff, err you couldn't see everything, you, you didn't know what was being stolen and how and when, you know obviously there's the famous incident of people going into the museum and ransacking it...but it was to do with the main infrastructure, we weren't policing them, we didn't have guards outside them.*

...

A: *We did it as engineers, but if you came across it you know you were to effectively arrest people and there was a bit of an Iraqi Police Force at the time and hand it over to them...*

Q: *So when did you give that instruction?*

A: *I wouldn't have given that instruction...that would have come through the orders process and it would have been relatively near the start in Basra when you know there was a bit of a, once we went into Basra there was a bit of a increased level of thieving and looting.*

...

Q: *So what I understand it there was a specific instruction that if you see people looting copper, or if you see people looting something of, that's you know tangible*

A: *Infrastructure related generally.*

Q: *Then they're to be arrested.*

A: *Yes.*<sup>305</sup>

**4.206** SO76 stated that orders that troops were to protect the infrastructure did not come from him, but from the BF *"at a very high level."* When asked to describe the process by which those orders were disseminated to troops on the ground he stated that the OC provided the orders to the troop commanders (eg SO70), who then passed on the orders to the corporals. The corporals would *"then they go away and get their boys together and say right boys this is what's going on, this is what we're going to do tomorrow, this is what we're doing tonight."*<sup>306</sup>

**4.207** SO76 stated that the importance of the soldiers' role in protecting infrastructure, in infrastructure repair and infrastructure building was particularly known to the REs *"because they're fitters, electricians and plumbers and they're tradesmen."*<sup>307</sup> He stated:

*"A: So we had to try and protect the infrastructure as much as possible and if we saw anyone trying to vandalise it, to steal copper or steal something.*

...

<sup>305</sup> SO76 MOD-83-0000476-Part 1-A pp.107-108 of 383

<sup>306</sup> SO76 MOD-83-0000476-Part 1-A p.110 of 383

<sup>307</sup> SO76 MOD-83-0000476-Part 1-A p.111 of 383

*Then you know we had the remit to stop them and arrest them.*

...

*And it wasn't, it was you know stop, arrest and hand them over to the Police.*

...

*That's what the main remit was, not anything else.*

*Q: What I ehm, okay, so as you understand it then there was a specific order to arrest looters for the copper, theft of copper that came from Brigade or a higher...*

*A: It would have been high up, yeah.*

*Q: That would have come through... [REDACTED] SO79 [REDACTED] the...*

*A: Through the chain of command.*

...

*Q: And that would have been cascaded, now the chain of command...as you've described it would have meant, and let's take...SO70 specifically.*

...

*He would have received that order specifically from [REDACTED] SO79 [REDACTED].*

*A: Yes*

*Q: And he would have relayed that order through his Corporals, down to...*

*A: Yes."* <sup>308</sup>

**4.208** SO76 was asked what was meant by "arrest", and what means could be used to detain looters:

*"A: It was...detain and hand over to the Iraqi Police.*

*Q: Okay, so what does detain mean?*

*A: If you take it literally it could be held against one's will.*

*Q: Yeah*

*A: Err detain, to hold them there and generally most if you turned up with soldiers they would, if you said stand there and wait, then they stood there and wait.*

...

*Q: If they were to detain them, your soldiers would do whatever means necessary to detain them.*

*A: Within reason.*

<sup>308</sup> SO76 MOD-83-0000476-Part 3-A pp.313-314 of 383

Q: *So what's within reason?*

A: *Well you can't start assaulting people.*

Q: *Okay, in what way?*

A: *Well you can't start hitting people.*

Q: *Okay.*

A: *And you can't hit them with rifles, you can't do anything, err you know you've still got the International Committee of the Red Cross, we're still governed by the Geneva Convention.*

...

*There's a way to behave and physical assault and beating them is not one of them.*<sup>309</sup>

**4.209** When asked whether it was permissible to aim a rifle at looters, SO76 replied:

*"A: You can't threaten people with a rifle if they're not armed and posing no threat.*

...

*Q: If we put that into the scenario of...people looting copper then*

...

*A: Your soldiers can detain them or so your soldiers, the soldiers could detain them but not use a weapon as a means of threat, not assault them or...*

*You definitely can't assault them.*

Q: *Lay hands on them?*

A: *Which is a form of assault.*

...

*Anyway, err no generally, I mean we didn't, we didn't expect this at the start, so it's not something we were trained to do.*

...

Q: *But it was happening, we know it was happening.*

A: *...of course it was.*

...

*There was so much looting and stuff going on, it was...with minimal...force or action, it's basically you know detain as best you can.*

...

<sup>309</sup> SO76 MOD-83-0000476-Part 1-A pp.115-118 of 383

*...but you can't, you can't point a rifle at someone's head.*

...

*For stealing a bit of copper.”<sup>310</sup>*

**4.210** He stated that once soldiers had detained individuals for looting, the expected course of action would be for the soldiers to call the Ops room to explain the situation. The Ops room would then report this up the chain of command in order to get the Iraqi Police Force to the location where the looters were detained. He could not however recall a specific instance that this had occurred.<sup>311</sup>

**4.211** SO76 stated that he had not personally ever been down to the port where the vehicles were washed.<sup>312</sup> On 23 May 2003 he would have been aware that some vehicles had gone out to be washed, but could not recall being aware who the individuals were who had gone there.

**4.212** He did not remember any reference to a vessel being on fire at the Port.<sup>313</sup>

**4.213** His first recollection of the incident was being called into the Ops Room and being told that:

*“...my guys had jumped in the water, because to try and save somebody.*

...

*...That was the most prominent thing I remember, is my guys were in the water.”<sup>314</sup>*

**4.214** He was asked what else he remembered:

*“What I remember is trying to get a bit of a description of what happened and that's where the description came, is coming to me that thieves running away, one jumped in the water and managed to get out, the other one jumped in the water, sank like a lead balloon.”<sup>315</sup>*

**4.215** SO76 described the section of water at the Port:

*“...I am a little...I suppose surprised that they did go in on the other side of the fence...that they put themselves in that danger...because it's a, it's a port, because it is very deep, it's tidal, it's the confluence of the freighters and tide is rivers, it's, we're not that far from the coast, it's full of disease.*

...

*Err effluent and cholera and typhoid and so on and so forth.*

<sup>310</sup> SO76 MOD-83-0000476-Part 1-A pp.117-118 of 383

<sup>311</sup> SO76 MOD-83-0000476-Part 1-A p.122 of 383

<sup>312</sup> SO76 MOD-83-0000476-Part 1-A p.127 of 383

<sup>313</sup> SO76 MOD-83-0000476-Part 2-A p.222 of 383

<sup>314</sup> SO76 MOD-83-0000476-Part 1-A p.134 of 383

<sup>315</sup> SO76 MOD-83-0000476-Part 1-A p.136 of 383

...

*So it's a, they've taken a serious risk to themselves.*

...

*To actually jump in that water.”<sup>316</sup>*

**4.216** SO76 said that he told the soldiers to get out of the water because he was concerned that they could easily drown. This was roughly the same time that he was told that a crowd started building, and so he ordered SO77 to get down to the Port to provide support to the troops who were there. He was asked:

*“Q: Did you try and establish why they were in the water?*

*A: Yes, and that's err when the description came to me that a couple of guys ran away, one jumped in, both jumped in and one got out, the other one didn't, and that's why they were in the water to try and...”<sup>317</sup>*

**4.217** SO76 was asked if at that time he knew why the individuals had run away, and responded:

*“A: At the time I know there's people in the water, my soldiers are in there trying to get them out, as to how that happened yes I've got a pretty good idea how that's happened, the fact they've challenged them and they've ran away.*

*Q: What was your pretty good idea then?*

*A: Well my pretty good idea would have been they've challenged them for a reason.*

*Q: Okay and you said earlier your summation was that they were stealing.*

*A: Well that would be an educated guess.*

*Q: And why's that then?*

*A: Because that's the sort of thing that was going on a lot at the time.*

...

*In Basra*

...

*It's no big secret that there was a lot of looting going on.”<sup>318</sup>*

**4.218** SO76 said that part of the conversation over the radio involved a description that:

<sup>316</sup> SO76 MOD-83-0000476-Part 3-A pp.346-347 of 383

<sup>317</sup> SO76 MOD-83-0000476-Part 1-A p.139 of 383

<sup>318</sup> SO76 MOD-83-0000476-Part 1-A pp.141-142 of 383

*“the guys were in the water and because they’d chased and like I said the description was along the lines of they were chasing, or they were trying to apprehend a couple of Iraqis, both jumped in the water, one’s got up and disappeared, the other one sank like a lead balloon.”<sup>319</sup>*

**4.219** He was pressed regarding whether he was told they were chased:

*“A: Well ran or chased or whatever, or challenged, I don’t know the exact err, there was some kind of...”*

*Q: ...but what was your understanding at the time, were they running, were they being chased?*

*A: My understanding, no my understanding was, without putting in these specific words, my understanding was these two Iraqis were trying to get away from our soldiers, however that was I don’t exactly know and they ended up in the water. One of them got out, the other one sank and that sank element I’m quite err clear on, that’s how it was sort of described to me.”*

<sup>320</sup>

**4.220** When SO76 learned over the radio that a crowd was gathering, he decided to extract the soldiers from the Port in order to diffuse what he perceived as a potential riot situation as he was concerned that the crowd would become hostile:

*“Q: Were you told that they were hostile?”*

*A: Err I wasn’t told that they were hostile, but a crowd was gathering and I don’t remember the rest of that conversation, but possibly there was something in that conversation reported back by SO75 as it seems to prompt me to say right get everyone out and get everyone back. I tried to get them out of the water before I think the crowd gathering thing started.”<sup>321</sup>*

**4.221** He sent SO77 to the port both as support if needed, and to ensure that his message to extract from the location was made clear to the troops.

**4.222** As soon as the troops got back to the base those who were wet got cleaned and dried off, and he may have sent them to the medical centre to report that they had been in the water, due to the risk of cholera and typhoid. Soon after they came back, SO76 instructed SO70, SO71, SO72, SO75 and “*probably*” SO77 to write written statements in the briefing room. The purpose of their writing statements was:

*“So while it’s fresh in their mind they wrote down in their own words what happened.”<sup>322</sup>*

<sup>319</sup> SO76 MOD-83-0000476-Part 1-A p.145 of 383

<sup>320</sup> SO76 MOD-83-0000476-Part 1-A p.147 of 383

<sup>321</sup> SO76 MOD-83-0000476-Part 1-A p.153 of 383

<sup>322</sup> SO76 MOD-83-0000476-Part 1-A p.177 of 383

**4.223** SO76 said that the statements would have been collated and passed on to the police,<sup>323</sup> but he was unable to remember this happening:

*“...I can’t remember that bit like I said the bit I can remember is asking them to make it er and I remember they did sit down and write because I remember a couple of them or writing I can’t remember exactly which ones and which order they were sat in but they were sitting down and writing and then after that I can’t really recollect what happened to those pieces of paper.”*<sup>324</sup>

**4.224** He could not recall what conversations he had with them prior to writing their statements, although thought that some of the information he had heard about the individuals running away may have been learned after the incident rather than on the radio.<sup>325</sup> He was asked specifically about what he was told by SO70 when he returned. Although he accepted that, *“without a doubt”*, he would have had a conversation with SO70 when he returned from the dock about what had happened,<sup>326</sup> he could not remember that conversation:

*“Q: OK, so what did SO70 tell you when he came back?”*

*A: I don’t remember having a conversation with him, I genuinely do not recollect that conversation.”*<sup>327</sup>

**4.225** He thought that he had *“probably”* read their statements after they had finished them, but could not remember what was said in them.<sup>328</sup>

**4.226** Later that day the family of the deceased arrived at the base and SO76 recalled the conversation in which they repeatedly accused the BF of having tied his hands and feet together and thrown him in the water. He said:

*“...they were quite hysterical and angry and upset and comments I do remember is we’re going to kill ten of your soldiers for the life you have taken.”*<sup>329</sup>

**4.227** This conversation was the first he became aware of an allegation that his soldiers had pushed the boys into the water:

*“Q: Have you been made aware prior to that conversation that your soldiers, the allegation is that they forced that boy in the water?”*

<sup>323</sup> SO76 MOD-83-0000476-Part 1-A p.179 of 383

<sup>324</sup> SO76 MOD-83-0000476-Part 3-A p.326 of 383

<sup>325</sup> SO76 MOD-83-0000476-Part 1-A pp.161-170 of 383

<sup>326</sup> SO76 MOD-83-0000476-Part 2-A p.268 of 383

<sup>327</sup> SO76 MOD-83-0000476-Part 2-A p.250 of 383

<sup>328</sup> SO76 MOD-83-0000476-Part 1-A p.199 of 383

<sup>329</sup> SO76 MOD-83-0000476-Part 1-A p.187 of 383

*A: That I don't recall, no, the, the first I remember of my guys physically forcing into the water is that conversation.*

...

*Because the previous information I had is them jumping in the water.*

...

*Q: So up to that point you think they've just run, this guy's just run and jumped in of his own accord, having been caught stealing?*

*And from memory that's what I'm thinking, yeah that's what I recall."*<sup>330</sup>

**4.228** He recalled again that there had been discussion about the boys stealing:

*"...I don't think they acknowledged they were stealing, but it was something along the lines of they weren't taking from you."*<sup>331</sup>

**4.229** He remembered that some hours later someone from the guardroom told him that the family had come back, and that they had recovered the deceased's body. The family accepted that his hands and feet were not tied together, but still alleged that he had been pushed into the water by the soldiers.

**4.230** SO76 was asked whether he had ever heard of the practice of "wetting" as an unofficial means of dealing with looters by making them roll around in dirty pools of water. He said that he had not. The only time he had heard of water being used as a means of control was in Northern Ireland, when there was [REDACTED] using water cannons to soak rioters so that they became wet and cold and would go home.<sup>332</sup> He had not heard about the incident which occurred at Bridge 4 in which another Iraqi drowned about two weeks before this incident.<sup>333</sup>

**4.231** SO76 said he was aware that SO70 spoke "a little bit of Arabic" which he used with the locals, although he had not personally witnessed this.<sup>334</sup> He was asked whether soldiers should ever go off on their own whilst on patrol:

*"Q: To wash vehicles, what would be your expectations as a soldier and as a commander if you like for one person wandering off on his own or leaving another person on his own while you wandered off on your own.*

*A: Oh they should never be in less than a pair and they should never be too far away from their vehicle because that's where the radio and the machine gun is so they shouldn't just be you know wandering off on their own.*

<sup>330</sup> SO76 MOD-83-0000476-Part 1-A pp.194-195 of 383

<sup>331</sup> SO76 MOD-83-0000476-Part 1-A p.188 of 383

<sup>332</sup> SO76 MOD-83-0000476-Part 3-A p.331 of 383

<sup>333</sup> SO76 MOD-83-0000476-Part 3-A p.333 of 383

<sup>334</sup> SO76 MOD-83-0000476-Part 3-A p.334 of 383

Q: *OK are there any exceptions to that?*

A: *Not really...you should always go in pairs ehm just you've got each other's back you know but you should also not be getting too far away from that vehicle, that's their protection or whatever you want to call it."* <sup>335</sup>

**4.232** SO80's recollection that SO76 had been in possession of the 26 Sqn log sheets in Germany<sup>336</sup> was put to SO76 by the IHAT in 2015. Although he did not recall the particular conversation with SO80, he agreed with SO80's description of the process which should be followed for retention of the log sheets:

*"A: Yeah so the logs needed to be kept because I suspected they would be required for future investigations.*

Q: *So where did you keep them?*

A: *They would have been kept in squadron headquarters, I can't think of anywhere else they would have been kept. The secure box he's talking about would have had all our secret maps and logs and everything brought back to Germany.*

...

*In one box and that would have just been placed on the tank but when they got back they would have had to have been er in squadron HQ. Right he says the normal procedure when the CD1 box was returned to Hohne it would be handed to the quartermaster signals master instruction CMSI.*

...

Q: *Or a regimental signals instructor...*

A: *Yeah*

Q: *For them to record and store, at some stage SO76's documents would have been returned to him for his necessary action. This may have been prior to our being, to our other being sent to the QSMI or RSI. But SO76 being in possession of the radio log sheet suggests to me that he got hold of them prior to them being sent to the QSMI or RSI or he specifically requested the radio log sheets himself.*

A: *Er the logs were returned back to Germany and I thought they were in squadron headquarters not in, because I remember giving them to the RSI but they were held centrally.*

Q: *Do you recall the incident that he's on about though where the logs were on the table and he, you had that conversation with him about them being required?*

<sup>335</sup> SO76 MOD-83-0000476-Part 3-A p.344 of 383

<sup>336</sup> See summary of SO80's evidence below at paras 4.248-254

*A: I don't specifically remember but I would have remembered saying these logs are quite important because they will be required for the future knowing what had transpired.*

...

*I knew we were going through an investigation so.*

*Q: Did that cause you to deal with them any differently?*

*A: No if anything protect them more because they're evidence.*

...

*Q: Where would they have been stored?*

*A: They would have been, to the best of my recollection they would have been in squadron headquarters in Germany in Hohne in the 26 headquarters but I would have made it clear to the guys about their importance and necessity to look after them which I've done to him and I knew they would be required in the future.”<sup>337</sup>*

## SO73

**4.233** SO73 was a Second Lt and Troop Commander of Armd Troop, 26 Armd Engineer Squadron. He did not attend the scene but shared a room with SO70.

**4.234** SO73 was interviewed by the IHAT in 2015<sup>338</sup> and he signed a record of that interview. He cooperated with my Investigation and provided a witness statement to the IFI<sup>339</sup> in which he clarified parts of the 2015 record. He had concerns about the accuracy of the 2015 record that was taken almost twelve years after the event itself.

**4.235** In his 2015 statement,<sup>340</sup> SO73 recalled that he had had a conversation with SO70 on the day of the incident when SO70 returned to the compound:

*“I remember that I was in the confines of the base when SO70 returned to our accommodation block. I shared a room with him. He was dripping wet and stinking and he stated that he had been in the river. He came into the compound and told me that he had come across kids trying to steal from within the dockyard he had chased them one jumped in and he entered the water with another soldier and they were duck diving for about an hour to find this person. He looked tired and upset and I recall that he was a poor swimmer and was impressed that he had managed to try and find this person. The river was disgusting and dirty containing raw sewage. He got changed and then had to attend the RAP at Battlegroup HQ to see the medical staff. He mentioned that a crowd had gathered prior to returning to base and that he was exhausted.”*

**4.236** SO73 told the IFI<sup>341</sup> that in 2015, his recollection of his conversation with SO70 would have been hindered by the passage of time and he would not have been able to recall it word for word. The conversation had been “fleeting” and there was no opportunity for him to ask questions about what happened because SO70 had been told to go straight to medical staff to

<sup>337</sup> SO76 MOD-83-0000476-Part 3-A pp.361-363 of 383

<sup>338</sup> SO73 MOD-83-0000470-A

<sup>339</sup> SO73 IFI MOD-83-0000471-A

<sup>340</sup> SO73 MOD-83-0000470-A

<sup>341</sup> SO73 IFI MOD-83-0000471-A

be checked out. He had assumed that the purpose of SO70 duck-diving was to save a person from drowning, but he did not learn that someone had died until later. He did not recall having any further conversation with SO70 about the specifics of the incident.

**4.237** SO73 stated in his 2015 record,<sup>342</sup> and confirmed in his statement to the IFI,<sup>343</sup> that looting was rife, but he did not recall receiving any specific training on the issue. In general, the soldiers used their common sense to deal with looters. He did not himself detain any looters in Iraq and did not recall any specific occasion on which he dealt with looters.

## SO74

**4.238** SO74 was a SSgt in the Armd Troop, 26 Armd Engr Sqn. SO74 was interviewed by the IHAT and gave two statements, one in January 2015<sup>344</sup> and one in November 2015.<sup>345</sup> He cooperated with my Investigation and gave a statement to the IFI<sup>346</sup> in which he clarified parts of his 2015 statements and elaborated on the interaction he had with Abdullah and the instructions and training received regarding looters. He also noted that his statements in 2015 were taken almost twelve years after the event itself, when his memory was less than perfect. He said that since a further five years had passed, he could now recall even less than he could then.

**4.239** In his January 2015 statement<sup>347</sup> SO74 stated that they were not specifically trained for dealing with looters, but that they encountered a vast number of them who stole “*everything and anything*”.

**4.240** They took a “*common sense approach*” to dealing with looters, which involved looking at whether they were looting for profit or just to survive. The soldiers were trying to deal with attacks on the infrastructure and the effect that this had on the area. In particular, soldiers paid regular visits to Abdullah, who was the guard at the pumping station, in order to help him protect his building because of the detrimental effect which looting of his building could have had on the supply of water in the area. He had personally visited the dockside “*almost daily*” when he was in camp, and had struck up a personal relationship with Abdullah, who spoke “*reasonably good English*”.

**4.241** On 23 May 2003 he was at the compound and saw SO70 talking to SO73. He learned that the gist of their conversation was that SO70 had detained two people who were looting and that there was an angry mob who were against the looters. SO70 had decided to release them and they had then jumped into the Shatt Al-Arab to escape, and soldiers had jumped into the river to rescue them.

**4.242** SO74 stated that he had been made aware of Abdullah’s interview given to the RMP in 2003. He replied that although he did go down to the dockside with equipment, he had not

<sup>342</sup> SO73 MOD-0000470-A

<sup>343</sup> SO73 IFI MOD-0000471-A

<sup>344</sup> SO74 MOD-0000472-A.

<sup>345</sup> SO74 MOD-0000473-A

<sup>346</sup> SO74 MOD-0000474-A

<sup>347</sup> SO74 MOD-0000472-A

done so on that day and doubted that any soldiers had done so following the incident because the camp was in lockdown. He said it was extremely unlikely that he would have visited Abdullah with a large section of men; he almost exclusively visited him on his own, having been taken to the dockside by his driver.

**4.243** In his November 2015 statement<sup>348</sup> SO74 reiterated that although he did visit Abdullah on other occasions, he did not do so on 23 May 2003. He did not believe that anybody would have been allowed out of the camp after the incident due to the hostile crowd. He recalled that he had been in the compound on 23 May 2003 and had seen SO70 and SO77 after they returned from the incident.

**4.244** In his statement to the IFI<sup>349</sup> SO74 stated that, around the time of the incident, he would routinely pass by the dockside about two or three times a week. He said that at the time of the incident he did not know Abdullah's name, but he knew who he was; they would pass by his location and say hello whenever they visited the dockside. SO74 knew that Abdullah was performing an important role safeguarding the water at the pumping station and he occasionally used to supply him with equipment to build rapport and support his efforts. He saw it as part of the soldiers' role to maintain good relations with the locals. Abdullah spoke "*reasonably good English*", although this was by comparison to other locals, and they mainly communicated by sign language.

**4.245** In respect of Abdullah's interview dated 29 May 2003, in which he stated that SO74 had visited the scene of the incident an hour after a body had been retrieved from the water, SO74 insisted that he "*certainly did not go to the scene of the incident that day.*" He clearly recalled that 23 May 2003 was downtime, and he was in the compound when SO70 and SO77 returned, with one of them being in dirty and wet clothes. When he learned of the incident he wanted to go and help, but was told not to because the base was in lockdown and no one was allowed to leave.

**4.246** In respect of Abdullah's interviews dated 29 May 2003<sup>350</sup> and 14 June 2003<sup>351</sup> in which he said that SO74 had brought a "*starter switch*" or "*generator starter*" to him, SO74 stated that although he occasionally did secure equipment for Abdullah, he could not remember any specific event around the time of the incident in which he took a generator starter or starter switch to him. SO74 stated that although he may have communicated with Abdullah by himself, he never travelled to the dockside by himself and would always have had top-cover due to the risk of insurgents.

**4.247** SO74 did not recall receiving any specific guidance or orders on how to deal with looters, but he recalled that he viewed it as part of their role to discourage looters. He considered that the principles underpinning their training on the rules of engagement, the law

<sup>348</sup> SO74 MOD-83-0000473-A

<sup>349</sup> SO74 IFI MOD-83-0000474-A

<sup>350</sup> Abdullah MOD-83-0000489-Part 1-A; MOD-83-0000489-Part 2-A; MOD-83-0000489-Part 3-A

<sup>351</sup> Abdullah MOD-83-0000490-Part 1-A; MOD-83-0000490-Part 2-A

of armed conflict, and the Geneva Convention governed their approach on how individual soldiers would deal with looters.

## SO80

**4.248** SO80 was a Lance Corporal in 26 Armd Sqn, 32 Regt RE, and was the Signals Commander for SO76. He was interviewed by the IHAT in August 2015<sup>352</sup> regarding the radio communications which had been received on that date. The IFI contacted SO80 and he was provided with his previous statement, which I have taken into account. For reasons which I set out below in Section 5, upon consideration of the analysis of the radio communications recovered by the IHAT, I have not required him to give further evidence to the IFI.

**4.249** In his statement, SO80 stated that although he could not recall the date of the incident, he recalled a specific incident when an Iraqi male had gone into the Shatt Al-Arab river and had drowned. He stated:

*“I remember receiving a Radio Transmission from a call sign stating that they had detained three Iraqi males for stealing cables. The call sign was seeking direction on what course of action they were to take. To the best of my memory I called SO76, giving him a brief on what had taken place. He then told me to inform the call sign to arrest the Iraqi males. However, it may have been he told the call sign directly over the air and I recorded the details. I cannot exactly remember what happened after this. I can however remember that one of the Iraqi males ran off and jumped into the river and drowned.*

*As this incident was unfolding it was being relayed to Regt HQ who were in turn were seeking almost continual updates. SO76 had taken control of the incident, I have a recollection that although calm, he was a bit stressed during it.”*

**4.250** He said that he had no recollection of a report of a ship being on fire, of soldiers jumping in in an attempt to save the Iraqi male, or of other call signs being sent to the scene due to an escalating public order situation, but that this did not mean those events did not take place.

**4.251** SO80 did not recall the date on which the Sqn returned to Hohne, Germany, but said that prior to leaving Iraq all documentation, which included the radio logs and any paperwork which SO76 wanted to retain, would have been placed in a “CV1” box and then returned to them in Germany in the command vehicle. He recalled an incident which occurred in Germany as follows:

*“To the best of my memory I was with SO76 in the Sqn HQ building. When I saw a photocopy of the 26 Radio Log entry relating to the drowning incident, my signature was beside the entry. I know it was a photocopy as the bottom left corner was black where the paper had been folded surrounding me seeing this log. I recall SO76 making a comment that the log may be required sometime in the future. It is possible that SO76 had asked me to photocopy the log sheet.”*

<sup>352</sup> SO80 MOD-0000478-A

**4.252** SO80 said that he could not explain how the log sheet came to be in SO76's possession, as the normal procedure when the "CV1" box was returned to Hohne was for it to be handed to either the Quartermaster Signals Master Instructor ('QSMI') or Regimental Signals Instructor ('RSI') for them to record and store.

**4.253** SO80 went on:

*"There is something that has stuck in my memory for the past 12 years and has caused me some concern. My memory is of myself and SO70 standing in the stairwell of the Sqn HQ building, when he said to me "If anything comes out of this will you back me up" or words similar. I cannot recall if I replied or not. What struck me about this comment was I found it very strange and suggested to me that he may have done something wrong...I cannot remember with any degree of certainty if SO70 was in the room when I was with SO76 when he showed me the log. However, if he was there it would explain why he made those comments to me. As I have mentioned I found the comment SO70 made strange. Bearing this in mind I can only assume that there was something in the Radio Log sheet which did not reflect well on him."*

**4.254** SO80 stated that he did not have any recollection of having been asked, whilst in theatre or on return to Germany, to destroy or alter any radio logs pertaining to the incident.

### Contemporaneous Radio Log Evidence

**4.255** As set out in Section 3, substantial efforts were made by the IHAT to recover all relevant radio logs pertaining to the incident, and an analysis was conducted of the twenty seven radio and telephone messages which were recovered and which related directly or indirectly to the death of Shabram.<sup>353</sup> However, the IHAT were unable to locate any radio logs of messages being sent to or from 26 Sqn 32 Regt RE personnel at the scene. The IHAT considered that there were likely to have been three types of radio logs which recorded communications emanating from 26 Sqn personnel, the 26 Sqn Ops Room, and 26 Sqn HQ, none of which had been located.

**4.256** I have taken into consideration the contents of the radio logs which were recovered and analysed by the IHAT. The following entries were recorded on 23 May 2003:

- 11.13 hrs: From 'ECH 1 BW BG C/S' to 'ZERO 1 BW BG HQ'. The entry states: *"Tanker on fire at docks"*. This was the first report received by the BW BG concerning the report of a tanker on fire at the docks. The 'Echelon' group were believed to be attached to 1 BW QM Dept.
- 11.20 hrs: From 'X40 1 BW HQ' to 'Zero 7 ARMD BDE HQ'. The entry states: *"Tanker on fire 693835 moor'd up all pax of no danger to anybody"*. This was a message from 1 BW BG HQ to Brigade HQ advising them of a tanker which was on fire at the naval dockyard.

<sup>353</sup> These communications were between 23 and 25 May 2003.

- 11.59 hrs: From 'ENGRS' to 'ZERO 1 BW BG HQ'. The entry states: *"692837 Man fell in river – X30 tasked to send boat to assist"*. It was not known whether the message from the 'ENGRS' came directly from 26 Sqn.
- 12.00 hrs: From 'ENGRS' to 'ZERO 1 BW BG HQ'. The entry states *"2 X engrs jumped in to save him – but unable to recover him"*;
- 12.03 hrs: From 'X40 1 BW BG HQ' to '1 BW BG HQ'. The entry states *"Can you send river patrol to 692837 man fallen in river"*.
- 12.06 hrs: From 'X30 1RRF BG HQ' to 'X40 1BW BG HQ'. The response was *"Sending c/s with 2 boats to rescue man"*.
- 12.15 hrs: From 'X40 1BW BG HQ' to 'Zero 7 ARMD BDE HQ'. The entry states *"Civilian fallen in river – 2 X engineers tried (sic) to save but unable to – crowd then got anti so engineers backed off"*. This indicates that by 12.15hrs BDE HQ were aware of a potentially serious incident and also the presence of a hostile crowd.
- 12.20 hrs: From 'G3 ops 7 X 7 ARMD BDE HQ' to 'G3 Ops 1(UK) ARMD DIV HQ'. The entry states *"A civilian fell into the river in Basra. 2 x Royal engineer soldiers attempted a rescue but were unsuccessful. A crowd verbally abused the two sappers but declined to assist. RRF boats were tasked but the body had sunk by the time they arrived."*
- 12.25 hrs: From '26 (2IC) SO76' to 'ZERO 32 Regt RE HQ Basra Palace'. The entry states *"All c/s that were at site where child was drowning have now returned to 26 location. They were unable to extract even though 2 X pax went in the water. The 2 pax that went in the water are now at the RAP."* This message was sent by SO76 to 32 Regiment Royal Engineers HQ at Basra Palace and indicated that the soldiers who had gone into the water were now at the Regimental Aid Post.
- 13.03 hrs: From '26 (2IC) SO76' to 'ZERO 32 Regt RE HQ Basra Palace'. The entry states *"Civvi fallen in water at GR 692 837. Can we contact RRF G5 to get port authority on to it."*
- 13.04 hrs: From '26 Armd Eng Sqn' to 'Zero 32 Regt RE HQ Basra Palace'. The entry states *"Request dive team to recover body at above"*.
- 14.45 hrs: From '26 Armd Eng Sqn' to 'Zero 32 Regt RE HQ Basra Palace'. The entry states *"Ref NR 4447 3 x pax have arrived at 26 location and claimed to be the drown (sic) man father. The man said he wanted the body back in 7 days or he would start revenge-killings Brit soldiers. He was told that the soldiers had tied the drowned man's hands behind his back. Told 2ic 26 to retrace civvy interpreter who assisted 26 sp tp at site."*

- 16.13hrs: From 'G3 7X 7 ARMD BDE HQ' to 'G3 OPS BDE HQ'. The entry states *"Update on drowned Arab report. 2 X RE Soldiers witnessed some looting and through a local man who spoke English told the crowd to stop. At this point 2 men ran and jumped into the nearby river. 1 X man drowned despite the 2 sappers attempt to rescue him. Since the incident 6 Iraqis have turned up at the Engr location QU 687 832 and demanded the body or the father (1 of the 6) would kill British soldiers. He also claimed that he had witnessed the soldiers tie his son's hands."*
- 16.35 hrs: From 'G3 7X 7 ARMD BDE HQ' to 'G3 OPS DIV HQ'. The entry states *"The father of the dead man in ser 6623 (above) has been back to the Engr Regt and issued a formal apology."* It was also indicated that the RMP were to create an incident report and take some form of closing action.
- 16.45 hrs: From '26 Sqn HQ' to 'Zero 32 Regt RE HQ'. The entry states *"Further info on civi drowning – father has recovered the body his hands were not tied. So he arrived at 26 loc to apologise. He will return tomorrow at 0800 to give details."*
- 17.05 hrs: From 'BPO Brigade Provost Office (Bde HQ)' to 'Zero (RMP)'. The entry states *"A body of a drowned looter was washed up. Locals found body and took it to the father of the deceased. The father stated that there were no cuff or rope marks around the hands. The father is going to the Engr location tom (tomorrow) to give further details. Aforementioned PSED to ops officer."*
- 18.19 hrs: From 'M20' (believed to be the RMP) to 'Zero' (1 BW BG HQ). The entry states *"1 X cs to police station pink 13 – family had brought in 1 x boy who had drowned in the canal area of naval dock yard."*
- 18.25hrs: From 'M20' (believed to be the RMP) to 'Zero' (1 BW BG HQ). The entry states *"The SIB are investigating this as the family say they were (sic) CF involvement but no regiment was named."*

## SECTION 5: FINDINGS AND CONCLUSIONS

### Overall approach

- 5.1** The central issue for me to determine is whether Shabram was pushed or forced into the water by one or more of the British soldiers.
- 5.2** In assessing the accounts given I have borne very much in mind that witnesses with no motive to lie and doing their honest best to give an accurate and reliable account may remember a sequence of events they have each seen differently. They may not be reliable historians and their memory of events may change over years. The ability to recall accurately will depend on various factors including the speed of events, the position of the witness, their focus at the time, the traumatic nature of the event and the circumstances in which they give their account. A significant delay in asking them to recall the event may affect their ability to recall, as may poor or intimidating questioning. Even an otherwise accurate account of events may be affected by inadequate translation.
- 5.3** Witnesses who do have a motive to lie are not necessarily unreliable and inaccurate, but their accounts must be analysed carefully. In this case some of the Iraqi witnesses had a possible reason to lie, namely, to gain justice and or compensation for the family of Shabram and for Auda. If Auda and Shabram were pushed into the water or felt compelled to jump, some of the British soldiers had a reason to lie to cover up what had been done. I have considered both possibilities.

### Evidence of collusion on the part of Iraqi civilians

- 5.4** It is highly relevant to this Investigation that a number of civilian witnesses came forward to give evidence to the RMP in 2003 and later to the IHAT in 2014-2016 claiming they had seen British soldiers push Shabram into the water. Most of the accounts given by Iraqi witnesses to investigators were analysed and rejected as inherently unreliable by Sir George Newman. With the agreement of the parties, I have adopted his analysis. I have not therefore considered the accounts given by ██████████, ██████████, Qasim Al Quatrani, Jassim Lafta Al Quatrani, Basim Jabir Al Akaili, Sabah Mutalib, ██████████, ██████████, ██████████, Lazim, and the sons of Abdullah as evidence of truth.
- 5.5** However, the fact Iraqi civilians were prepared to claim falsely that they had witnessed the events leading to Shabram's death raises the question of collusion and inducement. I must consider, therefore, if there were attempts to encourage or intimidate witnesses into giving evidence that Shabram was pushed into the water by members of the British forces.
- 5.6** I have concluded that there is clear evidence of collusion and possibly a conspiracy on the part of some Iraqi civilians to pervert the course of justice and the collusion / conspiracy likely began on the day Shabram died. The aim was to achieve justice for Shabram. Justice may take different forms in different cultures, for example payment of financial compensation and/or an acknowledgment of misconduct. I have evidence that compensation can be perceived in Iraqi culture as recompense for victims of crime. I note that the Shabram family did not make a formal claim for financial compensation until 2010. Nonetheless, it is clear that, from a very early stage, the family and friends of Shabram felt they were entitled to justice, be it financial compensation for the family and or a finding of misconduct on the part of the British soldiers. Radhi Shabram allegedly

told at least three Iraqi civilians Basim Jabir, Auda and Abdullah and the IHAT that he wanted compensation for the loss of his son.

**5.7** I accept that the belief that the family were entitled to justice and/or compensation for the loss of Shabram was genuine. Had it not been for the presence of the British soldiers, Shabram would not have gone into the water and the soldiers were unable to save Shabram. I also accept that any discussion regarding compensation could have been motivated by a desire to achieve what was understood to be justice for Shabram and any collusion/conspiracy may have been orchestrated by others in a misguided attempt to assist the family achieve that aim. Nevertheless, their motivation and genuine belief cannot justify the fact that witnesses were organised, evidence was discussed and certain witnesses intentionally gave inaccurate accounts to investigators and/or sought to give evidence on matters they had not witnessed.

**5.8** A major player in the collusion/conspiracy was Basim Jabir. Auda claimed at the FPE that Shabram's father, Radhi Shabram, told Auda and Basim Jabir that Shabram's death was their responsibility. Abdullah admitted that members of Shabram's family had been to see him and compensation for the loss of Shabram had been discussed.

**5.9** In representations submitted in response to circulation of the draft report, Radhi Shabram denied that Basim Jabir had been authorised to undertake any settlement talks or compensation claims on their behalf. Whether or not specifically authorised to do so, Basim Jabir plainly took on this task. He organised the witnesses and escorted them to the authorities. On 23 May 2003 Basim Jabir went with Radhi Shabram, Auda and Sabah Mutalib to speak to the RMP and both Basim Jabir and Mutalib lied about their presence and what they had seen. Basim Jabir arranged for other witnesses to 'assist' the investigation. Some of them too then gave false accounts.

**5.10** The importance of this evidence is that both Auda and Abdullah must have been aware of what Basim Jabir was doing. In his first interview on 29 May 2003 Auda stated that the three witnesses including Basim Jabir and Sabah Mutalib who went to the RMP saw what happened when at least two of them did not. Yet, Auda, told the FPE and the IHAT, Basim Jabir arrived at the scene after they had gone into the water. He has recently asserted again that Basim Jabir was present and witnessed events. In his second interview Abdullah admitted that three men (Basim Jabir, Sabah Mutalib and a man called Sami or Adnan) who went with him to give statements on 29 May 2003 did not witness the drowning and gave their accounts after hearing his version of events. Abdullah also admitted at the FPE that Basim Jabir and Mutalib were not present, yet they had gone with him to the RMP and he knew they had told lies.

**5.11** Before anyone made a statement to investigators there was a discussion at an early stage of what the people involved should say to investigators. There are several indications that both Auda and Abdullah had been fed details of the incident, some more significant than others, before going to see the RMP. Auda admitted as much at the FPE. I have identified the following as examples and possible examples:

- i. Auda (who did not wear a watch) was given the times of the incident by others.
- ii. Auda was given the number 400 as the number on one of the British vehicles. As Auda put it at the FPE, "our people recorded the number" and Radhi Shabram gave it to him. Abdullah, when pressed at the FPE, eventually accepted that people at the scene may have recorded the number 400 and he heard it.

- iii. Auda claimed on 29 May 2003 that he saw the British soldiers lock their vehicle before anyone jumped into the water to save Shabram. Yet at the time, he was himself in the water some feet down and struggling to get out. It seems very unlikely he would have seen the soldiers lock their vehicle and far more likely that he was told by someone else that the soldiers locked the vehicle.
- iv. Abdullah admitted on 29 May 2003 that he had been told by others that the British soldiers pointed a gun at Shabram.
- v. The evidence of **The Interpreter**, the interpreter at the British base, corroborated by the Radio Log entry of 14.45hrs, was that Radhi Shabram initially believed that his son's hands had been tied behind his back before he went into the water. This must have arisen from information given to him by other people gathered at the waterside. It is clear from the radio logs that Radhi Shabram retracted this accusation after his son's body had been recovered and it became apparent that his hands had not been tied. The significance of this is that **The Interpreter** also claimed that Abdullah initially told him that Shabram's hands had been tied. **The Interpreter** had no reason to lie about this kind of detail and I accept **The Interpreter**'s account as true. If so, it shows that Abdullah, who claimed to have witnessed events clearly from start to finish, offered an account of something he cannot possibly have seen, based on what he was told by others. His later retraction of this allegation would indicate that he had since learned of the true position, again from speaking with others.

**5.12** Auda and Abdullah's involvement in presenting as favourable a case as possible for the Shabram family may have gone further. Both Auda and Abdullah have admitted looking for the "interpreter" (Walid Jasim) after the incident. Auda claimed he wished to ask Walid Jasim why the soldiers had "thrown" them in. Abdullah claimed he searched for Walid Jasim because he wanted him as a witness. If that was true, it suggests he was playing a part in Basim Jabir's campaign.

**5.13** In my view Walid Jasim's account is the far more likely explanation: According to Walid Jasim, Abdullah told him that the family were looking for him because they did not want him to be a witness or give a statement. Abdullah indicated that the family would offer him whatever he wanted to give the 'right' evidence. Abdullah later denied this but I consider it probable that both he and possibly Auda wished to dissuade Walid Jasim from telling investigators what he saw and encourage him to give their version of events. If so, the most obvious reason is that Walid Jasim's account was likely to differ from theirs.

**5.14** It seems probable therefore that Auda and Abdullah were involved in the collusion; at the very least their accounts are significantly tainted by it. In reaching that conclusion, I was not overly troubled by the fact that Auda and Abdullah were given details such as the time of the incident and the number of the vehicle. However, I did find significant the fact that, in the context of witness collusion and possible intimidation, they were both prepared to assert they had seen things they had not seen and that Abdullah was prepared to allege that the soldiers had tied the hands of Shabram. It is the combination of these factors that substantially undermines their credibility and reliability.

## Reason for detention of Auda and Shabram

**5.15** Despite Auda's protestations to the contrary, I have concluded that it is highly probable that he and Shabram were attempting to steal cable and or divert electricity, probably the former. If they were not attempting to steal, at the very least they knew that SO70 was accusing them of looting. There are several reasons for drawing that conclusion:

- i. All the evidence points to the fact that SO70 had no doubt, at the time, about what he had seen and that he took the men to the waterside to look for an interpreter. He wanted the interpreter to explain to them in their own language and dialect why he had stopped them. If SO70 spoke some Arabic, as the papers before me suggest, the evidence is clear: he did not use it and preferred to use a local interpreter.
- ii. There is no reason other than suspected looting for SO70 to stop and question Auda and Shabram and it does not make sense that he would have taken time from his other duties (including attending to a possible fire on a ship) simply to harass two men tending their animals. SO70 must have seen them, as he claimed, digging a trench and exposing cable.
- iii. Although Auda has insisted that he and Shabram cannot have been looting because the soldier found no tools on them when he searched them, his evidence on being searched is surprisingly inconsistent; there is no mention of it in his witness statement for his civil claim. I doubt that the two men were in fact searched. It would have been foolish of SO70 to search two possible looters on his own when his men were close by. I do not find the fact that SO70 made no mention of finding any tools significant, given that any tools could have been left in the trench and subsequently removed in the aftermath of the incident.
- iv. Both the 'interpreter' Walid Jasim and Abdullah confirmed to investigators, that SO70 asserted, before the men went into the water, that Auda and Shabram were attempting to steal cable.
- v. Had SO70 intended to punish the men for looting, it is highly unlikely that he would have gone in search of an interpreter who would then become a witness to the events.
- vi. The Iraqi cries of '*Ali Baba*' were obviously directed at Auda and Shabram and may have related to their being accused of theft.
- vii. Walid Jasim said that Auda and Shabram admitted trying to steal cable but because they had failed to do so, they asked SO70 to let them go. If he was telling the truth and as I explain below there was no reason for him to lie about this, Auda did not tell the truth when he denied that the interpreter told them they were accused of stealing cable.
- viii. Auda admitted to the FPE that had there been any cable present, they would have taken it.

**5.16** The finding that Auda and Shabram were most probably attempting to steal is important for two reasons: Auda knew he was doing wrong yet he was prepared to deny it repeatedly and the fact

Auda and Shabram were attempting to steal cable may provide an explanation as to why two men, one a non-swimmer, and the other a poor swimmer, should run away and jump or fall into the water. In any event, both Shabram and Auda plainly understood that they stood accused of looting by the British soldier and feared the consequences of being treated as looters. This in itself would provide an explanation for their attempt to escape.

**5.17** They feared that if detained by British soldiers they would be treated badly. Auda told investigators that he believed British soldiers would shoot suspected looters, hood them or abuse them in some other way. If that was their belief, justified or not, they would have had every reason to try to make good their escape. In the heat of the moment and in a state of panic and fear, people may do strange things including taking, what with hindsight, appears to be an unnecessary and serious risk.

## Assessment of Evidence of Auda and Abdullah

### Auda

**5.18** Auda's accounts have varied in some respects over the years. This is not surprising in itself and I do understand the difficulties he would have had recalling events, particularly years after what was undoubtedly a traumatic event and in unfamiliar circumstances. But, some aspects of his accounts do raise significant concern. In particular:

- i. His memory of his condition after he left the water has changed. Initially he claimed he was unconscious and woke up some hours later having been carried home. Later he told the FPE that he simply vomited and stayed conscious. In his witness statement for his civil claim for compensation, he reverted to his first account. In his response to the circulation of my draft report, he asserted that he had swallowed diesel oil in the water, and vomited when he reached the shore. He lost consciousness for about five minutes and then ran away from the area. I doubt that his condition immediately after the incident is something he would have forgotten and note that Abdullah and SO70 said he ran away. Walid Jasim claimed Auda stayed by the dockside watching and looking for his friend. Radhi Shabram said Auda was not at the scene when he arrived soon after the men had gone into the water.
- ii. He told the FPE that he did not understand that he was being accused of stealing but told my Investigation that he asked Walid Jasim to tell the soldier in English that they were not thieves and to forgive them for what they were supposed to have done.
- iii. In his account on 29 May 2003 he claimed four soldiers were behind him and '*they*' pushed them in yet at the FPE he appeared to suggest that only one man (SO70) pushed them in.
- iv. He insisted to my Investigation that he and Shabram did not jump into the water but were pushed by the soldiers. On the other hand he appeared to suggest to the IHAT on one occasion that the soldiers asked them to jump in and he and Shabram felt they had no option but to jump in because it was "*better than being shot*".
- v. He told the RMP that the soldiers "*made us stand on the dock with the butt of the rifle*". At the FPE, he suggested for the first time that the British soldier (SO70) hit Shabram in the

back/beat him on his back with the butt of his rifle, a detail I would have expected to find in his account nearer the time.

- vi. His claims as to who was present and witnessed the events have changed dramatically. He told the RMP that many people had been present at the time of the incident and that Basim Jabir was one of those who had seen everything. Yet, he confirmed to the FPE and to the IHAT that Basim Jabir arrived at the scene afterwards. In his submissions to my Investigation, he has now reverted to his assertion that Basim Jabir was a witness to the incident.
- vii. He told the FPE that Shabram's father indicated that he, Auda, had a responsibility to secure compensation for Shabram's death because he did not save him.

### Abdullah

**5.19** Abdullah's account differed from that given by Auda and it too has varied. Neither is surprising but I noted in particular:

- i. He has given contradictory accounts of where he was positioned and his position would have affected his ability to see events clearly.
- ii. In his second RMP interview, he suggested he had his back to the soldiers and was alerted to the fact the men were about to go into the water by a woman's shout. This calls into question how much, if anything, he saw of the build up to the men entering the water.
- iii. On 29 May 2003 he told the RMP that the soldier brought the men to the water and shouted to Walid Jasim to come over. In his evidence to the FPE he said he spoke to the two men who claimed they were tending their sheep and he, Abdullah, asked for an interpreter.
- iv. On 29 May 2003 he said that having been told of an allegation of looting, he went to check his machines were still working but later denied he believed the two men had been stealing cable.
- v. On 29 May 2003 he described the soldiers holding the hands of Shabram and carrying him / lifting him roughly towards the water; something that Auda would have remembered and never described.
- vi. He claimed at the FPE, as he did in his first RMP interview, that he saw the four British soldiers hold the Iraqi men by the ears. Yet in his second RMP interview in 2003 he had asserted that "*women say they saw this*". Again had the men been held by the ears, I would have expected Auda to remember this but he has never described it.
- vii. His account as to the order the men were pushed in changed. When interviewed by the RMP he initially appeared to suggest Auda was pushed in after Shabram but later changed this to Auda was pushed in first.

- viii. He was asked in his first RMP interview about how he knew about the gun being pointed at Shabram, and he told investigators that “*some people told me that this happened*”. When asked about who the people were, he said “*by God I don’t know*”.
- ix. On 29 May 2003 he claimed he saw Auda pushed into the water by three soldiers and went to help him. He must have been focussed on fetching a rope and looking down into the water helping Auda out, yet he insisted he saw Shabram being held by two soldiers and then pushed into the water by a third soldier. He told the FPE he saw four soldiers push Auda and Shabram into the water.
- x. On 29 May 2003 he claimed the soldiers held the hands of the two men but did not mention this at the FPE.
- xi. He admitted that both Sabah Mutalib and Basim Jabir arrived at the scene after the men had gone into the water and that he knew they had lied to investigators about what they had seen.

### Conclusions on evidence of Auda and Abdullah

**5.20** In assessing the accounts given by Auda and Abdullah I have borne very much in mind all the difficulties to which I have referred earlier in recalling events and the fact that at the FPE neither was allowed to refresh their memory from their earlier accounts. I also note that Auda and Abdullah, unlike the other witnesses whose accounts I am taking into consideration, have both given multiple accounts of the incident and been pressed on the detail of them. It is therefore possible to analyse their accounts and find inconsistencies between their accounts in a way that cannot be done for other witnesses. However, in the light of the several significant inconsistencies and their involvement in or knowledge of the witness collusion, in my view, it would be difficult to place any reliance on the accounts of Auda and Abdullah standing alone. However, their accounts do not stand alone. They are contradicted by other evidence. This makes it even harder to give their accounts any credence.

### Assessment of Evidence of Walid Jasim

**5.21** The first question is whether Walid Jasim lied. There is little, if any, cogent evidence to support the theory that he was somehow influenced by British soldiers to lie and no evidence of collusion between the soldiers and him. Absent collusion with the soldiers, I can identify no reason for Walid Jasim to lie. He had no motive to do so. On the contrary, he was obviously afraid for his life simply because he had acted as interpreter for SO70 and had not prevented Shabram entering the water. He claimed attempts had been made to persuade him not to give his account to the authorities and members of Shabram’s family were behind them. His life would have been in even greater danger if it became known that he had given an account that supported the British soldiers.

**5.22** Walid Jasim insisted from the outset that SO70 accused Auda and Shabram of stealing cable. According to him, Auda and Shabram accepted that they had tried to do so but had not succeeded, they would not do it again and so asked SO70 to let them go. He was also firm in his assertion that the soldiers were too far away from Auda and Shabram to push them. Auda jumped into the water and Shabram either jumped or slipped into it. I have borne in mind that he stated he was busy

fishing at the moment the men went into the water, but he was near enough to have a good view of what happened.

**5.23** There are undoubted difficulties with his account for example it was not always translated accurately and it is not entirely consistent with the known facts such as what Shabram was wearing and the number of soldiers at the scene (he claimed, as Auda had claimed, that there were five). It is also not consistent in every respect with the accounts given by the soldiers at the scene. Walid Jasim stated, for example, that two soldiers were talking to Auda and Shabram whereas SO71, SO72 and SO75 all said that they were on their vehicles and not paying attention. Furthermore, Walid Jasim said he spoke to the two men at the behest of SO70 and then returned to his fishing some 30m away. He looked up and saw the two men enter the water together. SO70 on the other hand described a heated discussion between Walid Jasim and the two men that led to his telling the two men to get lost. Auda entered the water first and managed to swim to a rope before Shabram entered the water.

**5.24** I also noted that Walid Jasim suggested SO70 was trying to scare the Iraqi men so as to deter them from stealing. In his view, they were undoubtedly afraid. If so, they may have felt compelled to try to escape and in doing so, either jumped or slipped into the water. However, Walid Jasim stated in terms that SO70 did not point his rifle at the men and that before they went into the water SO70 told the men to go home. Although I accept therefore that the two men may have been afraid and, in panic, decided they had to escape, Walid Jasim's evidence does not suggest that SO70's behaviour (or the behaviour of any of the soldiers) compelled the two men to jump into the water.

**5.25** Overall, Walid Jasim's account is generally supportive of the accounts given by the British soldiers at the scene in two highly significant aspects. First, SO70 detained Auda and Shabram because they were attempting to steal cable and second, the soldiers were too far from Auda and Shabram to push them in and they must have slipped or jumped into the water.

### Evidence of Pathology

**5.26** The pathological evidence does not assist to any great extent save to say that the reports do not support or contradict the theory that Shabram was beaten by the British soldiers as some have suggested.

**5.27** Dr Saeed Abdol Razak Seedy, a Forensic Pathologist in Basra who conducted a Post Mortem of the body of Shabram on 24 May 2003<sup>354</sup> noted abrasions to the right upper arm and forearm and the left forearm, as well as abrasions to the upper and lower back. He expressed the opinion that the abrasions were likely to have happened during life and were not linked to the cause of death.

**5.28** Professor Delaney provided a report dated 29 June 2017<sup>355</sup>, following examination of the photographs of Shabram's body. According to him, one or more of the injuries might be consistent with a physical struggle, but they are not determinative that a struggle took place. The abrasions were more likely to have been sustained whilst he was alive rather than after death in the water, but could have been sustained in the water whilst he was alive or prior to entry into the water by contact with the ground. The injuries did not support a prolonged struggle on the ground or suggest

<sup>354</sup> MOD-83-0000496-A, MOD-83-0000497-A, Post-mortem report of Dr Saeed Abdol Razak Seedy dated 27 May 2003, Annex F

<sup>355</sup> MOD-83-0000499-A, Post-mortem report of Professor Delaney dated 29 June 2003, Annex E

that Shabram had made any attempt to defend himself. Professor Delaney expressed the view that the injury over the back "*had no pattern or shape to confirm the use of an SA80 rifle as described*" and is best described as a "*non-specific abrasion similar to those over the arms*".

### Evidence of a possible cover up by British soldiers

- 5.29** Previous reviewers of the material gathered by the RMP and by the IHAT have considered the possibility of a cover up by the British soldiers and analysed their accounts with a degree of suspicion. There was undoubtedly an opportunity for the soldiers to concoct a false account but the opportunity to fabricate an account cannot possibly lead to a safe inference that an account has been fabricated.
- 5.30** Furthermore, previous reviewers considered the soldiers' accounts in the context of a series of apparently honest and reliable Iraqi witnesses, many of whom claimed they had seen the British soldiers push or force Shabram and Auda into the water. It is not surprising therefore that they viewed the gaps and possible inconsistencies in the accounts given by the soldiers as worthy of greater investigation.
- 5.31** By the time I took over the investigation, the accounts of most of the so called eye-witnesses had been discredited and rejected. It was in that context that I considered the accounts of the British soldiers and the areas for possible criticism.
- 5.32** I have also borne very much in mind that just as the memory of the Iraqi citizens may have been affected by a number of factors such as trauma, delay in asking them to recall events and the passage of time, so too the memory of the soldiers may have been affected. This was a traumatic event for all. SO70 had taken a teenage boy to the waterside and the boy had drowned. SO70 and SO72 dived into potentially filthy and dangerous water in a vain attempt to save him. A hostile and threatening crowd then gathered around all the soldiers and they were ordered to leave the scene. None of the British soldiers at the scene were asked formally to recall the incident until over a year later.

### Contemporaneous notes

- 5.33** The passage of time between the incident and the soldiers being asked to give their formal account may have had less of an impact had the soldiers been asked to make contemporaneous notes. SO76 recalled telling the soldiers directly involved to do this and to make notes of the incident whilst it was still fresh in their minds. SO75 and SO77 were asked about this by the IHAT, and neither had a recollection of writing an account at the time of the incident. SO76 may have been mistaken. If such notes were made, they have never been found. I was unable to pursue this matter with the soldiers concerned. I have considered whether this suggests that incriminating notes have been destroyed. In my view that is unlikely. From the outset, the British soldiers gave broadly the same account, namely that none of them pushed or forced Auda or Shabram into the water. It follows that any notes made at the time would have been consistent with that broad account even if some details were different. Therefore, there can be little if anything suspicious about any notes going missing.

### Radio logs

- 5.34** As explained in Section 4, all attempts to locate seven of the relevant radio logs for 26 Armd Sqn have been unsuccessful. This is an issue that was explored in depth by the IHAT and they in turn

explored it with SO80 a signaller with the Sqn. I have considered the two incidents that he said stuck in his mind as set out in Section 4 of this report.

- 5.35** SO76 was asked about SO80's recollection that SO76 had been in possession of the logs in Germany prior to sending them to the QSMI or RSI. SO76 said that he did not remember the conversation with SO80, but that he was aware the logs should be protected as evidence because they were going through an investigation. If SO80 is correct about the conversation and SO76 wanted to ensure the logs were secured his motive may have been entirely innocent in that he knew an inquiry was underway following the death of a civilian.
- 5.36** Regarding the second incident, SO80's account was not recorded until some twelve years after the event and he was doing his best to recall the conversation without any notes. His memory may not have been reliable.
- 5.37** Even if it was reliable, his account does not suggest that either SO76 or SO70 were involved in a cover up or made a deliberate attempt to suppress the logs because they contained damning evidence. If SO70 did ask SO80 to back him up, it does not necessarily follow that he wanted SO80 to lie on his behalf. He may simply have been seeking his support.
- 5.38** It also seems highly unlikely that SO70 would have reported over the radio that the men had been pushed into the water and it is inconsistent with what logs are available and other evidence that indicates SO70 reported from the outset that the men had jumped or fallen in. SO80 himself remembers learning that two men had been caught stealing cable and had fallen or jumped into the water. SO76 was told at about 11.30 am that an Iraqi civilian had gone into the water and when he spoke to SO70, SO70 confirmed the information he had received. Soon afterwards, SO77 was informed by SO76 that a "*medic*" and a diver were required at the dockside because someone had fallen into the water. When SO77 arrived at the scene SO70 told him that two men "*had been stealing some wire*" and after a warning had "*jumped*" into the water. One had got out but the other had sunk under the water.
- 5.39** Furthermore, it is far from unknown for records to go missing in the aftermath of a war. I do not draw any adverse conclusions from the missing logs.

#### Failure to see events

- 5.40** Previous investigators have explored the possibility that those soldiers who were present but denied seeing the men enter the water or being involved in pushing the men into the water, may have deliberately feigned ignorance to protect SO70 or themselves. All four British soldiers were sufficiently close to see and hear what was happening. However, to infer the existence of a cover up from any gaps in their accounts or differences between them, one must ignore the facts that memories are fallible, the soldiers were not asked to recall events until over a year later and they had other matters to attract their attention at the time the men went into the water, namely their duties, the children gathered around the vehicles and the fire on board a ship. Only if one accepts the accounts given by Auda and Abdullah do the soldiers' accounts appear suspicious and I have already explained why I cannot accept their accounts.
- 5.41** Nonetheless, I have also assessed whether there are any similarities in their accounts that are sufficiently stark to raise the possibility the soldiers put their heads together to concoct a false story. There are none other than the expected similarities in the statements prepared by their lawyer acting on their instructions.

**5.42** It follows that no evidence of a cover up on the part of the British soldiers has ever been found.

#### Failure to answer questions

**5.43** It was no doubt frustrating for previous investigators that the soldiers suspected of committing a criminal offence were advised to provide a written statement and then, for the most part, declined to answer further questions. I too would have liked to ask further questions of them. However, the soldiers have been investigated twice on suspicion of manslaughter and the events of 23 May 2003 have now been hanging over them for seventeen years. The soldiers were entitled to legal advice and to act upon it. I make no criticism of their lawyers for giving the advice and of them for accepting it.

**5.44** I have also accepted the medical evidence that two of them cannot now assist my Investigation and I understand why a third was unwilling to give oral evidence. I do not therefore draw any adverse inferences from their limited cooperation over the years.

#### Assessment of accounts given by the British soldiers

**5.45** I am acutely conscious that there are gaps and apparent inconsistencies in the accounts given by the British soldiers and that Auda and Radhi Shabram believe the soldiers have been less than cooperative with my Investigation, in stark contrast to their own willingness to assist it. Had it been possible I should have liked to explore a number of issues with the soldiers in oral evidence. They include:

- i. Were contemporaneous notes made after the event?
- ii. Did SO76 speak to each of the soldiers who had been at the scene and if so what did they tell him?
- iii. Did SO70 go onto the ship that was on fire?
- iv. Why did SO70 go in search of a fire extinguisher when there were extinguishers available on the armoured vehicles?
- v. Why did SO70 go alone to look for a fire extinguisher?
- vi. Did SO70 understand the directions on dealing with looters and what did he intend to do when he realised Auda and Shabram were looting?
- vii. Did SO70 search the Iraqi men and if so, where, and why did he not fill out a report?
- viii. Did SO71, SO72 or SO75 witness a heated discussion between Walid Jasim, Auda and Shabram and a rise in tension as described by SO70?
- ix. How close to the water's edge did the two Iraqi men get when they arrived there with SO70?
- x. Why did Auda and Shabram get so close to the water's edge even before they allegedly ran off and jumped or fell into the water?
- xi. Did SO71, SO72 or SO75 see the children jostling Auda and Shabram as described by SO70?
- xii. Did the soldiers do or witness anything that may have made the two men feel compelled to run away/jump in?
- xiii. Could SO71, SO72 and SO75 provide any more detail on what they were doing when the men went into the water?
- xiv. Why do the soldiers think the crowd became hostile to them when two of them had tried to save Shabram?

- xv. Did SO70 say anything to SO80 about the log books and if so what did he say and mean?
- xvi. If the logs were in SO76's possession in Germany, what did he do with them?

**5.46** It would have been helpful to have the answers to those questions and without those answers it is very difficult to analyse the accounts of the British soldiers. Suffice it to say that the gaps and inconsistencies in their accounts may raise a suspicion that one or more of them has not told the whole story. But a suspicion is as far as anyone could reasonably go. It would not be appropriate or safe to draw adverse inferences from a suspicion. I must act on the material I have.

## Wetting

**5.47** My predecessor Sir George Newman conducted an investigation into the death of Ahmed Jabbar Kareem Ali and reported in September 2016. He left for Part II of that investigation the issue of an alleged practice of “wetting” (British soldiers immersing Iraqi detainees in water). I have been invited to conduct Part II and shall be examining whether there is evidence of a practice of wetting. Although I have not yet completed that investigation, a preliminary analysis has been made of the facts of cases where a wetting policy has been alleged as set out in Section 2.

**5.48** If there was a practice of wetting looters amongst some members of 1 BW BG, there is no evidence that it was widespread or that SO70 or any of the soldiers under his command had been involved in it or knew of it. Although some similarities have been identified between the death of Ali and Shabram, there is nothing to suggest there is a connection between the two. There was good reason for SO70 to take the two men to the water. British soldiers had gone to the scene to wash their vehicles and they were near the water's edge. SO70 wanted to get Auda and Shabram to the water where his men were and where he believed he may secure the services of an interpreter (who was fishing). There is not therefore anything suspicious in his moving Auda and Shabram towards the water and nothing to link an alleged practice of wetting to this case.

**5.49** In any event I have rejected the only evidence that the men were deliberately pushed into the water and the issue of wetting does not arise in the context of this Investigation.

## Directions of dealing with looters

**5.50** I have set out in Section 4 the relevant FRAGOs and instructions given to British soldiers on how to deal with looters. I have not explored them in any depth. This is for two reasons. First the instructions allowed a soldier a considerable amount of discretion and second they are essentially irrelevant to this Investigation. Nothing SO70 did up and until the moment when he allegedly pushed them into the water would have been contrary to the instructions. If Auda and Shabram were, as he suspected, looters, he did not use excessive force or treat them in any way inappropriately in escorting them to the waterside. The FRAGOs are not therefore a factor in Shabram's death. Had there been a link between an alleged practice of wetting and dealing with looters that could be linked to SO70, it might have been necessary to explore this issue and the issue of training further.

## Conclusions

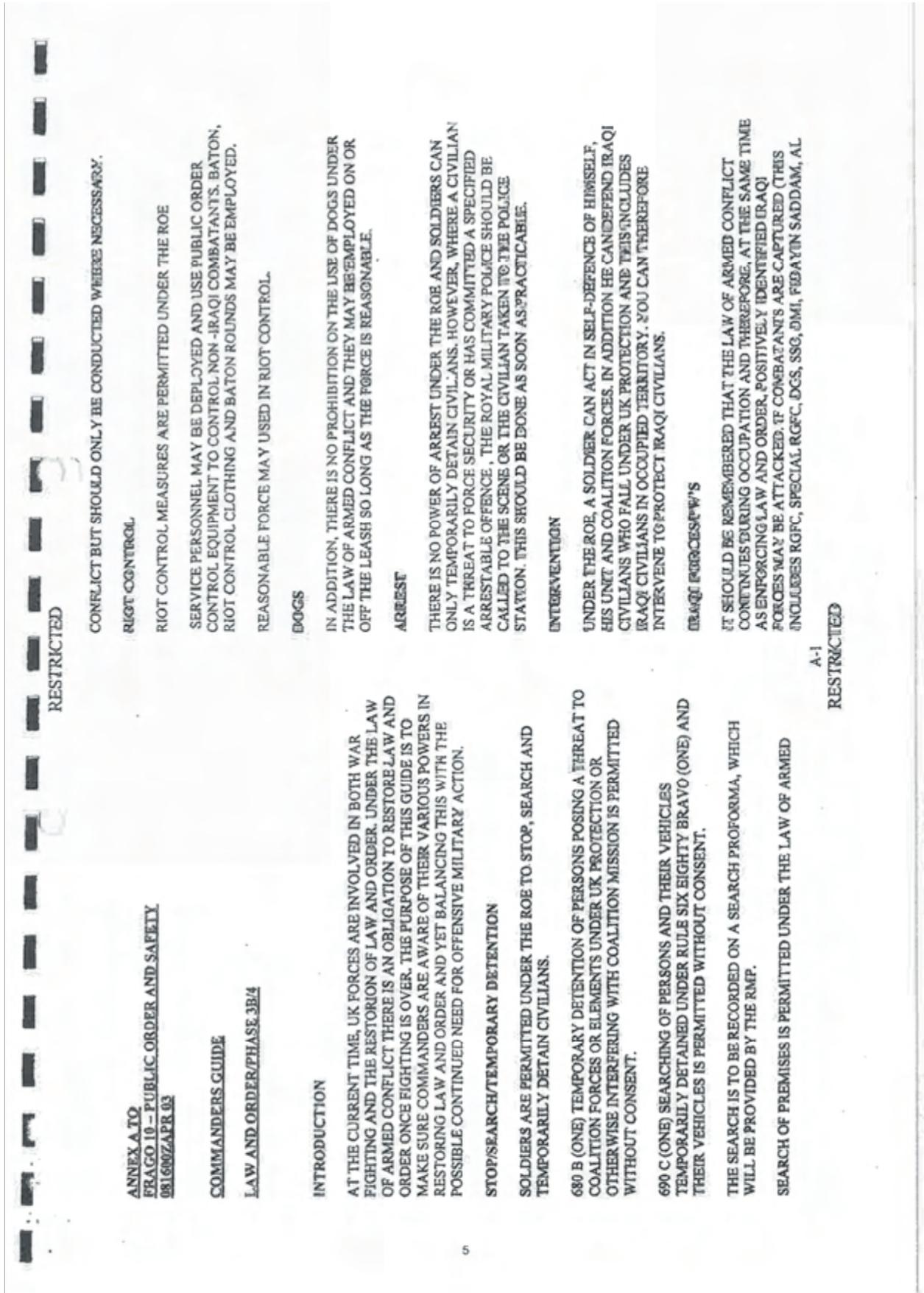
**5.51** It seems that Auda and Radhi Shabram misunderstood the basis of the payment of compensation to them and therefore fully expected me to make findings of misconduct on the part of the British soldiers in this report. My findings will therefore come as a severe disappointment to

them. However, as I have explained earlier, there has never been an acceptance of responsibility for Shabram's death by the British authorities. I also understand their concerns and the concerns of previous reviewers as to the soldiers' accounts of their conduct shortly before Shabram entered the water. However, as I have indicated, previous reviewers and possibly the family may have been misled by the false witnesses. A number of possible eyewitnesses, claimed they saw Auda and Shabram pushed into the water. There remain for my consideration only two potentially reliable witnesses who claim that Auda and Shabram were pushed into the water. For the reasons given above, I cannot accept their accounts. It would therefore require a very powerful body of evidence to establish that British soldiers did push or force the men into the water and, thereafter, were involved in a cover up. There is no such body of evidence, let alone a powerful one.

**5.52** My ultimate conclusion therefore is that there is no reliable evidence upon which it would be proper to conclude that SO70 or any other British soldier pushed or forced Auda and Shabram into the water. It is most likely that they jumped or fell into the water in the process of trying to escape what they believed would be dire punishment for looting.

**5.53** It follows from the above that, in accordance with my TOR, there is no need to explore further the training and instructions given to British soldiers on dealing with looters or alleged looters and there are no recommendations I wish to make.

# ANNEX A



# ANNEX B

FROM: MAIN HQ 1 (UK) Armd Div, AL MUTHRAH. ~~NO AQ~~

NJM/3 WD

TO: G3 Plans Standard Distribution List

INTERNAL: 1 copy for each working file and email for all on LAN with O Drive address.

PRECEDENCE: ROUTINE

DTG: 091800ZAPR03

FRAGO 091 - 1 (UK) ARMD DIV DAILY MISCELLANEOUS FRAGO

Ref:

- A. HQ 1 (UK) ARMD DIV FRAGO 062 DTG 261500Z MAR03.
- B. HQ 1 (UK) ARMD DIV FRAGO 068 DTG 301800Z MAR03.
- C. HQ 1 (UK) ARMD DIV FRAGO 086 DTG 081900Z APR03.

Time Zone Used Throughout the Order: ZULU.

### G3

1. Linkup Point between 16 Air Asslt Bde and TF TARAWA Group. TF TARAWA is currently moving S and will leave a small representative group at the Coord Pt (38RQV2554180459). The remainder of TF TARAWA is moving back to the area of AL KUT. 16 Air Asslt Bde is BPT to link up with this group by 121000ZAPR03 on its advance into MAYASAN Province.

a. Bdry for 16 Air Asslt Bde on Adv N. S of EUPHRATES no change to bdrys detailed in FRAGO 086. N of EUPHRATES will be the bdrys of MAYSAN Province and International Border with IRAN (be advised movt within 5 KM of border must be cleared through G3 Ops this HQ). N bdry is currently PL VIRGINIA.

b. Movt of 16 Air Asslt Bde N. Move of 16 Air Asslt Bde N of current LOE is on Os. No move before 110600ZAPR03. Optimum window for X PL GEORGIA is 120300ZAPR03. 16 Air Asslt Bde to co-ordinate move of 2 RTR BG and book required HETs and LETs through Log Sp Ops, HQ DSG. 16 Air Asslt Bde also responsible for escorts. It is anticipated that the move of 2 RTR BG up to AL AMARAH will be done in two loops.

c. PUMA a/c TACON 3 Cdo Bde for W AO. Ref A specified that the 2 x PUMA a/c that are currently TACON to 16 Air Asslt Bde for W AO tasks would become TACON 3 Cdo Bde. This was incorrect, the SH for this task is to be drawn from the CHF. The 2 x PUMA a/c currently TACON 16 AA Bde will return to the JHF wef 111000Z. CASEVAC cover for 16 AA Bde is TBD.

d. On Os Bdry Change Between 3 Cdo Bde and 7 Armd Bde. On Os the bdry between 3 Cdo Bde and 7 Armd Bde will be adjusted to place the suburbs of AL BASRAH in 7 Armd Bdes AO. Bdry will run from Bridge 5 (remains inclusive to 3 Cdo Bde) following current bdry to 38RQU680678, then follows pylcn line NE to 38RQU775704. Then follows road to 38RQU800713 (road inclusive to 7 Armd Bde). Then follows road NE and continues in a straight line to the SHATT AL ARAB (38RQU812741). This bdry will be activated on Os from G3 Ops, not before 12 Apr 03.

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RDC MAIN OPS  
SER NO 117

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2. Procedures for Handling Material Suspected of Having a CBRN Hazard. Annex A to Ref A covered the procedures for document exploitation, which remain extant. It covered the requirement to where practicable, get documents checked by local assets. Annex B covered the threat of deliberate contamination of documentation and the role of the Jt NBC Regt in advising and checking such documents. Based upon current assessments the assumption is that we are not expecting to encounter contamination, however there may be times or circumstances where troops have reason to feel that there is sufficient concern to contact the Jt NBC Regt.

3. Jt NBC Regt Tasking. The Jt NBC Regt has the capability to check most items of concern to Bdes, however the procedure for the handling and passage of them needs to be tied down. There are two channels through which material has been passing and should continue to do so.

a. Sites of Interest. BGs have passed to their Bdes sites (usually buildings) that are deemed of potential interest. In some cases Bdes have approached the Jt NBC Regt Sqns supporting them direct to investigate them. Such sites are best exploited by the SIT, which will be tasked by Div following prioritisation. To this end Bdes are to highlight sites to Div G3 Ops and assets will be tasked as appropriate, be they SIT, EOD or Jt NBC Regt.

b. Items of Interest. Individual items (generally documents) of interest or concern have found their way to both the Jt NBC Regt and a number of HQ locations by a number of routes. To ensure items are moved as safely as possible some control is required. Items of interest should be bagged and tagged with information regarding the time and location of the find together with the details of the individual submitting the find. In all instances to minimise the hands through which such items of interest pass the Jt NBC Regt has designated 4 RVs which wef 092359ZAPR03 are the only place material is to be delivered to for safe testing / exploitation away from other personnel. Units are required to notify both Bdes and the comd at the RV of their submission. RVs, each of which is a Jt NBC Regt PBDS site, are as follows:

- (1) QU 786290.
- (2) QU 598486.
- (3) QU 525704.
- (4) QU 220852.

If the material in question of particular CBRN concern then the guidance is to leave it in location and adopt the procedures in para a.

c. Below are some guidance points for units for the handling of items suspected of having been contaminated by CBRN.

- (1) Wear gloves when handling / reading documents.
- (2) Take care not to rub your eyes, nose or face when handling documents.
- (3) Remove gloves after handling documents and wash hands with soap & water.
- (4) Be aware of the condition of the documents being examined.
- (5) How dusty are they in relation to other objects in room.
- (6) Colour of dust - white/cream coloured dust is of more significance.

d. If there are documents with unusual amounts or distribution of dust the following actions are to be taken:

- (1) STOP exploitation of the document.

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- (2) LEAVE the room and restrict access to it.
- (3) REMOVE gloves.
- (4) WASH hands.
- (5) INFORM the chain of command who may request a specialist testing or sampling team to attend.

4. OP TELIC Battlefield Souvenirs / Memorabilia. All troops are to be clear that the collection of small arms and ammunition poses a danger to themselves and others. The holding of non-issue weapons and ammunition breaks military regulations and the subsequent import of such items without authority or licence is illegal (both in UK and Germany). The collection of official souvenirs for units must be cleared through G3 Ops at HQ 1(UK) Armd Div. Disciplinary action will be taken against offenders.

5. Boundary change. 102 Log Bde will expand its AO to include an extra industrial facility, to be effective from 100500Z APR 03. Therefore the whole boundary should run along the following grids: QU729320 – QU723333 – QU732340 – QU738337 – QU760350 – QU797363 – then follow along West side of KAZ to PL FLORIDA.

#### LEGAL

6. Legal / 102 Log Bde. 102 Log Bde is to provide a six man RMP team, under SIB direction, to draw together evidence in relation to UK PW's.

a. The purpose of this team is to provide evidence for the Article 5 Tribunals to determine status of PWs and/or determination as to whether the PW will subsequently be interned. This team needs to be operational as soon as possible given the delay that has already occurred in drawing together this evidence.

b. Additionally, 102 Log Bde is to scope the Theatre Internment Centre (TIC) to find out if they will be detaining PWs, Detainees, Internees and voluntary detainees at the same time. If they are unable to detain any of the above categories, 102 Log Bde needs to find alternative facilities bearing in mind the requirements under International Law for the detention of internees (ie. not less than the standard required for PWs).

7. Looting. A guide for commanders concerning looting is attached at Annex B.

#### G2

8. HQ 1(UK) Armd Div (Theatre) Fd Sy Coy. Further to Ref A, the mission of the Fd Sy Coy is: to provide timely and cost effective operational Fd Sy and Counter Intelligence support to 1 (UK) Armd Div and JFLogC, as directed and prioritised by the G2 staff, in order to contribute to Force Protection and the production of Security Intelligence in line with the Commanders' risk management policy. Sect missions and tasks are as follows:

- a. 1 Fd Sy Sect TACOM 23 Pnr Regt responsible for support to units in the UMM QASR AO. Will switch to TACOM JFLogC on its relocation from Arifjan.
- b. 2 Fd Sy Sect TACOM 16 AA Bde responsible for support to units in the Bde AO.
- c. 3 Fd Sy Sect TACOM 7 Armd Bde responsible for support to units in the Bde AO.

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- d. 4 Fd Sy Sect TACOM JFLogC responsible for support to units in Ku. Sect personnel will redeploy to original units following JFLogC relocation to UMM QASR.
- e. 5 Fd Sy Coy TACOM DSG responsible for DIV MAIN and support to units in the Di Rear Area.
- f. Under current planning Fd Sy Dets to 3 Cdo Bde, 17 Armd Bde and 16 AA Bde will remain embedded with Bde HQ MI Sects. This will be reviewed once Phase 4 planning matures.

OPS SP

- 9. G5 / CIMIC. Annex A should be read in conjunction with Ref C.

Ack:

B D C RYAN  
SO3 G3 Plans (A)  
HQ 1 (UK) Armd Div

Auth:

J C W MACIEJEWSKI  
SO2 G3 Ops  
HQ 1 (UK) Armd Div

Annexes:

- A. G5 / CIMIC – Activities for 16 Air Asslt Bde expansion North.
- B. Legal policy on looting. (At rear)

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ANNEX A TO  
1 DIV FRAGO 091  
DATED 091800ZAPR03

G5/CIMIC

Refs:

- a. 1(UK) Armd Div FRAGO 86 dated 081900ZAPR03
- b. 1(UK) Armd Div FRAGO 72 dated 31 Mar 03.

1. SITUATION. See Ref A. The aim of this Annex is to confirm the G5 activities to be conducted during the expansion north and establish revised reporting procedures.

2. MISSION. No change.

3. EXECUTION.

a. Intent. The intent is to ensure that emergency relief can be supplied to maintain the stability, development and confidence of the population throughout the Div AO in order to facilitate the involvement of IO/NGO/OGAs and a return to normal life for the Iraqi people.

b. Scheme of Manoeuvre(see Appendix 1). Stocks of HA have been forward loaded into 7 Armd Bde's AO and prepositioned to support any HA emergency in BASRAH as quickly as possible. The provision of HA will be in line with G3 priorities in order to prevent an HA crisis across the Div AO. Concurrently, IO/NGO/OGAs are being engaged to take on full responsibility for all HA activities. G5 Ops will be focussed as follows:

(1) Removal of Regime Control.

(a) Securing of key infrastructure to reduce dependence upon the Regime for essential services.

(b) The provision of timely emergency HA into expanding lodgements to increase confidence in the Coalition.

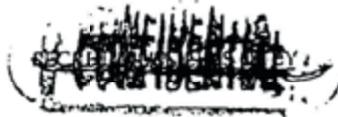
(2) Consolidate Gains.

(a) The continued use of civ/mil assessments to identify areas of concern and those for development.

(b) The facilitation of IO/NGO/OGA involvement in semi permissive/permissive environments.

(c) The identification of QIPs and the promotion of long term infrastructure projects.

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c. ME. Initially, the ME is 7 Armd Bde but will switch to 16 AA Bde for the expansion north.

d. Task Org. CATs will remain with the Bdes to which they have been allocated(see Ref B) and should hand over responsibilities for CIMIC Houses and QIPs to the incoming Bde. An additional US CAT has been allocated each to 102 Log Bde and 7 Armd Bde.

e. Additional Tasks

(1) 3 Cdo Bde.

- (a) Continue to develop transition to Ph IV in AL FAW and AZ ZUBAYR.
- (b) Hand over UMM QASR CIMIC House to 102 Log Bde.
- (c) Identify and manage QIPs across the Bde AO.
- (d) Facilitate IO/NGO/OGA assessments and involvement ASAP.

(2) 7 Armd Bde.

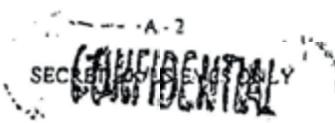
- (a) Conduct stability ops in BASRAH and the remaining AO.
- (b) Incorporate an additional US CAT into the Bde.
- (c) Handover AZ ZUBAYR CIMIC House to 3 Cdo Bde.
- (d) Facilitate IO/NGO/OGA assessments and involvement ASAP.

(3) 16 AA Bde.

- (a) Continue to develop transition to Ph IV in RUMALYAH and Bde AO.
- (b) Identify and manage QIPs across the Bde AO.
- (c) Facilitate IO/NGO/OGA assessments and involvement ASAP.

(4) 102 Log Bde.

- (a) Continue to provide HA sp across Div AO.



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- (b) Continue to develop transition to Ph IV in UMM QASR and Bde AO.
- (c) Incorporate an additional US CAT into the Bde.
- (d) Identify and manage QIPs across the Bde AO.
- (e) Facilitate IO/NGO/OGA assessments and involvement ASAP.

(5) Div Rear Ops.

- (a) Continue to develop transition to Ph IV in SAFWAN and remainder of AO.
- (b) Identify and manage QIPs across the Bde AO.
- (c) Facilitate IO/NGO/OGA assessments and involvement ASAP.

4. COORDINATING INSTRUCTIONS

a. Command and Signals

(1) R2.

(a) The revised CMO Daily SITREP(at Appendix 2) should be sent to Div Main by 1600Z daily. A system of parallel reporting will apply. This will require the following to be sent through daily reports to G5 Ops main and copied to all other G5 clients. (These are CMOC, DSG, 7 Armd Bde, 16 AA Bde, 3 Cdo Bde, 102 LcgBde, Rear Area, HACC LO and HOC LO.) The complete report will be compiled by G5 Ops Main and redistributed to all G5 addressees.

(b) The revised SITREP involves the following Annexes:

- (i) Annex A - C2PC Threat Assessment(published by G3 Ops).
- (ii) Annex B- C2PC Control Assessment (published by G3 Ops).
- (iii) Annex C - Log ASSESSREP (published by DSG G5 Log).
- (iv) Annex D - Stock Totals(published by DSG G5 Log).

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(v) Annex E - Methods of Effectiveness(M of E) records.

(vi) Annex F - RFIs at Appendix 3(published by G5 Main).

(2) Synch Matrix. The synch matrix at Appendix 1 will be updated regularly and re-issued with the daily sitrep.

(3) RFIs. RFIs for G5 Main should be sent with the daily sitrep on the form at Appendix 3 and will be collated and forwarded to G2 daily.

(4) M of E. Appendix 4 is the method of effectiveness database which CATs should begin to utilise ASAP in order to build up a picture of the AO and track improvements and highlight problem areas. Records should be sent electronically to CMOC and G5 Main for further analysis.

(5) Comms Matrix. The comms matrix for specified G5 addressees is at Appendix 5.

(6) G5 Conference Call. The G5 conference will be held at 1800Z daily.

Appendices:

1. HA Synchronisation Matrix.
2. CMO Daily SITREP.
3. RFI Form.
4. M of E - Data Collection Form.
5. Comms Matrix.

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ANNEX B TO  
HQ 1 (UK) ARMD DIV FRAGO 091  
DTG 091800Z APR03

LOOTING  
GUIDE FOR COMMANDERS

**INTRODUCTION**

1. The recent occupation of various towns in S. Iraq by UK Forces has been accompanied by acts of looting. The cause of this looting is not known and may range from venting anger at remnants of the Ba'ath Party to common criminality.
2. However, in the absence of Iraqi police, the duty of preventing such looting falls to UK Forces who are now in Occupation. Under the law of Occupation, the Occupying Power (UK Forces) is responsible for law and order and must seek to prevent a breakdown of that order.
3. However, as UK forces, in the absence of Iraqi Police, are effectively acting as the police force, the powers available to UK Forces are different from the powers available to them in war fighting. This is because we are now acting against civilians. UK Forces are used to this situation in Northern Ireland and the Balkans and the principle of minimum force applies.
4. It is a matter for Commanders to decide how to deal with such a problem and the nature and gravity will vary from situation to situation. However, although not prescriptive, various powers to Commanders are set out below.

**INTERVENTION**

6. It is permitted for UK Forces to intervene to prevent a crime taking place and may use reasonable force in so doing. Commanders may therefore intervene in such circumstances.

**INCREASED PATROLLING**

7. An increase in patrolling may be sufficient to deter looters.

**RIOT CONTROL MEASURES**

8. Under ROE 500 (C)

"Service personnel may be deployed and use public order control equipment to control (civilians). Batons, riot control clothing and baton rounds may be employed"

Commanders are clearly able to take riot control measures and can use necessary force to control the riot situation

**TEMPORARY DETENTION**

9. Under ROE 680 B (1)

"Temporary detention of persons posing a threat to Coalition Forces or elements under UK protection or otherwise interfering with or threatening the Coalition mission is permitted"

Looting would fall within the definition of "threatening the Coalition mission"

10. Once detained, the looter should be handed over to the RMP who will remove the suspect to a Police Station and take all the suspects details. At the present time, it is unclear whether there is power to lock up such persons. If they can be handed over to the Iraqi authorities by the RMP then the Iraqi authorities may detain. The UK does not have the power to detain permanently at the present time but this matter is being addressed.

#### WARNING SHOTS

11. Under ROE 660 F (1) warning shots may be fired.

#### MILITARY POLICE

12. The Military Police may be tasked to the scene and anyone who is temporarily detained by UK Forces should be handed over to them.

#### SELF DEFENCE

13. At all times, UK Forces have the right of defence of themselves, their unit and Coalition Forces. If during the maintenance of law and order the life of a UK soldier, his colleague or his unit are threatened then lethal force may be used if reasonable in the circumstances.

#### LAW OF ARMED CONFLICT

14. It should be remembered that the Law of Armed Conflict still applies whilst hostilities are continuing. Nothing mentioned above affects the right to attack positively identified Iraqi military Forces.

#### CONCLUSION

15. The current situation means that the Law of Armed Conflict exists alongside our duties in restoring law and order. The essential difference in dealing with law and order is that it involves civilians and not combatants and therefore the force used has to be reasonable in the circumstances. The process of establishing law and order will be evolutionary and the powers to deal with such situations will increase as the Occupation continues.

N J Mercer  
Lt Col  
Comd Legal

# ANNEX C

**RESTRICTED - INVESTIGATION**

**Figure 1: Photographs of the Iraqi Naval Base, Al Basrah, Iraq.**

*View depicting entrance to Iraqi Naval Base, Al Basrah, Iraq.*



1

*View from entrance of Base down main road.*



2

**RESTRICTED - INVESTIGATION**

**RESTRICTED - INVESTIGATION**

*View from dock entrance towards quayside.*



5

*View from entrance to quayside, depicting right hand side view with small out building in left hand corner of quayside.*



6

**RESTRICTED - INVESTIGATION**

**RESTRICTED - INVESTIGATION**

*View depicting right hand corner of quayside from small out building.*



9

*View from right corner of quayside to opposite quay.*



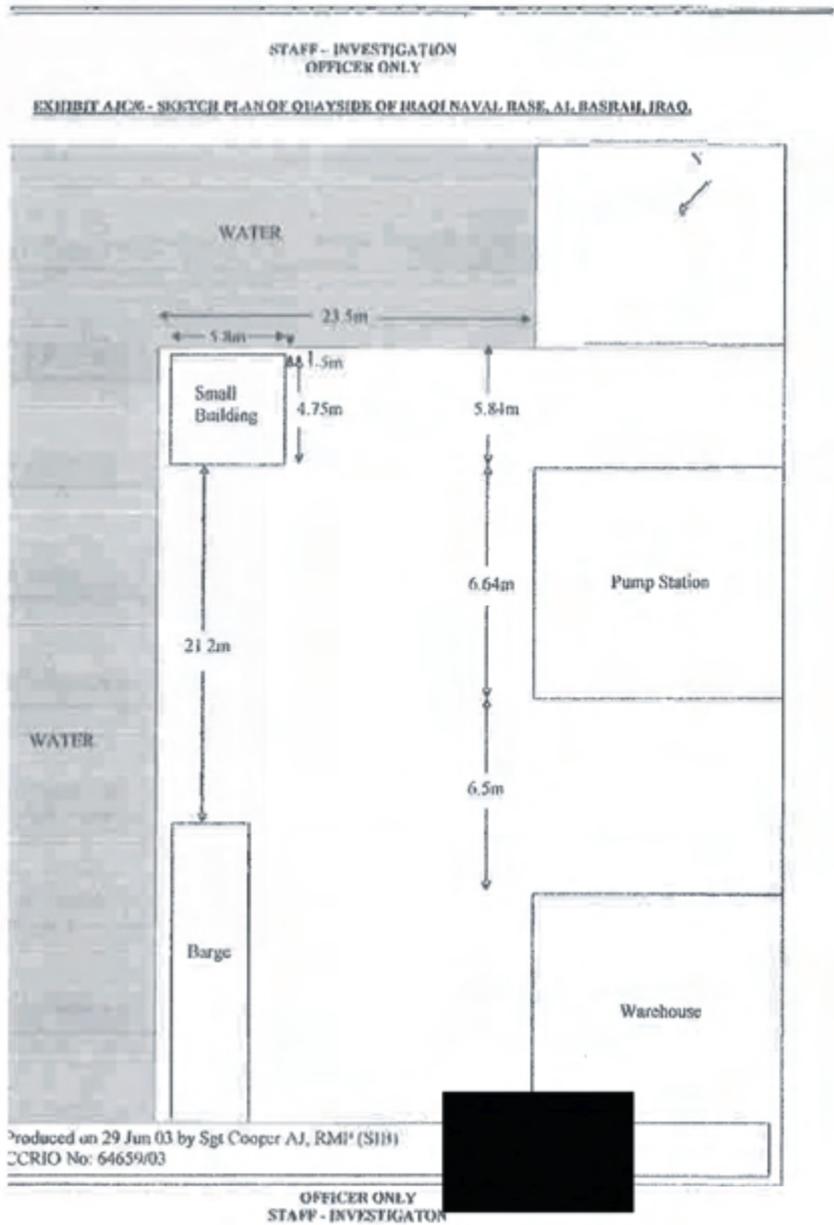
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**RESTRICTED - INVESTIGATION**

# ANNEX D

RESTRICTED - INVESTIGATION

Figure 2: Sketch plan of Iraqi Naval Base Quayside, Al Basrah, Iraq.



RESTRICTED - INVESTIGATION

# ANNEX E





Oral and dental cavity: no trace of fracture

Neck:

Larynx and cartilage: normal with no trace of ruptures in the cartilages of the throat

Hyoid bone: no fractures in the hyoid bone

Trachea: contains foamy forth.

Esophagus:

Thyroid gland: normal

Cervical veins and nerves: normal

Cervical vertebrae: normal

Torso:

Pectoral cavity: normal

Clavicle, Sternum and Rib bones: no trace of fracture

Cardiac muscle and its cavity: the cardiac muscle, its cavities, valves and blood vessels look normal and the heart contain liquid blood in its cavities.

Heart and main blood vessels: =

Lungs and pleuras: the lungs are clearly full of water. The lungs fill most of the pectoral cavity and their surfaces are covered with patches of bleeding.

Abdominal cavity: normal

Peritoneum: congested

Stomach: full of water mixed with digested food.

Intestine: full of water

Liver and gall bladder: congested and looks normal.

Spleen: congested

Pancreas:

Kidneys, ureters, bladder and urine: congested with no obvious changes.

Blood vessels:

Womb (if female)

The lumbar and sacral vertebrae:

Pelvis: no trace of fracture.

The upper limbs: no trace of fracture

The lower limbs: no trace of fracture

Comments:

**Conclusion:**

1. It appeared from the autopsy marks seen on the corpse of deceased Saeed Shabram that the reason of death was drowning.
2. We saw a number of excoriations in the upper limbs and the back as described in the external damages section. They did not appear to have any connection to the cause of death. No other evidences were seen on the corpse.

Signed by:

Dr. Saeed Abdul Razzaq Mahdi  
Manager of Forensic Medicine Unit

# ANNEX G

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Republic of Iraq  
Medical and Legal Forensic Report

Ministry of Health  
{illegible} Basra  
{illegible} 2  
Date: 27/5/2013  
Number: 2

To: Military Police

I, the undersigned Dr. Saeed Abdol Razak Seedy, have conducted a forensic examination on the body of the deceased Saeed Shipram who was sent with a "Request of Forensic Examination" application issued by ....., number ....., dated on ..... The examination took place on 24.5.2003 at ..... Hour at the Forensic Medicine department, Al basra. My findings are as follows:

**Description of the body:**

Gender: Male. Height: 170 cm. Built: Medium. Skin colour: Wheat. Hair: Black. Colour of Facial Hair: ..... Eyes: Black. Age: 19.

Other Distinctive Marks, I.e. Spot, tattoo, congenital deformity, amputation, etc and its location on the body, particularly if the identity is unknown.

Clothes Description: White vest, blue top, white trousers.

Post Mortem Signs: ..... Post Mortem Rigidity: Complete. Post Mortem Lividity: Posterior.  
Putrefaction: Has not started.

**External Injuries:**

White pinkish foamy froth from the nose.

An abrasion at the bottom of the dorsal left forearm, size: 1.5 cm X 2 cm. Edges are irregular. There is another abrasion in the same area. Size of the abrasion: 1.5 cm X 0.5 cm. Irregular Edges.

An abrasion at the bottom of the exterior side of the right forearm, length: 18 mm, width: around 1mm, Edges: irregular.

An abrasion at the top of the right shoulder area, size: 1.5 cm X 6 mm, irregular edges.

An abrasion at the bottom of the left lumbar area, size: 1 mm X 6 mm, irregular edges. These abrasions are likely to have happened during life. Putrefaction has not occurred in the body. There are not any apparent cuts or bruises anywhere on the rest of the body. On opening the body and dissecting the muscular layers there was no sign of any hemorrhage.

Seal: [Al basra {illegible} Department, Forensic Medicine Department.]

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Internal Examination

Head:

Scalp: Normal

Cranium and cranial base: No sign of fractures

Meninges and cerebrum: Engorged.

Facial bones, mouth cavity and teeth: No signs of fractures

Neck, larynx and larynx cartilage, hyoid bone, trachea, esophagus: All seem normal. There are no signs of fractures in the hyoid bone; neither there are any signs of ruptures in the larynx cartilage. There is foamy froth in the trachea.

Thyroid gland, nerves and blood vessels in the neck, cervical vertebrae: All seem normal.

Torso:

Chest cavity: Normal

Collarbone, sternum and rib cage: There are no signs of fractures

Pericardium, the heart and its main blood vessels: The heart muscle, valves and blood vessels all look normal. Heart cavities contain un-coagulated blood.

Lungs and pleura, thoracic spine: Obvious fluid swelling in the lungs. Lungs fill most of the rib cage. Hemorrhagic spots on the lungs surface.

Abdominal cavity:

Peritoneum: Engorged

Stomach and stomach contents: Stomach is full of water mixed with emulsified food.

Intestines: Contain water.

Liver and biliary tracts: Engorged. Look normal.

Spleen: Engorged

Pancreas:

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Adrenal glands, kidneys, ureters and bladder: All engorged. There are not any pathological changes in the blood vessels.

Place of Death: Neighbourhood or Village.....Township.....County.....Governorate  
Basra

Date of Death (In words) .....Hour.....Day.....Month.....Year 23/5/2003 (Illegible)

Name of Father: (Illegible)

Name of Mother: [REDACTED]

Name of Informant: [REDACTED]

Relation to the Deceased:

Complete Address of Informant: Basra

**Medical Certificate of Death**

**PART 1:**

Immediate Cause A (Caused by or as a result)

Final Disease or Condition Resulting in Death B: Drowning (Caused by or as a result)

C

**PART 2:**

Other significant conditions contributing to death but not resulting in the underlying cause given in PART 1:

Approximate Interval Onset to Death:

If female:

If Woman of Childbearing Years from (15 -49) Tick the Following Boxes:

Death Occurred During:  Pregnancy  Delivery  Post Natal

Place of Death:

Hospital  House  Other

Health Institution Stamp

I Hereby Certify That The Death Occurred Due To The Reasons Aforementioned.

Doctor's Place of Work: Dr Saeed Abdul Razak

Doctor's Name and Signature: (Signature)

**Forensic Medicine Certificate (To Be Completed and Signed by the (Illegible) Doctor)**

I, Doctor Said Abdul Razak Al Saidi, Hereby Certify Having Performed the Following:

Uterus and uterine appendages (In females.):

Lumbar and sacral spine:

Pelvis, upper limbs and lower limbs: There are not any signs of fractions.

Analysis:

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Conclusion:

- 1- It appears by the descriptions of physical signs seen on the body of the deceased Saeed Shapram that drowning is the cause of his death.
- 2- We have noticed abrasions on the upper limbs and the back. These are described under "External Injuries" in this report. These abrasions are likely to have happened during life. They are not linked to the death cause. Apart from the above mentioned we have not noticed anything to indicate the body has undergone any harshness.

[Signature]

Dr. Saeed Abdol Razak Mahdi  
Head of Forensic Medicine Unit

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Republic of Iraq  
Ministry of Health

Department of Health and Vital Statistics

**Certificate of Death**

Certificate No 216926

Date of Organization 25/5/2003

Registered with the Health Authorities in .....,under the Series Year 20.....

The Deceased:

Name of Deceased: Saeed Shapram

Sex: Male

Nationality: Iraqi

Religion: Muslim

Occupation: Private Sector

Marital Status: Single...X... Married..... Widowed..... Divorced.....

Date of Birth: 27/12/1984

Place of Birth: District.....Governorate Basra

Permanent Residence: House No.....Alley.....Neighbourhood or

Village.....Township.....County.....Governorate

Examined the body of the deceased Saeed Radhi, which was sent by the Police, Certificate No.....,  
Date of Certificate 24/5/2003 , Time 15.30

(Illegible) (Taken from ID of Civil Status)

Registration No

Page No 16

Governorate Basra

ID of Civil Status No 18692 (Attached with the Certificate)

Note: (X) Should Be Placed in the Correct Place

2 - Civil Status Copy

3 - Stakeholders' Copy

4 - Organizer of the Certificate's Copy

# ANNEX H

**OFFICIAL SENSITIVE**

Statement of: DELANEY, RUSSELL JAMES

Form MG11(T)

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## WITNESS STATEMENT

Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5b

Statement of: DELANEY, RUSSELL JAMES

Age if under 18: (if over 18 insert 'over 18') Occupation:

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: R J DELANEY

Date: 29/06/2017

Tick if witness evidence is visually recorded  (supply witness details on rear)

RE: IHAT Reference 87

## PROFESSIONAL STATEMENT

I am a fully registered medical practitioner (GMC number [REDACTED]) and my name appears on the GMC Specialist Register for Histopathology (Forensic Pathology). I hold the degrees of Bachelor of Medicine and Bachelor of Surgery awarded by The University of Birmingham in 1996. I am a Member of the Royal College of Surgeons of England and a Fellow of the Royal College of Pathologists by examination in Forensic Pathology. I was appointed to the Home Office list of Forensic Pathologists in March 2009. I am currently a full time Forensic Pathologist working in the South West of England as part of the South West Regional Forensic Pathology Group Practice.

This report has been subjected to a Critical Conclusions Check in accordance with the Code of Practice for Home Office Registered Forensic Pathologists held by the Forensic Science Regulator.

I, Dr Russell James Delaney declare that:

1. I understand that my duty is to help the court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing

Signature: R J DELANEY  
2020

Signature witnessed by:

**OFFICIAL SENSITIVE**

**OFFICIAL SENSITIVE**

Statement of: DELANEY, RUSSELL JAMES

Form MG11(T)

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reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.

2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.

3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report.

4. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.

5. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to points 3 and 4 above.

6. I have shown the sources of all information I have used.

7. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.

8. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

9. I have not, without forming an independent view, included or excluded anything which has been suggested to me by others including my instructing lawyers.

10. I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.

11. I understand that:

(a) my report will form the evidence to be given under oath or affirmation;

(b) the court may at any stage direct a discussion to take place between experts;

(c) the court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed, together with the reasons;

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2020

Signature witnessed by:

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Statement of: DELANEY, RUSSELL JAMES

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(d) I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert.

(e) I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

12. I have read Part 19 of the Criminal Procedure Rules and I have complied with its requirements.

13. I confirm that I have acted in accordance with the Code of Practice for Experts.

14. I confirm that I have read guidance contained in a booklet known as Disclosure; Experts' Evidence and Unused Material which details my role and documents my responsibilities, in relation to revelation as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of disclosure. In accordance with my duties of disclosure, as documented in the guidance booklet, I confirm that:

(a) I have complied with my duties to record, retain and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended;

(b) I have compiled an Index of all material. I will ensure that the Index is updated in the event I am provided with or generate additional material;

(c) in the event my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

I confirm that the contents of this report are true to the best of my knowledge and belief and that I make this report knowing that, if it is tendered in evidence, I would be liable to prosecution if I have wilfully stated anything which I know to be false or that I do not believe to be true.

**INSTRUCTION**

I have been asked by **IHAT 8** of the Iraq Historic Allegations Team (IHAT) to provide a report regarding injuries sustained by Saeed Shabram. I have been specifically requested to comment on:

A. Number and types of injuries.

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**OFFICIAL SENSITIVE**

Statement of: DELANEY, RUSSELL JAMES

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- B. The degree of force/attack required to inflict the injuries.
- C. Any evidence of defensive injuries/wounds.
- D. Were the injuries caused before or after the drowning and recovery of the body?
- E. The likelihood of the injuries sustained by the deceased, being consistent with witness accounts and the use of an SA80 rifle.

**DOCUMENTATION RECEIVED**

On Thursday 18th May 2017 I met with [REDACTED] IHAT 8 and [REDACTED] IHAT 4 at the IHAT Offices, Trenchard Lines, Upavon. I was provided with copies of the following:

1. IHAT 87 briefing document
  2. Photographic supplement consisting of copies of exhibits [REDACTED] 7, [REDACTED] 6, [REDACTED] 8 and [REDACTED] 2.
  3. Partial post mortem examination report
  4. Witness statements of:
    - Ali Hassan Solel
    - Munaam. A. Bali Al Akaili (known as Munem Auda)
    - Cpl [REDACTED] dated 24th April 2017
    - Saeed Abdul Razar
  5. Preliminary proceedings transcript
  6. Interview transcripts Samah Mohahham Ali ([REDACTED] 12a, 13a, 14a, 15a ), Abdul Nabi Hamid Abdullah ([REDACTED] 1a, 2a, 3a, and [REDACTED] 11a, 12a) and of Munem Auda
- I was subsequently also provided with photograph discs of Saeed Shabram's post mortem, images of an SA80 rifle and a copy of exhibit [REDACTED] 4 (post mortem report for Saeed Shabram).

**BACKGROUND TO THE CASE (taken from the above documentation)**

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Statement of: DELANEY, RUSSELL JAMES

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The briefing document provides a summary of the alleged incident and of witness evidence. It indicates that at approximately 1100hrs on 23rd May 2013 four British Soldiers from 26 Armoured Engineer Squadron (AES) drove two of their vehicles from their base to the nearby dockside on the Shatt Al Arab river to wash them. While at the dockside one of the soldiers came across two Iraqi males who he believed were trying to steal electrical cable. Both Iraqi males were taken to the vicinity of where the British vehicles were parked. It is alleged that both Iraqi males were forced or pushed into the river by the British Soldiers. One of the British Soldiers is alleged to have used his weapon to push/force Saeed Shabram into the water. Saeed Shabram's body was recovered from the river later that day. A post mortem examination was conducted on his body the following day.

#### Post Mortem Examination Report

The post mortem examination was conducted by Dr Saeed Abdol Razak Seedy on 24th May 2003.

The report describes positive signs of drowning in the form of white pinkish foamy froth from the nose, foamy froth in the trachea (windpipe), 'fluid swelling' in the lungs, which filled most of the 'rib cage', and haemorrhagic spots on the lung surface.

A number of abrasions were described:

- Two abrasions at the 'bottom of the dorsal left forearm', 1.5 x 2cm, and 1.5 x 0.5m.
- 'Bottom of the exterior side of the right forearm', 18mm x 1mm.
- Top of the right shoulder, 1.5cm x 6mm.
- Left lumbar area, 1mm x 6mm.

A comment was made that the abrasions were likely to have happened during life.

The cause of death was given as drowning.

The abrasions were considered to be not linked to the cause of death.

A comment was made that nothing was noticed 'to indicate the body had undergone any harshness'.

#### Post Mortem Photographs

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Signature witnessed by:

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There are 29 photographs. None include a scale

The external and internal photographs confirm positive signs of drowning with dried froth around the nose and oedematous/expanded lungs.

The following injuries were identified:

- Two abrasions over the outer aspect of the right elbow and upper right forearm.
- A red-based abrasion over the outer aspect of the left elbow.
- A red-based abrasion over the back of the right shoulder/right side of the upper back. There was no apparent pattern or shape.
- Possible abrasions over the lateral parts of the lower back.

There was no visible injury to the face or the other parts of the body shown in the photographs.

#### Scene Photographs

Three of the scene photographs show Saeed Shabram's body lying in the back of a truck. There was froth around the mouth. He was wearing a t-shirt, which had been pulled up to expose the abdomen.

There were also a number of photographs of the dockside and the river. In places the ground was rough.

#### Statement of Ali Hassan Solel

Ali Hassan Solel was a self-employed diver. He describes recovering the body from the water. The body was lying face down around 8 - 9 metres from the jetty. There were 3 mortars near to the body on the riverbed. The water was around 7 metres deep. He lifted the body to the surface of the water. A rope was placed around the body underneath the arms and the body was pulled up on to the dockside.

#### Interview Transcript and Statement of Munem Auda

Munem Auda was detained with Saeed Shabram by British Soldiers. They were escorted to the dockside at gunpoint. They were both pushed/forced into the water. He witnessed a soldier placing a weapon into the back of Saeed Shabram and then push him into the river.

#### Interview Transcript of Samah Mohahham Ali

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Statement of: DELANEY, RUSSELL JAMES

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He was swimming in the river around 5 metres from where the two men entered. There was a drop of about 1.5 metres from the dockside into the water. He saw Saeed Shabram try to escape, throw himself on to the ground and then on to his back. He was pulled by two soldiers to the river. He was facing the river and trying to push backwards. He was shouting that he could not swim. He was pushed hard in the back with a weapon and fell into the river.

Interview Statement of Abdul Nabi Hamid Abdullah

He was a guard at the docks. He described one of the Iraqi males resisting. He was pushed in the back with a rifle and forced into the water.

Statement of Cpl [REDACTED]

Cpl [REDACTED] is a qualified Class 1 Armourer. On 24th April 2017 he was shown a picture of three British Army Servicemen. Two of those were carrying weapon systems. Cpl [REDACTED] identified the weapons as SA80 A2.

Statement of Said Abdul Razar

This statement confirms the findings described in Dr Razar's post mortem examination report.

Photographs of SA80 Rifle

There are 23 colour photographs of an SA80 rifle. Some of the photographs include a scale. The end of the barrel has outer diameter 2.1cm and inner 1.7cm.

#### COMMENTS

Saeed Shabram died as a result of the inhalation of water (drowning)

There were a limited number of minor external surface injuries consisting of abrasions over the outer aspects of the elbows, the right side of the upper back/shoulder and possibly both sides of the lower back.

An abrasion (graze) is a surface injury that indicates contact between the skin and a rough object or surface. There were no other areas of injury such as bruises or lacerations in particular over the face to suggest that he had been subjected to a blunt force assault.

The abrasions represent contact between the skin and a rough surface. A minimal amount of force may result in these injuries. It is not unusual to see abrasions of this nature over the bony prominences in

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individuals who are recovered from water with those abrasions being sustained by contact with structures either on entering the water or once in the water. The abrasions whilst not shown in detail in the photographs had appearances suggestive of being sustained whilst he was alive rather than after death in the water or during extraction from it. They could have been sustained in the water whilst he was alive or they could have been sustained prior to entry into the water by contact with the ground. They could have been sustained by contact with the dockside on entering the water. They could also have been sustained prior to the incident in question although there were no signs of healing to suggest that they were days old. There are no specific features to determine precisely how they were caused. It is not possible on the basis of the medical evidence in isolation to provide a reconstruction of the events.

The limited nature of the external injuries does not support a prolonged struggle on the ground.

In my opinion these are not a reflection of defensive-type injuries. No other injuries were visible to suggest that he had made an attempt at defending himself.

The injury over the back had no pattern or shape to confirm the use of an SA80 rifle as described. It appeared to be a non-specific abrasion similar to those over the arms.

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