

## Appendix 5: List of Issues

### List of Issues amended following the consideration of Representations from Core Participants 26 May 2010

Note added in respect of Part IV 17 September 2010

#### Issue I: The Battle of Danny Boy

##### *The Battlefield*

1. To identify the location, nature and duration of the battle.
2. To identify the military personnel involved, including their rank, name, date of birth, regiment and their locations on the battlefield.
3. To identify which British Army vehicles were involved, and their locations on the battlefield.
4. To identify which Iraqis were involved, their reasons for being in the vicinity of the Permanent Check Point on the afternoon of the 14th May 2004 and their locations on the battlefield.
5. To identify any weaponry seized from the battlefield by the British Army and whether subsequently any tests, and if so which, were performed on that weaponry and the results.
6. In relation to each Iraqi detained on 14th May 2004 were they (when put into vehicles):
  - a. Dead; or
  - b. Alive.

##### *Dead Iraqis*

7. In relation to each of the dead Iraqis whose body was collected from the battlefield by British soldiers on 14th May 2004, to identify:
  - a. His (or her) name and date of birth,
  - b. The time of death,
  - c. The place of death,
  - d. The manner and cause of death,
  - e. The name or description of the person who caused that death.
8. To resolve whether other Iraqis were killed on the battlefield but their bodies not collected from the battlefield by British soldiers. If so to state:
  - a. The number,
  - b. The names and dates of birth of each of them,
  - c. The time of death of each of them,

- d. The place of death of each of them,
- e. The manner and cause of death of each of them,
- f. The name or description of the person who caused each such death,
- g. What happened to each of their bodies.

***The order to remove bodies from the battlefield***

- 9. To identify any relevant order, policy, protocol, procedure or practice in relation to the removal of such bodies.
- 10. To establish by, how and to whom that order was disseminated.
- 11. To establish the purpose/rationale of the order.
- 12. To establish what, if any, consideration was given to taking photographs on the battlefield of the dead Iraqis.

***The removal of dead Iraqis from the battlefield into vehicles***

- 13. To establish what criteria were used to decide which bodies were to be removed and which were not.
- 14. To establish how the order to collect the dead and the criteria were relayed to the soldiers used to collect the dead.
- 15. To establish when, where and by whom each dead Iraqi was removed.
- 16. To identify which vehicles and personnel were involved in the transportation of the bodies.
- 17. To establish what injuries were observed at the time of removal into the vehicles in relation to each dead Iraqi removed from the battlefield.
- 18. To establish whether any further injuries were inflicted on the bodies during their transportation, and if so, the cause.

***Live Iraqis***

- 19. To establish how many live Iraqis were captured and detained on 14th May 2004 and their names and dates of birth.
- 20. To establish who (a) captured and (b) detained each live Iraqi.
- 21. To establish the full circumstances of the detention of each live Iraqi.
- 22. To establish in which vehicle or vehicles each live Iraqi was transported from the battlefield to Camp Abu Naji ("CAN") (in particular, how many Iraqis were in W21, W32 and WOC respectively).
- 23. To establish how each live Iraqi was treated
  - a. between being captured and the beginning of transportation to CAN; and

b. in the course of their transportation to CAN

and in particular to establish the identity of any Iraqis who died during transportation, the circumstances of any such death and the identity of any person or persons responsible.

24. To establish whether, and if so when, any finger prints or DNA samples were taken from any live Iraqi captured and detained on 14th May 2004.

## **Issue II: At Camp Abu Naji: (i) arrival (ii) photographing, examination, certification and return of dead, and (iii) detention and treatment of living Iraqis**

### ***Arrival at Camp Abu Naji***

25. To establish where and at what time each live Iraqi arrived at CAN.
26. To establish where and at what time each dead Iraqi arrived at CAN.

### ***Photographing of the dead***

27. To establish whether there was there a relevant order, policy, protocol, procedure or practice in relation to the taking of photographs by Army personnel for Army purposes and, if so, its content.
28. To establish the full circumstances and reasons that led to the taking of photographs of the deceased by the Army at CAN.
29. To establish how those photographs of the deceased Iraqis were taken, processed, disseminated and stored (or, if no longer available, destroyed).
30. To establish what other steps were taken or considered to aid identification of the deceased.
31. To establish the name and personal details of each person shown in each of the 57 JPEG files that have been produced to the Inquiry.

### ***Initial examination and certification of the dead***

32. To identify which medically qualified persons were present at CAN at the time of arrival of both live and dead Iraqis at CAN.
33. To establish who examined each deceased Iraqi at CAN.
34. To establish how, when and where each examination was carried out, and documented.
35. To establish what injury or injuries each medically qualified person found on each deceased Iraqi.
36. To establish whether death was certified and any provisional cause of death identified.
37. To establish what document or documents were completed as a result of such examinations.

38. To establish what has become of those documents.

***Return of the dead***

39. To identify any regulations, relevant order, policy, protocol, procedure or practice of the British Army in relation to the return of non-coalition force dead bodies from combat zones.
40. To identify any procedure used by the Army for the return of the dead Iraqis to ensure the bodies were handed over appropriately.
41. To establish what guidance was given or sought over the issue of the handing over of the bodies.
42. To establish how the Army documented/recorded the handover of the deceased.
43. To establish the number of bodies of dead Iraqis which were returned on 15th May 2004.
44. To establish the name of each dead person returned on 15th May 2004.
45. To establish to whom each body was returned.
46. To establish where each body was subsequently taken.
47. To establish what subsequent examinations of the bodies of the deceased took place.
48. To establish what injury or injuries were found upon such examinations.
49. To establish what medical cause (or causes) of death were ascribed to each of the deceased and by whom.

***Unlawful killing at Camp Abu Naji***

50. To establish whether any live Iraqis captured in the course of the battle and detained at CAN died within the Facility. If so, to establish:
- a. The name and personal details of each such person;
  - b. The circumstances of the death of each such person (including the time and location of their death);
  - c. The identity of any person responsible for such death.

***Cause of death***

51. To establish, having regard to all of the evidence now available (including the photographic evidence), what was the medical cause (or causes) of death of each of the deceased Iraqis.

***Detention and treatment of the living***

52. To establish the physical condition of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood on arrival at CAN and to identify which, if any of them, required medical treatment on arrival at CAN.
53. To establish what medical treatment they were in fact given, and by whom.

54. To identify who had custody of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood throughout their stay at CAN.
55. To establish in what conditions Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood were kept whilst at CAN.
56. To establish how Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood were treated in the course of their questioning and generally whilst at CAN.
57. To establish whether any of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood was mistreated in the course of their detention at CAN, and if they were, to identify who was responsible for that mistreatment.
58. To establish whether any of the so-called “conditioning techniques” was used in relation to Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood, and if so, who was responsible for their use.

### **Issue III: Detention and Treatment at the Shaibah Logistics Base**

59. To establish the physical condition of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood on arrival at Shaibah Logistics Base, and to identify which if any of them required medical treatment on arrival at Shaibah Logistics Base.
- 59A. To identify who had custody of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood throughout their stay at Shaibah Logistics Base.
60. To establish what medical treatment they were in fact given, and by whom.
61. To establish the conditions in which Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood were kept whilst at Shaibah Logistics Base.
62. To establish how Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood were treated in the course of their questioning and generally whilst at Shaibah Logistics Base.
63. To establish whether any of Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood was mistreated in the course of their detention at Shaibah Logistics Base, and if so, who was responsible for that mistreatment.
64. To establish whether any of the so-called “conditioning techniques” was used in relation to Hussein Fadel Abass, Atiyah Sayid Abdelreza, Hussein Jabbari Ali, Mahdi Jassim Abdullah and Ahmad Jabbar Ahmood at Shaibah Logistics Base, and if so, who was responsible for their use.

## **Issue IV: The complaints of misconduct and the commencement of the RMP Investigation**

The Inquiry's Terms of Reference do not require it to carry out a review of the investigations conducted by the Royal Military Police ("RMP") and the Inquiry has no present intention to do so. However, it has been suggested that the RMP was prevented from conducting a prompt, and full investigation, because it was known that such an investigation would uncover misconduct by soldiers. If that suggestion is supported by evidence, then it may suggest contemporaneous knowledge of misconduct by soldiers – a matter relevant to the Inquiry's Terms of Reference. Similarly, the timing of the complaints made by detainees may be relevant to determining their reliability. It is for reasons such as these that the following paragraphs have been included in the List of Issues. (Note added 17/09/10).

- 65.** To identify any relevant order, policy, protocol, procedure or practice in relation to the circumstances in which an investigation of a shooting incident should be commenced (and its content and effect).
- 66.** If there was such a policy, protocol, procedure or practice to establish whether or not it was followed.
- 67.** If it be the case that such a policy protocol, procedure or practice was not followed, to establish the reasons.
- 68.** To establish when the first complaints of misconduct were made, and by whom.
- 69.** To establish the content of those complaints.
- 70.** To identify to whom the complaints were addressed.
- 71.** To establish what action was taken on receipt of the complaints.
- 72.** To establish when the RMP commenced an investigation, and what was the purpose, and scope of that investigation at the point of its commencement.
- 73.** To discover what communications there were within the theatre of operations on 14 and 15 May 2004 and between the theatre of operations and the United Kingdom in relation to the events of 14 May 2004 and the allegations of unlawful killing, mutilation of bodies and mistreatment of detainees.
- 74.** To ascertain what contemporaneous documents should have been available for consideration during the course of any investigation, what documents have been made available and the explanation for any apparent shortcomings in the provision of documents.

## **Issue V: Recommendations**

- 75.** To establish what recommendations are appropriate in light of the Inquiry's findings.

**Jonathan Acton Davis QC**

**Jason Beer**

**Emma Gargitter**

30th March 2010

26th May 2010

17th September 2010