ARMY

The Aitken Report

An Investigation into Cases of Deliberate Abuse
and Unlawful Killing in Iraq in 2003 and 2004

25 January 2008

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Foreword by CGS

I take huge pride in nearly everything we have done as an Army in Iraq since 2003. Our record is exceptional: today, we have an unprecedented number of tough, battle-hardened officers and soldiers who have performed to the highest standards that the Army or the Nation might have expected of them, under extraordinarily testing conditions.

But I take no pride in the conduct of those of our people – however few – who took it upon themselves to deliberately abuse Iraqi civilians during 2003 and the early part of 2004. This report is rightly critical of our performance in a number of areas, and accurately reflects the sense of professional humility that I know we all feel at those failings; but it also catalogues the significant number of steps we have taken towards ensuring that such behaviour is not repeated. That is an essential part of our continuous professional development: we must constantly learn from our experience.

The report makes three broad recommendations (all of which the Executive Committee of the Army Board has endorsed) for our collective improvement. We need to ensure that we learn and implement lessons from the disciplinary process in the same way that we do for wider operational issues; we need to find better ways to inculcate our core values of selfless commitment, courage, discipline, loyalty, integrity and respect for others and our standards of behaviour and discipline into our everyday lives; and we must educate ourselves to ensure that we are using administrative action correctly. Please do not think that putting these matters right is the sole responsibility of some staff branch in Wiltshire or London: this will require leadership at all levels, from myself down to the most junior lance corporal.

I encourage you to read this report carefully, and to think about the issues it raises. If we are genuinely to live up to our world class name, we must never allow a few of our people to besmirch the reputation of the majority in this manner again.

25th January 2008

The Aitken Report:
An investigation into cases of deliberate abuse and unlawful killing in Iraq in 2003 and 2004

INTRODUCTION

1. This report sets out the Army's response to a number of cases of the serious abuse and unlawful killing of civilians in Iraq in 2003 and early 2004. It focuses solely on those instances where members of the British Army are alleged or proven to have mistreated Iraqi civilians outside the context of immediate combat operations. It seeks to explain what happened in each case, and to describe the context in which they occurred; but its principal purpose is to detail the measures the Army has taken to ensure (as far as possible) that they are not repeated. It makes deductions based on evidence from official reports, court judgments and interviews. Because inquiries are not yet complete into all the cases with which this report is concerned, it also recommends other areas that will need to be addressed by further work.

2. Since the invasion of Iraq in March 2003, over 120,000 members of the Armed Forces have served in the region. To date, 229 allegations of criminal activity have been investigated by the Service Police, 20 of which have been dealt with, either by court martial trial or by summary dealing within the chain of command. The range of incidents investigated was, unsurprisingly, wide. It included investigations into shooting incidents (the largest single group, by a significant margin), traffic accidents, fraud and other crimes.

3. But six cases investigated by the Service Police involved allegations of deliberate abuse: abuse which could not be mitigated by decisions made by British soldiers 'in the heat of the moment', or in the face of an immediate threat to their own safety; but rather which appeared to have been committed in a deliberate and callous manner. They involved either the death or injury of Iraqi civilians who had been arrested or detained by British troops. Four occurred in May 2003; one in September 2003; and the last in April 2004. The six cases with which this report is concerned are summarised in the table opposite

Case	Date	Outline
Death of Ahmed Jabber Kareem	8 May 03	Kareem drowned in the Shat' al-Arab. 4 soldiers were found Not Guilty of his murder by court martial in May/June 2006.
Death of Nadhem Abdullah	11 May 03	Abdullah died after allegedly being assaulted by British soldiers. Charges of murder against 7 soldiers were dismissed by court martial on 3 November 2005.
Breadbasket	15 May 03	Photographs of Iraqi looters who had been detained in the Breadbasket case were released to the media in January 2005. 4 soldiers were found guilty of various charges by court martial in January and February 2005.
Death of Sa'eed Shabram	24 May 03	Shabram drowned in the Shat' al-Arab. 3 soldiers were investigated, and no charges were preferred.
Death of Baha Mousa	15 Sep 03	Mousa died and 8 other Iraqis suffered varying degrees of abuse whilst in British custody. 7 officers and soldiers were tried by court martial between 4 September 2006 and 30 April 2007; one soldier was found Guilty of inhumane treatment, and the others were acquitted. The case is still subject to further investigation.
Al Amarah Riot	Apr 04	Video footage of some youths being beaten by British soldiers during a riot were published by the News of the World in February 2006. No disciplinary or administrative action was taken.

4. These cases fall into two broad categories. First, there were the two instances where soldiers allegedly behaved in a disgraceful manner, but where the consequences did not involve the deaths of any Iraqis. They include the abuse of some looters detained at the Breadbasket Camp near Basra on 15 May 2003, which came to light when one of the soldiers involved took photographs of Iraqis who had been tied up and abused by their captors; and the beating of some youths during a riot in Al Amarah in April 2004, which again came to light when video footage taken by one of the soldiers watching the event was published by *The News of the World*. In the second category fall those instances where Iraqis are alleged to have died at the hands of British soldiers: the death of Ahmed Jabber Kareem, who drowned in the Shat' al Arab on 8 May 2003, and the death of Sa'eed Shabram, who was initially alleged to have died in similar circumstances 16 days later. The former case was brought to trial by court martial, where the three accused soldiers were found Not Guilty; the latter was investigated, but the Army Prosecuting Authority (APA) did not direct trial. Also in this category falls the death of Nadhem Abdullah on 11 May 2003. Seven soldiers were brought to court martial in connection with that case, but the Judge Advocate directed Not Guilty verdicts in all their cases – even though he also concluded that there was sufficient evidence to show that Nadhem had died as a result of an assault carried out by the Section of which all seven defendants were members. Finally in this category is the case of Baha Mousa, who died while being held over a weekend in a British detention centre in September 2003. He had 93 identifiable injuries on his body, and had suffered asphyxiation. Eight other Iraqis were also inhumanely treated, and two of them required hospital treatment. Several officers and soldiers were tried by court martial; the Corporal in charge of the detention centre was found Guilty, of the 'war crime' of inhumane treatment; but nobody was convicted of killing Baha Mousa.

5. In focusing on this small number of cases, it is not the intention of this report to imply that the other cases investigated by the Service Police were not serious. However unpalatable it is to recognise, criminal activity of one sort or another often happens on operations, just as it occurs in society generally in the UK: that is one of the reasons that the Army has a criminal justice system which applies in whatever circumstances British troops find themselves. Moreover, although the abuse of local civilians by invading forces has been a regular feature in the history of warfare, we must never condone it. There is no doubt that such behaviour is particularly damaging when committed by the British Army, in the 21st Century, on operations where we were meant to be improving the lot of the Iraqi people, under the immediate gaze of the world's media. The act of abuse is, in itself, unacceptable; the commission of it under these circumstances – even by a small number of individuals – reflects some of the worst aspects of ill-discipline, undermining the entire Army's professional behaviour, reputation and operational effectiveness, and running directly counter to the Army's values and standards.

6. But we must bear in mind that the number of allegations of abuse in Iraq has been tiny. It is dangerous to use the past tense here; but it remains a fact that no substantiated instances of abuse have been reported in Iraq since the Al Amarah case, which happened in April 2004. Although we cannot rule out the possibility that other instances will emerge at some stage in the future, we can be relatively confident that the significant number of other agencies scrutinising our behaviour for similar instances in theatre would have drawn attention to any new acts – even if we had not found out about them through our own reporting channels. Indeed, it is likely that the absence of any further incidents is a consequence, at least in part, of the wide range of corrective measures the Army has taken since 2003, and which are detailed later in this report. Clearly every instance of this sort of abuse is felt keenly by the Army, and deeply regretted; but it would be a mistake to make radical changes to the Army's essential organisation unless there was clear evidence that the faults we were seeking to rectify were endemic. They were not.

7. This report summarises the extent of our understanding about what happened in those cases, and what caused them to happen; and it highlights the principal measures that either have been taken, or that might reasonably be taken, to ensure that they do not recur. There is an important caveat to that approach, however: and that is that not all the inquiries into the cases with which this report is concerned have yet been completed. There may, for example, be matters arising from the court martial in connection with the death of Baha Mousa which will need to be examined further; and the Al Amarah video case has similarly not yet concluded. In that sense, our full understanding of cause and effect in these cases is still incomplete; but we do believe that our knowledge of these events is sufficiently deep for us to draw some conclusions from them, and to make those conclusions public.

BACKGROUND AND CONTEXT

8. The context in which operations have been conducted in Iraq has been exceptionally complex. It is not for this report to comment on the *jus ad bellum* aspects of the operation, nor of the public's opinions of the invasion. It is, however, important to note that the Alliance's post-invasion plans concentrated more on the relief of a humanitarian disaster (which did not, in the event, occur on anything like the scale that had been anticipated), and less on the criminal activity and subsequent insurgency that actually took place. One consequence of that was that we had insufficient troops in theatre to deal effectively with the situation in which we found ourselves. Peace support operations require significantly larger numbers of troops to impose law and order than are required for prosecuting a war: ours were very thinly spread on the ground. In his investigation (in April 2005) of the Breadbasket incident, Brigadier Carter[1] described conditions in Iraq thus:

> *…May 2003, some 4 weeks or so after British Forces had started to begin the transition from offensive operations to stabilisation. The situation was fluid. Battlegroups had been given geographic areas of responsibility based generally around their initial tactical objectives. Combat operations had officially ended, and rules of engagement had changed to reflect this, but there was a rising trend of shooting incidents. Although these were principally between Iraqis, seeking to settle old scores or involved in criminal activity, there were early indications that the threat to British soldiers was developing… The structure of the British Forces was changing. Many of the heavier capabilities that had been required for the invasion were now being sent home. Some Force elements were required for operations elsewhere, and there was pressure from the UK to downsize quickly to more sustainable numbers… Local attitudes were also changing. Initially ecstatic with happiness, the formerly downtrodden Shia population in and around Basra had become suspicious, and by the middle of May people were frustrated. Aspirations and expectations were not being met. There was no Iraqi administration or governance. Fuel and potable water were in short supply, electricity was intermittent, and the hospitals were full of wounded from the combat operations phase. Bridges and key routes had been destroyed by Coalition bombing. Law and order had completely collapsed. The Iraqi Police Service had melted away; the few security guards who remained were old and incapable; and the Iraqi Armed Forces had been captured, disbanded or deserted. Criminals had been turned out onto the streets and the prisons had been stripped. The judiciary were in hiding. Every government facility had been raided and all loose items had been removed. Insecure buildings had been occupied by squatters. Crime was endemic and in parts of Basra a state of virtual anarchy prevailed. Hijackings, child kidnappings, revenge killings, car theft and burglary were rife. In a very short space of time wealth was being comprehensively redistributed.*

9. In this environment, the British Army was the sole agent of law and order within its area of operations. When the Association of Chief Police Officers' lead for international affairs, Mr Paul Kernaghan, visited Iraq in May 2003, he said that he would not recommend the deployment of civilian police officers to the theatre of operations due to the poor security situation. The last time the Army had exercised the powers of an Army of Occupation was in 1945 – and it had spent many months preparing for that role; in May 2003, the same soldiers who had just fought a high-intensity, conventional war were expected to convert, almost overnight, into the only people capable of providing the agencies of government and humanitarian relief for the people of Southern Iraq. Battlegroups (comprising a Lieutenant Colonel and about 500 soldiers) were allocated areas of responsibilities comprising hundreds of square miles; companies (a Major with about 100 men under command) were given wholetowns to run. The British invasion plans had wisely limited damaging as much of the physical infrastructure as possible; but with only military personnel available to run that infrastructure, and very limited local staff support, the task placed huge strains on the Army.

10. One of the effects of this lack of civil infrastructure was the conundrum British soldiers faced when dealing with routine crime. Our experience in Northern Ireland, and in peace support operations around the world, has inculcated the clear principle of police primacy when dealing with criminals in operational environments. Soldiers accept that they will encounter crime, and that they will occasionally be required to arrest those criminals; but (despite some experience of this syndrome in Kosovo in 1999) our doctrine and practice had not prepared

[1] *Brig Carter commanded 20 Armoured Brigade in Iraq in 2004, and was the officer tasked with determining whether administrative action should be taken against any of those involved in the Breadbasket case.*

us for dealing with those criminals when there was no civil police force, no judicial system to deal with offenders, and no prisons to detain them in. Even when a nascent Iraqi police force was re-established in 2003, troops on the ground had little confidence in its ability to deal fairly or reasonably with any criminals handed over to it. In hindsight, we now know that some soldiers acted outside the law in the way they dealt with local criminals. However diligent they were, commanders were unable to be everywhere, and so were physically unable to supervise their troops to the extent that they should; as a result, when those instances did occur, they were less likely to be spotted and prevented.

11. The British Army conducts operations by means of a command policy it calls Mission Command. In essence, Mission Command works on the principle that the commander makes clear to his subordinates his overall intent – what he wants to achieve, and why; but he harnesses the ingenuity of those subordinates by allowing them to determine the best way of realising those tasks – he does not (necessarily) tell them *how* to achieve what he wants to be accomplished. Mission Command is primarily a device for allowing our forces to seize opportunities in war: if a subordinate understands his higher commander's intent, he will use his initiative to capitalise on fleeting opportunities. Those subordinates are not, of course, given completely free rein – the commander's orders are to be obeyed; but he will stipulate the constraints under which his subordinates are to be bound; and he should personally supervise the execution of those tasks in an appropriate fashion, in order to satisfy himself that they are being carried out correctly. And whilst tasks can be delegated, responsibility for them can never be delegated: that responsibility remains with the commander.

12. In the uncertain environment in which our troops were operating in Iraq in 2003 and 2004, Mission Command was a vital tool in our arsenal: had we not employed it, we would have been unable to spread ourselves as widely as we did. But that involves risk. Soldiers are human, and humans have failings; and, without supervision, those failings can sometimes be missed. In an ideal world, commanders can make judgements about the amount of supervision that their subordinates will require; in the conditions that existed in Iraq in May 2003, they frequently did not have that luxury. When he was Commander-in-Chief, General Sir Richard Dannatt wrote to his command in April 2005 on this very subject:

> *…Some think that that the conduct of mission command is to give out a task and take little further interest – but supervision down to the lowest level is key to the success of our command style. Some turn a blind eye when they know something is wrong, and in so doing their own stock of moral courage is further diminished as are our overall standards…*

13. It was not only the combat troops who were overstretched in these circumstances. The current military criminal justice system is relevant, independent, and fit for purpose; but even the most effective criminal justice system will struggle to investigate, advise on and prosecute cases where the civil infrastructure is effectively absent. And so, in the immediate aftermath of the ground war, the Service Police faced particular challenges in gathering evidence of a quality that would meet the very high standards required under English law. National records – usually an integral reference point for criminal investigations – were largely absent; a different understanding of the law between Iraqi people and British police added to an atmosphere of hostility and suspicion; and the Army was facing an increasingly dangerous operational environment – indeed, on 24 June 2003, six members of the Royal Military Police were killed in Al Amarah. Local customs similarly hampered the execution of British standards of justice: in the case of Nadhem Abdullah, for instance, the family of the deceased refused to hand over the body for forensic examination – significantly reducing the quality of evidence surrounding his death.

14. These considerations merely set the scene; not one of them can excuse the commission of a single criminal act. That all but a handful of our people conducted themselves to the highest standards of behaviour – some of them displaying qualities of courage, self-discipline, integrity and selfless commitment far and above what might reasonably have been expected under such circumstances – does not excuse the commission of a small number of acts of deliberate abuse against defenceless individuals.

WHAT WENT WRONG?

15. It is not possible for any organisation to prevent criminal activity or disgraceful behaviour absolutely. It is, however, possible to create the conditions which make the commission of criminal or disgraceful acts less likely. That requires leadership, education and training (including the clear articulation of the requisite doctrine to support it), and the effective operation of all aspects of a criminal justice system. The small number of instances of deliberate abuse highlighted in this report have exposed some failings in all of those areas; these are set out in the following Section, together with the measures that have been taken to rectify them (which are consolidated at Annex A).

ARREST, DETENTION AND INTERROGATION

16. Although all the cases with which this report is concerned are characterised to varying degrees by failings in the way in which our people dealt with Iraqi civilians whom they had arrested, the case of Baha Mousa particularly raises questions about the manner in which civilians were abused while held formally in detention. This case is still incomplete[2] but there are some deductions that we can highlight now. By the time that all the lessons have been learned from the Baha Mousa case, we should be clear about how soldiers on the ground in Iraq in 2003 apparently came to think that certain practices which had been previously proscribed were lawful. This report cannot answer that question; but it can shed some light on the circumstances at the time, and outline the measures that have been subsequently taken to prevent similar incidents.

Historical Context

17. Following the decision to introduce Internment in Northern Ireland in August 1971, a number of allegations of abuse were made against security forces which were the subject of the decision of the European Court of Human Rights (EctHR) in 1978 in the case of Ireland v UK . The allegations centred around the use of certain techniques as an aid to interrogation, and which came to be known as the 'Five Techniques': wall standing; hooding; subjection to noise; sleep deprivation; and deprivation of food and drink. In March 1972, Lord Parker (then Lord Chief Justice of England) published a report into the legal and moral aspects of the use of the Five Techniques. He noted that "the use of some if not all of the techniques would…constitute criminal assaults and might give rise to criminal proceedings", but concluded that the application of the techniques, subject to recommended safeguards against excessive use, need not be ruled out on moral grounds. As a clear statement of Government intent, in 1972 the then Prime Minister, Mr Heath, said in the House of Commons that "…the Government…have decided that the techniques…will not be used in future as an aid to interrogation… The statement that I have made covers all future circumstances." The ECtHR concluded that, while the combined use of the Five Techniques did not amount to torture, it did amount to a practice of inhuman and degrading treatment, and was therefore in breach of Article 3 of the European Convention on Human Rights. It further found that, although the Five Techniques were never officially authorised in writing, they were nevertheless taught orally at the Intelligence Centre (the forerunner of the Defence Intelligence and Security Centre (DISC)). The position taken by the Prime Minister in 1972 was re-stated in 1977 by the Attorney-General during the court proceedings when he said: "The Government…now give this unqualified undertaking, that the five techniques will not in any circumstances be reintroduced as an aid to interrogation."

18. The immediate response to the direction from the Prime Minister was publication by the Joint Intelligence Committee (A) in June 1972 of a "Directive on Interrogation by the Armed Forces in Internal Security Operations", specifically proscribing the Five Techniques as an aid to interrogation. It required "…JIC(A) Departments and Agencies, the Home Department and the Northern Ireland Office to ensure, with immediate effect, that any interrogations for intelligence purposes are conducted in conformity with the Directive." Its stated aim was to "…establish rules for the conduct of interrogation by Service personnel in Internal Security operations..." In August 1972, the Vice-Chief of the Defence Staff sent a copy of the Directive personally to the Commandant of the Intelligence Centre, requiring it to be reflected in all training at the Centre. He also noted: "Special instructions based on [the Directive] will be issued by the Ministry of Defence for any interrogation operation which Ministers may authorise involving the armed forces."

[2] Although the criminal case - the court-martial - has now concluded, the subsequent enquiry into the wider aspects of the case has not yet taken place.

19. It has not been possible to determine how JIC(A)'s direction was reflected in doctrine or training in the 1970s, nor to find any further 'special instructions' after 1972. It is likely that, since the direction was specifically limited to the use of the Five Techniques in internal security operations, its provenance was probably limited to Northern Ireland operations only; and it is also likely that, since the direction was limited to the use of the Five Techniques as an aid to interrogation, it did not extend outside the intelligence community. We know that, by 2003, the doctrine in use at DISC only required prisoners to be treated in line with international law, and did not mention specifically the Five Techniques[2]. Determining exactly how and when specific direction in 1972 came to be lost in 2003 would have to be a matter for separate investigation.

Context in Iraq

20. The business of equipping soldiers with the skills they require to meet the demands which the Nation demands of them is expensive in time, effort and money. To make best use of those limited resources, the Army provides generic training for all its people to prepare them for war (which it calls adaptive foundation training); and it supplements that training with theatre-specific, pre-deployment training to those units and individuals destined for particular operations, delivered by the Operational Training and Advisory Group (OPTAG). In the case of Iraq in 2003, the bulk of the training provided for the first three waves of troops deployed into theatre (that is, those who fought the war and began the process of nation rebuilding, and those who replaced them throughout 2003) was targeted at war-fighting skills. In the particular areas of arrest and detention, extant Army policy was not used to provide sufficient guidance to prepare our people for all the challenges they actually faced. The training packages, plus the doctrine that underpinned them, were (correctly) founded on the Law of Armed Conflict, but based largely on a conventional war scenario. They described in detail the manner in which prisoners of war were to be treated, but made scant mention of the treatment of civilian detainees – the group with which, as it happened, our

[2] During the court martial in respect of the death of Baha Mousa, mention was made of a document from 2003 which apparently advocated the use of hooding (one of the proscribed Five Techniques). The RMP(SIB) investigation sought to recover every relevant extant piece of doctrine and policy relating to IT&Q techniques: no such document has been found.

people were much more concerned after the formal cessation of hostilities in April 2003. Regimental Police (usually charged with running unit detention centres in Iraq) were only specifically trained in the running of unit guard rooms in barracks, and had little preparation for handling civilian prisoners. This omission in training was despite the recent experiences in Kosovo in June/July 1999 when civilians were initially detained in unit-run detention facilities, before expert help from the Military Provost Staff was later introduced. Furthermore, it was not until 2004, after we became aware of the allegations of abuse, that all soldiers deploying to Iraq were given specific instruction on the correct handling of detainees (as part of their pre-deployment training), and that formal direction was given to troops in Iraq that hooding should cease. Notwithstanding that formal proscription, specific direction had also been given in theatre that hoods were not to be used in detention centres as early as March 2003.

21. We need to draw a distinction between, on the one hand, the basic skills required by 'ordinary' soldiers in the arrest and detention of civilians, and, on the other, the specific skills taught to those who have the responsibility of interrogating them. Today, the rules and practices for Interrogation and Tactical Questioning (I&TQ) are detailed in a Confidential policy document ('MOD Policy on Tactical Questioning and Interrogation: Support to Operations' dated 31 January 2007), and training in line with this policy is conducted at DISC for individuals selected to act as I&TQ specialists. In 2003, that doctrine was not as clearly articulated as it now is – the first edition of this policy was not published until 2005. It articulates a doctrine that is in line with international and domestic law; the extent to which that doctrine was in practice in 2003 would be a matter for any further investigation into the Baha Mousa case.

22. We need also to be clear about a different but related form of training, given to some members of the Army, in Conduct After Capture (CAC). CAC training simulates the sort of treatment that our people might receive from an enemy that does not comply with international humanitarian law, and therefore introduces participants to illegal I&TQ techniques; and in 2003, attendance on CAC training qualified an individual to conduct I&TQ. In 2005, the Army revised that policy, arguing that exposure to illegal I&TQ methods was not a sensible way to prepare an individual for conducting lawful I&TQ. Current policy therefore draws a clear

line between the skills taught on the two respective courses, and prevents anyone who has been subject to CAC training from acting as an I&TQ specialist on operations without revalidation via appropriate I&TQ training.

23. Against this background, we need to be clear about what was and was not an illegal technique. Some aspects of the Five Techniques may not, in themselves, be illegal: it is the circumstances that define their legality. For example, there will be occasions where it will be perfectly reasonable to deprive temporarily a captured person of his sight or hearing (to protect the security of our own troops, or to prevent collusion with other captured personnel, for example); and if the only means of doing that was by means of a hood, then that would not in itself constitute an illegal act. The requirement to search a captured person may quite legitimately involve him being made to stand against a wall with his arms outstretched – technically a 'stress position' if maintained to the point of discomfort. At the point of capture, it may be necessary for soldiers to order their prisoners to adopt uncomfortable positions – if the soldiers are outnumbered, for example, or if those being arrested still pose a threat to those detaining them. These may all be lawful actions; but it will be noted that in all these examples there is no suggestion of using the Techniques as an aid to interrogation. On the other hand, the decision in the Ireland case makes it clear that it is unlawful to require a captured person to maintain a 'stress position' once he is secure in a detention unit, or to hood him, or to subject him to noise, or unnecessarily to prevent him from sleeping, or to deprive him of food and drink, as an aid to I&TQ. The issue is therefore to an extent one of context; and the Army's challenge must be to ensure that as clear a delineation exists as possible to guide all soldiers in what is and is not acceptable practice.

24. Current policy on I&TQ specifically proscribes the Five Techniques[3]; but this is not spelled out in Joint Defence Publication 1-10 'Prisoners of War, Internees and Detainees'. The list of Prohibited Acts (at Section II) in the latter includes 'Outrages upon Personal Dignity', with a footnote that reads: "The practice of 'hooding' any captured or detained person is prohibited." (No definition of the term 'hooding' is given in the text, nor any explanation of why the word appears in inverted commas). No specific mention is made of the other four Techniques. I&TQ is a specialist skill taught only at DISC, whereas training in prisoner handling is (at least as far as Iraq is concerned) a generic skill that all soldiers need. The I&TQ policy document is classified Confidential, and its contents are only fully exposed to those who receive training at DISC; and so it is understandable that its contents are not widely known throughout the Army. Notwithstanding any further outcomes from inquiries into the case of Baha Mousa, therefore, it seems logical that JDP 1-10 should now be amended to make a clear distinction between the roles of professionally-trained I&TQ experts and other soldiers who may be tangentially involved in the business of detention and I&TQ, and specifically to proscribe the Five Techniques as an aid to interrogation. Such direction would not only help to ensure that ordinary soldiers did not inadvertently cross the boundary between legitimate and illegitimate techniques, but would also assist the I&TQ specialists in doing their job effectively.

[3] *"Captured persons must not be deprived of vision or hearing if the intent is to affect their mental state in some way or 'break them down' in preparation for interrogation; hooding is not permitted under any circumstances…" (Annex A, Srl 8). "…Certain techniques…are held to be totally unacceptable under any and all circumstances…: Physical punishment of any sort; the use of any stress position; intentional sleep deprivation; withdrawal of food, water or medical help; degrading treatment (sexual embarrassment, religious taunting etc); the use of white noise…" (Annex A, Srl 11).*

Developments Since 2003

25. Notwithstanding any amendments that may be needed to our doctrine or other policy publications, a recently-commissioned audit by the Director of Operational Capability (DOC) has confirmed that the practical training now provided for the Army deploying on operations provides significantly better preparation in dealing with the detention of civilians. The requirement for Law of Armed Conflict training was most recently mandated in a Defence Information Note, published in 2006, which requires all officers and soldiers to receive education during basic training, once annually and during pre-deployment training as well as at key stages in their careers. This policy is now successfully implemented, and is demonstrably effective. The doctrine underpinning the specialist training provided at DISC for those responsible for I&TQ has also been revised, and specifically prevents soldiers who have undergone CAC training from acting in the I&TQ role without revalidation. Regimental Police are now properly trained in the operation of unit custody facilities on operations by the Military Provost Staff. Since early 2004, every soldier deploying either to Iraq or Afghanistan has been instructed, as part

of pre-deployment training, on the requirements of those theatre's instructions for detainee handling. That training stipulates, inter alia, that no one is to be hooded for any purpose (if vision needs to be restricted to maintain security, then blacked-out goggles are to be used); and that, if handcuffs are required, they are to be placed to the front of the body and not behind. It clearly stipulates the conditions under which detainees are to be held, and proscribes any form of ill-treatment. All soldiers are issued with an Aide Memoire to remind them of these rules on operations. All these measures are the subject of a separate audit into training for prisoner handling by DOC, which reported to the Minister for the Armed Forces in November 2007.

26. The fact that these measures were not introduced in advance of the invasion of Iraq may suggest a lack of awareness of the operational context by those responsible for preparing our people for that operation, and thus a failing. At one level, the paucity of planning for nation-rebuilding after the invasion (a consequence, in part, of the need to give last-minute diplomacy a chance of success) was certainly a factor. Uncertainty over the reaction of the Iraqi people to being invaded was probably another: in some areas, we were probably surprised at how quickly the initial euphoria of liberation changed to insurgency. And there is a sense that, more generally, the Army failed to anticipate the difference in the operational climate between Iraq and, say, the Balkans after Dayton or Northern Ireland after 1977, and did not modernise its doctrine accordingly. Those were all, to a greater or lesser extent, failings. But they are failings that the Army has recognised, and taken specific action to rectify as part of its process of continuous professional development.

THE MILITARY CRIMINAL JUSTICE SYSTEM

Context

27. Four cases involving Iraqi deaths as a result of deliberate abuse have been investigated, and subsequently referred to the Army Prosecuting Authority (APA)[4] on the basis there was a prima facie case that the victims had been killed unlawfully by British troops. The APA preferred charges on three of these cases on the basis that it considered there was a realistic prospect of conviction, and

[4] *Described in more detail at Paragraph 28 below*

that trial was in the public and service interest; and yet not one conviction for murder or manslaughter has been recorded.

28. The Army's position is straightforward on the issue of prosecution. Legal advice is available for commanding officers and higher authorities to assist with decisions on referring appropriate cases to the APA. The Director Army Legal Services (DALS), who is responsible to the Adjutant General for the provision of legal services to the Army, is additionally appointed by The Queen as the APA. In that capacity, he has responsibility for decisions on whether to direct trial for all cases referred by the military chain of command, and for the prosecution of all cases tried before courts-martial, the Standing Civilian Court and the Summary Appeal Court and for appeals before the Courts-Martial Appeal Court and the House of Lords. DALS delegates these functions to ALS officers appointed as prosecutors in the APA, and Brigadier Prosecutions has day to day responsibility for the APA. The APA is under the general superintendence of the Attorney-General and is, rightly, independent of the Army chain of command: the APA alone decides whether to direct court-martial trial and the appropriate charges, and neither the Army chain of command, nor Ministers, officials nor anyone else can make those decisions. However complex the situation in which it finds itself, the Army must operate within the law at all times; once the APA has made its decision (based on the evidence and the law), the Army has to accept that the consequences of prosecuting particular individuals or of particular charges may have a negative impact on its reputation.

29. The absence of a single conviction for murder or manslaughter as a result of deliberate abuse in Iraq may appear worrying, but it is explicable. Evidence has to be gathered (and, as already mentioned, this was not an easy process); that evidence has to be presented in court; and defendants are presumed innocent unless the prosecution can prove its case beyond reasonable doubt. That is a stiff test – no different to the one that applies in our civilian courts. In the broader context, the outcome from prosecutions brought to court martial by the APA is almost exactly comparable with the equivalent civilian courts: for example, as at the end of 2006, the conviction rates after trial[5] in the court martial system stood at 12% as compared with 13% in the Crown Courts. It is inevitable that some prosecutions will fail; but this does not mean that they should not have been

[5] *That is, excluding those who either pleaded Guilty or were acquitted after trial.*

brought in the first place. It is the courts, after all, that determine guilt, not the prosecutors. Indeed, the fact that only a small number of all the 200-odd cases investigated by Service Police in Iraq resulted in prosecution could be interpreted as both a positive and a negative indicator: positive, in that the evidence and the context did not support the preferring of criminal charges; but negative, in that we know that the Service Police were hugely hampered, in some cases, in their ability to collect evidence of a high enough standard for charges to be preferred or for cases to be successfully prosecuted.

30. It is important to note that none of this implies any fundamental flaws in the effectiveness of the key elements of the Military Criminal Justice System. Both the Special Investigation Branch of the Royal Military Police (RMP(SIB)) and the APA were independently inspected during 2007. The Police inspection reported that "…Her Majesty's Inspectorate of Constabulary assess the RMP(SIB) as having the capability and capacity to run a competent level 3[6] (serious criminal) reactive investigation"; and the inspection of the APA in February and March 2007 by Her Majesty's Crown Prosecution Service Inspectorate concluded that: "…the APA undertakes its responsibilities in a thorough and professional manner, often in difficult circumstances", adding that 95.7% of decisions to proceed to trial were correct on evidential grounds, and 100% of decisions to proceed to trial were properly based on public or Service interest grounds.

Developments Since 2003

31. But some weaknesses in the system have been identified as a result of experience, and rectified. When the court martial of the Nadhem Abdullah case concluded in November 2005, the Adjutant General conducted an immediate review of all those aspects of the case which had revealed weaknesses and shortcomings that required corrective action; many of the recommendations and subsequent developments in terms of investigations, legal advice, discipline and court processes listed in this report flowed directly from that review[7].
To improve the quality of legal advice in training, and to capture lessons learned

[6] Level 3 is the highest level of competence. It is the standard associated with investigations carried out by professionally-qualified detectives into the most serious offences.
[7] A similar review was conducted in the immediate aftermath of the Baha Mousa case, in July 2007.

on operations, an Operational Law Branch was fully established in January 2006 under an operationally-experienced Army Legal Services Brigadier. It provides expert advice on the practical application of international law on operations, and reviews all material taught in both the adaptive foundation and on pre-deployment training. No Army lawyer deploys on operations without having attended the requisite training in operational law, delivered through a combination of internal military instruction and external academic sources. Army lawyers are now embedded at the Defence Intelligence and Security Centre to provide immediate advice on the training delivered there. APA prosecutors deploy to operational theatres to support the Service Police directly. In addition, a joint legal cell has been established at the Development, Concepts and Doctrine Centre to provide legal advice on doctrine.

32. The effectiveness of the RMP has similarly been enhanced by a number of measures implemented since 2004. The Defence Police School (formed in September 2005) delivers modern, fit-for-purpose, training for RMP personnel. More RMP (SIB) now attend Home Department Police Force Senior Investigating Officer training: an additional eighteen were trained in 2005 and 2006 (a 33% increase from 2004), and a further eight attended in 2007. Fourteen extra established posts have been obtained for the Special Investigation Branch from 1 Apr 07; this provides an additional deployable Section plus further reinforcement of the Specialist Crime Team, which has world wide responsibility for major inquiries. The Officer Commanding the SIB in Iraq and his Second-in-Command are both formally trained Senior Investigating Officers. In addition, the establishment of the Services Police Crime Bureau at Portsmouth in 2006 has provided greater second line operational police support to all RMP units, including those in operational theatres.

DISCIPLINARY AND ADMINISTRATIVE ACTION

33. The Military Criminal Justice System is primarily concerned with what the Army calls disciplinary action: action taken by commanders, using their statutory powers, to uphold good order and military discipline. Like any professional body, however, the Army also has its own in-house process for safeguarding or restoring operational effectiveness and efficiency; and it calls this process administrative action: action taken by commanders, using their command authority, to set straight professional shortcomings. The standard of proof for administrative

action is the balance of probabilities – the standard used in civilian employment law cases. The sanctions available range from the relatively mild (such as the award of extra duties or a recorded verbal warning) through to dismissal from the Service. The Army's policy in relation to the use of administrative action (Army General and Administrative Instruction Volume 2 Chapter 67) details the circumstances under which administrative action is to be considered, and includes "…following…a court-martial…(whatever the findings) where there is an allegation of unsuitability, inefficiency or associated misconduct." It continues: "To avoid double jeopardy…, the caveat here is that administrative action is not based solely on the charge(s) dealt with at those proceedings and that further failings have come to light." There is no implication here that the administrative process can be used as a substitute for the disciplinary – quite the reverse, in fact; rather that, should the disciplinary process reveal evidence of wider professional misconduct, then that should be the trigger for further action to identify individual or collective shortcomings and correct them.

34. Although the administrative process has not yet concluded in the the case of the death of Baha Mousa, not one officer or soldier has been administratively sanctioned in connection with any of the cases covered in this report. In one case, an officer was initially sanctioned after an administrative investigation, but that sanction was subsequently overturned on appeal. In the cases of Ahmed Jabber Kareem and Nadhem Abdullah, the chain of command considered administrative action, but concluded (for perfectly sound reasons) that it would be inappropriate. And yet the net effect of those decisions could now be interpreted as the Army having in some way failed to discharge its duty to maintain professional standards. In both those cases, an Iraqi had died in circumstances that obviously involved British troops, but no culpability had been identified in the disciplinary process; in those instances, it would not be specious to suggest that there had been "an allegation of unsuitability, inefficiency or associated misconduct" at the conclusion of the disciplinary process that should have triggered further action to discover what had happened.

35. It is not the purpose of this report to revisit the chain of command's decisions in any specific case; but we must acknowledge that the administrative process is not without its limitations. It cannot, for example, begin until after the disciplinary process has been completed – and, as this report explains later, that was in most cases only concluded many months, if not years, after the event – which raises inevitable questions of fairness. The problems associated with gathering evidence of a sufficiently high standard for the disciplinary process still apply to an administrative investigation – compounded by the inevitable delay of having to wait for the former to be complete. The perception of double jeopardy will always have to be carefully managed, and the chain of command will have to make a careful judgement of the relative benefits of taking further action against soldiers who have already been subjected to criminal proceedings. And there will invariably be circumstances at the time of the conclusion of a court martial that will affect the usefulness of undertaking administrative action: the subsequent deployment of the unit concerned to a further operation, for example, or the fact that some of those involved may have left the Army in the intervening time.

36. We need to be clear, however, that some sort of further action ought usually to follow any disciplinary case where there has been evidence of wider professional failing or wrongdoing. The Army has a number of options here, one of which is administrative action – the principal purpose of which is to restore operational effectiveness and efficiency, and which could result in the award of sanctions against individuals. It also has the option of directing a further inquiry (including convening a formal Board of Inquiry), the principal purpose of which might (in the sort of instances with which this report is concerned) be to identify any systemic failings in particular units or groupings within the Army so that they can be put right. To that end, there will be some cases where the decision to proceed with either administrative action or a further inquiry should not lie with the immediate chain of command of the individual(s) concerned, but rather should be directed from without the chain of command, by the Adjutant General's staff – as, indeed, has been done in some of these cases. The challenge for the Army now is to ensure that the decisions not to proceed either with administrative action or with a further formal inquiry in two serious cases of abuse are not seen as a precedent; but rather that the most effective use is made of the various options available to it to maintain its professional standards. That will require renewed education of commanders on the purpose of administrative action, and should be taken into account in delineating the Adjutant General's responsibilities under his forthcoming new role as Inspector of Standards for the Army.

LEARNING LESSONS FROM DISCIPLINE CASES

37. Administrative inquiries are but one of a number of avenues for the Army to learn lessons from breaches of discipline. The Army is generally very effective in capturing purely operational lessons learned from practical experience; but it seems not to be as effective when it comes to identifying matters relating to breaches of discipline or the law. Post-tour interviews allow commanders to record any concerns they may have had at the time; and visits to operational theatres by OPTAG (who conduct pre-deployment training) are frequent, and will usually pick up immediate 'ground truth' to inform the training of the next wave of troops. These observations, however, tend to be more directly operationally focused than disciplinary. So, for example, we know that two Initial Police Reports were produced in May 2003 relating to allegations that, on two separate occasions but within the space of just over a fortnight, Iraqis had drowned in the Shat' al-Arab at the hands of British soldiers. That one of those cases did not subsequently proceed to trial is irrelevant: at the time, an ostensibly unusual event was alleged to have occurred twice in a short space of time. With all their other duties, the commanders on the ground cannot reasonably be blamed for failing to identify what may or may not have been a trend; but a more immediate, effective system for referring that sort of information to others with the capacity to analyse it might have identified such a trend. In fact, the evidence suggests that these were two isolated incidents; but had they been a symptom of a more fundamental failing, they might have been overlooked. By comparison, if there had been two reports of a new weapon being used by insurgents to attack British armoured vehicles within a fortnight, it is certain that the Lessons Learned process would have identified its significance, determined the counter-measures needed to combat it, and quickly disseminated new procedures to mitigate the risk. The fact that this process does not apply to disciplinary matters is only partly explained by the need for confidentiality and the preservation of evidence; but it is a failure in the process that could be fairly easily rectified without compromising the fundamental principle of innocence until proven guilty.

DELAY

Context

38. The amount of time taken to resolve some of the cases with which this report is concerned has been unacceptable. Baha Mousa died in September 2003, and his death was reported immediately; and yet the court martial of the individuals accused of his murder did not convene until September 2006 – and only now that the court martial has concluded can we consider what further inquiries may be necessary, and determine the need for subsequent administrative action; in other words, nearly four years after the event, the case has still not been concluded. Sa'eed Shabram died in May 2003, but the Formal Preliminary Examination was not held until March 2006, and the case formally discontinued in July 2006 – over three years after the event. The court martial in connection with the death of Ahmed Jabber Kareem did not convene until September 2005, 28 months after he died; by that time, three of the seven soldiers who had been accused of his murder had left the Army, and a further two were absent without leave.

39. In most cases, it is inappropriate for the Army to take administrative action against any officer or soldier until the disciplinary process has been completed, because of the risk of prejudicing the trial. When that disciplinary process takes as long as it has taken in most of these cases, then the impact of any subsequent administrative sanctions is significantly reduced – indeed, such sanctions are likely to be counterproductive. Moreover, the longer the disciplinary process takes, the less likely it is that the chain of command will take proactive measures to rectify the matters that contributed to the commission of the crimes in the first place.

Developments Since 2003

40. It is important to note that some of the key stages that contribute to delay are without the control of the Army – in the case of Baha Mousa, for instance, the defence required almost an extra year to prepare their defence. But the Adjutant General is keenly aware of the risks to the military justice system that delay poses. Since December 2005, he has chaired a Delay Action Group which has already significantly reduced delay in a number of areas. The average time for all court martial cases to come to trial, for example, has reduced from just under ten months in 2003 to just under seven month months in 2006 – a statistic that compares very favourably with the equivalent times in the civilian system.

THE ARMY'S CORE VALUES

Context

41. The Army's Core Values – Selfless Commitment, Courage, Discipline, Integrity, Loyalty, and Respect for Others – articulate the code of conduct within which the Army conducts its unique business. They reflect the moral virtues and ethical principles which underpin any decent society, but which are particularly important for members of an institution with the responsibility of conducting military operations – including the use of lethal force – on behalf of the Nation. The Army requires that all its people understand these Values and live up to their associated standards. It does this in part by mandating annual training for all ranks, but also by requiring its leaders to set a personal example to their subordinates.

42. The evidence from the cases of deliberate abuse with which this report is concerned suggests that there was a failure to live up to those Values and Standards by some of those involved – not just the accused, but also some of the other individuals involved on the periphery of the investigations; and not just the soldiers, but some of their commanders as well. A particular example of this failing was the lack of co-operation experienced by the Service police in conducting investigations, and what the judge in the Baha Mousa case referred to as the 'wall of silence' from some of those who gave evidence. This is not a form of behaviour limited only to the Army; but it is perhaps exacerbated in an organisation that trains its people in the virtues of loyalty, and which stresses the importance of cohesion. The challenge is to educate our people to understand that lying to the Service Police, or having 'selective memory loss' in court, in order to protect other members of their unit, are not forms of loyalty, but rather a lack of integrity. Respect for others means respecting all others – and that includes people who may be your enemies. Courage includes having the moral courage to challenge unacceptable behaviour whenever it is encountered.

Developments Since 2003

43. The evidence from Iraq to date has been that the huge majority of our people are far exceeding the standards the Army requires of them; but for a few, we need to engender a better understanding of what our values and standards actually mean in practice. The Army Board has already recognised this shortcoming, and tasked the Adjutant General with developing better means of inculcating the Army's Core Values into all its people. It is not his intention simply to require all members of the Army to be able to recite the Six Core Values parrot-fashion, but rather to inculcate the practical adherence to them into all aspects of our lives, at home or on operations. That work includes the re-issue of core policy publications, measures to recognise and reward behaviour that encompasses the Army's Values and Standards, and the production of new doctrine on leadership that articulates the leader's role in inculcating the Army's Values. This work is well advanced, and most of the measures had already been achieved by the end of 2007.

SUMMARY

44. We can be assured that the great majority of officers and soldiers who have served in Iraq have done so to the highest standards that the Army or the Nation might expect of them, under extraordinarily testing conditions. There is no evidence of fundamental flaws in the Army's approach to preparing for or conducting operations: we remain the envy of our allies for the professionalism of our conduct. And we can be assured, as a result of a recent audit by the Director of Operational Capability, that the doctrine, training and education required to deal specifically with detained civilians has been comprehensively reviewed, and that measures have been put in place to ensure that all those involved in prisoner handling or interrogation are now significantly clearer about the correct procedures. We can be assured, as a result of recent independent scrutiny by Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, that Army police officers and lawyers are now as well equipped as possible to deal with the peculiar challenges that they will face on current operations, and that the procedures of the Military Criminal Justice System are fit for purpose.

45. It is also apparent that there remain some outstanding issues that have not yet been fully rectified. We need to ensure that lessons learned from the disciplinary and administrative processes (police investigations, legal advice and trials) are better collated as part of the Army's formal Lessons Learned process, so that trends in criminal behaviour or professional shortcomings can be quickly identified and remedied. We need to ensure that a better understanding of the Army's Core Values, and their application, is inculcated into all ranks, and especially commanders, in order to instil the fundamental elements of

good behaviour into all members of the Army. And to support that, we need to ensure that the correct use is made of the options available under administrative procedures, so that professional conduct is upheld and reinforced. Finally, and notwithstanding any findings from further inquiries into the Baha Mousa case, military doctrine should be amended to provide all members of the Army with a clearer understanding of interrogation and tactical questioning procedures, and formally to proscribe the Five Techniques on all military operations.

46. The Army condemns the sort of behaviour that has been exemplified in the cases of abuse with which this report is concerned. Such behaviour besmirches the reputation of the vast majority of officers and soldiers, whose behaviour has been of the very highest standard. Like any other large institution, the Army is subject to a process of continual professional development, and this report has highlighted those specific areas where practice and procedures have been amended as a result of these cases. The intent to ensure that they do not recur has been clearly articulated by the Chief of the General Staff, writing to the Army in April 2007:

> *When I took up my previous appointment as Commander-in-Chief of Land Command in April 2005, I reminded and required all commanders to set the example to their subordinates and, within the context of Mission Command, provide the leadership and supervision that will ensure the delivery of required outcomes as well as professional behaviour. I underline again the responsibility of all leaders from Chief of the General Staff down to the most junior Lance Corporal to both delegate, as necessary, but also to supervise, where appropriate, the execution of tasks.*
> *That is the responsibility of command.*

Annex:

A. Measures to Prevent Abuse on Operations Since 2003.

Measures to prevent abuse on operations since 2003

Doctrine and Policy

Ser	Measure	Detail
1	Army Doctrine Publication (ADP) Land Operations published May 05	ADP Land Operations benefited significantly from analysis of events in Iraq. The pamphlet encapsulates the overall philosophy and principles by which the Army should operate; and Chapter 7 ('The Moral Component') deals with issues such as ethics, motivation and leadership and moral cohesion. A 'road-show' during 2005 to formations, Arms Schools and the Staff Colleges ensured even wider awareness.
2	LAND Command Training Manual Dec 06	LAND/Trg/2803 dated 13 Dec 06 is the Land policy note on incorporation of the contemporary operating environment into training. It outlines the conceptual incorporation into planning and the physical incorporation into training of Prisoner Questioning handling, targeting of enemy mixed with non-combatants, and the use of indirect fire and unmanned air vehicles on operations.
3	Joint Doctrine Publication (JDP) 1-10 Prisoners of War, Internees and Detainees published Mar 06	JDP 1-10 replaced Joint Warfare Publication 1-10 Prisoners of War Handling. It provides high level joint doctrinal guidance on how to deal with any person who falls into the hands of UK Armed Forces during military operations, and informs the theatre specific Standing Operating Instructions (SOIs) and Tactical Aide Memoires (TAMs) which are issued to all soldiers. It emphasises repeatedly the requirement for humane treatment: of the 5 chapters that comprise JDP 1-10, Chapter 2 deals with standards of treatment, and Chapter 3 with the consequences of failing to adhere to those standards. It contains a list of proscribed acts (murder, torture, collective punishments, etc) which also specifically prohibits the practice of 'hooding'.

Ser	Measure	Detail
4	MOD Policy on Tactical Questioning and Interrogation: Support to Operations published Jan 07	The policy provides MoD policy guidance for UK forces engaged in tactical questioning. It details the training for and conduct of TQ. It gives detailed guidance on prohibited acts during TQ in addition (by inference) to those listed in JDP 1-10 – a list that includes all of the Five Techniques covered by the Government's 1972 undertaking. It also contains direction on when sensory deprivation and physical restraint may and may not be used, and details that soldiers who have attended Conduct After Capture training may not act as Interrogators or Tactical Questioners unless revalidated on a DISC course.
5	Surgeon General's Policy Letter Medical Support to Persons Detained by UK Forces Whilst on Operations published 6 Jan 07	The Surgeon General's Policy Letter provides direction on the standards of medical support that should be provided to persons detained by UK forces whilst on operations. It outlines the legal provisions and ethical principles that underpin this provision of medical care, and directs that it should be understood by all medical personnel who may be liable for deployment and their planning staffs.
6	Values and Standards of the British Army	Two complementary pamphlets (one designed for all members of the army ansd the other specifically for commanders) were published in March 2000. They articulate how Values and Standards underpin the Army's ethos, and formally codify the standards of conduct essential to sustain the moral component of fighting power. During 2007, these were reordered into an overarching policy booklet for all commissioned, warrant, and senior non commissioned officers and an accompanying booklet for all junior ranks, designed and written to ensure maximum accessibility. The Values articulated in the original pamphlets endure; but in both the new booklets the standards have been re-written so that their articulation and enforcement are more reasonable and practical. In addition, and Action Plan sponsored by the Adjutant General applies a series of targets aimed at improving the understanding of Values and Standards throughout the Army by means of innovative communication methods, leadership and training & education. The bulk of that programme of work is now complete, with only the publication of the new booklets outstanding: they will be published in the early part of 2008

Training

Ser	Measure	Detail
1	Military Annual Training Tests (MATT) introduced Apr 06	MATT 6 encompasses the Army's requirement (under Defence Information Note 06-093) for Law of Armed Conflict (LOAC) training. MATT 6 replaced ITD (A) 6 and is a significant improvement as it is tested. MATT 6 includes a 22-minute LOAC training video. The video was updated in line with routine practice in 2004 and again in 2006. MATT 6 also covers training on the Army's Values and Standards, plus its internal policies on bullying and harassment. It is to be conducted annually by all members of the Army, and is directed in the Land Mounting Instruction, to be conducted in the 6 months prior to deployment.
2	Training on Arrest and Detention as part of Pre-Deployment Training significantly enhanced since Jan 04.	1. Op TELIC SOI 390 (revised Nov 06) is the detailed UK instruction for prisoner handling in Iraq, a presentation on which every unit deploying to that theatre receives as part on their initial orientation package. Every sub-unit is subsequently tested, practically, on the application of SOI 390 as part of their confirmation exercise, both with Operational Pre-Deployment Training Advisory Group (OPTAG) and Mission Rehearsal events. Multi National Deployment (South East) (MND(SE)) SOI 390 was re-numbered in Jun 07 as SOI 990 'Stop, Search, Question, Detention and Internment Procedures'. 2. Since TELIC 2, OPTAG training has emphasised that prisoners are to be treated humanely and are not to be hooded and that stress positions are prohibited. The 2 key handling issues for detainees are that, if vision needs to be restricted, then it is done so by means of blacked out goggles and that, if arms are to be restrained, they are to be cuffed in front of the body and not behind. 3. Individual Reinforcements (IRs) receive a legal awareness briefing which makes reference to prisoner handling issues but, due to time constraints, do not receive a detailed SOI 390 presentation and are not practised in the application of detainee handling.

Ser	Measure	Detail
		4. On request, since early 2004, the Military Corrective Training Centre (MCTC) staff provide support to OPTAG training through unit and command-group presentations and Subject Matter Expert (SME) advice on detainee handling during confirmatory exercises. Additionally, since late 2004, units detailed to run the DTDF in TELIC and the Temporary Holding Facility in HERRICK, provide a guard force which MCTC staff train over a 2 day period, either in the UK or in theatre. 5. The equivalent detainee handling instruction for Afghanistan is contained within COMBRITFOR/9300/1, COMBRITFOR Directive on Detention, dated 18 Dec 06, and its associated SOI 1001. The OPTAG training package for Op HERRICK is similar to that for TELIC, but reflects the fact that, in that theatre, detainees are normally handed over to the National Directorate of Security (NDS). 6. The Director of Operational Capability (DOC) was tasked in June 2007 by the Minister for the Armed Forces with conducting an independent analysis of the training aspects of the detention and questioning of prisoners. Accordingly, DOC has conducted an Audit into the training conducted, both routine and pre-deployment training, in respect of the detention and questioning of the prisoners of UK Armed Forces. This work includes consideration of both generic training for personnel deploying and the training given to those personnel specifically tasked with prisoner handling. Reported to Ministers November 2007.
3	Enhanced Training on legal awareness including Law of Armed Conflict (LOAC), Rules Of Engagement (ROE), Use of Force, Arrest and Detention, Command Responsibility etc as part of career courses.	1. Recruits at Phase 1 and 2 receive LOAC training based upon the MATT 6 model. 2. Royal Military Academy Sandhurst (RMAS) Cadets/ Officers used to receive military law instruction based on the PQS1 and 2 structure but this lapsed some time around 98 – 2000. RMAS, under their own initiative, reintroduced an LOAC element and Op Law Branch (OLB) became involved in 2004. Officers at the RMAS now receive 10 periods taught by academic staff under guidance from the OLB. The OLB presentation is given to students on LOAC, ROE and Command Responsibility. Training is tested. In addition, EX BROADSWORD provides practical demonstration on LOAC issues.

Ser	Measure	Detail
		3. Since Dec 03, Junior Officers Tactics Division (JOTD) students receive a presentation from OLB and then participate in a case-study discussion period which specifically examines questions of detainee handling. As part of the logistic element of the course, students receive a Combat Service Support (CSS) presentation which includes prisoner of war (PW) handling at Brigade and BG level. PW handling is then included and discussed in all exercises for the remainder of the course. 4. Operational legal issues that effect the planning and conduct of ops are covered during the Combined Arms Tactics Course (CATAC). This includes LOAC, ROE Use of Force Targeting and detainee handling. LOAC is taught but predominantly targeting and ROE and legal issues in the planning process. 5. Commanding Officer Designate Courses (CODC) receive a presentation on legal issues on operations. This includes detainee handling and command responsibility. 6. Both the Battlegroup Commanders' Course and the Brigade Commanders' Course receive a presentation on legal issues on operations similar to that given to CODC, but with a longer period of time for discussion.
4	Improvements to Tactical Questioning Training at The Defence Intelligence and Security Centre (DISC)	1. MOD policy on Tactical Questioning and Interrogation was most recently updated in Jan 07. 2. The individual courses run at DISC have been separated out. Interrogators attend the new Long Interrogation Course (2 weeks, 2 per year for a total of 12 students), which was introduced in 2000 at DISC, with the Resistance to Interrogation Course run separately. Personnel are not allowed to do both courses. Those who have completed the old course, which included resistance to interrogation, have to re-qualify by completing the new Long Interrogation Course. 3. Since 1997, DISC have also run a TQ and Prisoner Handling Course. In late 2004/early 2005 this was changed to the TQ course (the PH element being removed) (8 per year, 24 students per course). This is aimed primarily at Battlegroup (BG) personnel who operate close to the point of capture and who may have to screen prisoners in Forward Operating Bases before

Ser	Measure	Detail
		handing them over to the Divisional Temporary Detention Facility (DTDF) (manned by the Military Provost Staff (MPS) or guard force) or to interrogators.
5	Greater Cultural Awareness on Pre-Deployment Training.	Cultural Awareness training and education continue to be enhanced in the light of operational experience. Theatre orientation training delivered during Pre Deployment Training (PDT) is augmented by additional briefings to WO2s and above during Individual Reinforcement courses. Training is reinforced (theoretical as well as practical on exercise) through the use of Iraqi and Afghan nationals to imbue all ranks with an understanding of the culture, customs and philosophy of the indigenous peoples. In-depth support is also provided by Theatre Education Centres and Operational Unit Education Officers through the delivery of language training and the use of interactive e-based cultural awareness training packages. Action is also in hand to include cultural awareness during soldier career courses such as the Command Leadership and Management course.
6	Improvements to Regimental Police Training	All Arms Regimental Police Course revised and re-designated the Unit Custody Staff Course in Feb 06. Course now includes training on operational custody matters from point of capture through unit holding to handover to the MPS. Emphasis is placed on the humane treatment of all captured persons at all times and in all environments. MPS are trained in custody and restraint techniques in accordance with Home Office guidelines.

Military Criminal Justice System

Ser	Measure	Detail
1	Improvements to Investigation	1. The Service Police (RN Police, Royal Military Police (RMP) and RAF Police) have been subject to major MOD Studies since 2004: • Service Police support on Operations 2004. • Review of Department's requirements for Service Police 2005. • Review of Single service Police Forces in support of the MCJS 2006. 2. In addition, Royal Military Police (Special Investigation Branch) (RMP (SIB)) has been formerly inspected by Her Majesty's Inspector of Constabulary (HMIC). In total 110 recommendations have been made which affect not only the Service Police but the wider Services and MOD. The vast majority of these recommendations have now been implemented or are under implementation. 3. The Defence Police School (formed in September 2005) delivers modern, fit-for-purpose, training for RMP personnel. 4. More RMP (SIB) now attend Home Department Police Force Senior Investigating Officer training: an additional 18 were trained in 2005 and 2006 (a 33% increase from 2004), with a further 8 due to attend in 2007. 5. 14 extra established regular posts have been obtained for the Special Investigation Branch from 1 Apr 07; this provides an additional deployable Section plus further reinforcement of the Specialist Crime Team, which has world wide responsibility for major inquiries. 6. PM(A) now determines the level of RMP (SIB) specialist investigative support required in each operational theatre, with those assets remaining OPCOM PM(A) and TACOM the Theatre Commander. 7. There are now 15 SIB personnel routinely deployed in Iraq (with less than 6,000 troops deployed, compared to 14 SIB personnel at the start of the war when 22,000 troops were deployed), 9 SIB personnel deployed in Afghanistan and a further 5 SIB personnel held at readiness for surge operations as required.

ANNEX A

Ser	Measure	Detail
		8. In addition, the establishment of the Services Police Crime Bureau (SPCB) at Portsmouth in 2006 has provided greater second line operational police support to all RMP and Service Police units worldwide, including those in operational theatres. 9. The MOD has appointed an Independent Casefile Assessor (ICFA) in 2007 to review a small percentage of serious cases investigated by the service Police annually in order to provide lessons learned – these cases will include those conducted in operational theatres. 10. RMP Review Policy for Serious Criminal Investigations and Critical Incidents Policy was introduced in October 2006. The aim of this policy is to ensure that all serious criminal investigations and critical incidents are subject to formal review at various points by both internal and if necessary external mechanisms. This follows civil police practice and gives much greater surety that these major investigations are being investigated appropriately.
2	Improvements in the Provision of Operational Legal Advice	1. OLB fully established in 2006 under an Army Legal Services (ALS) Brigadier. It provides expert advice on the practical application of domestic and international law on operations, and reviews all material taught in both the adaptive foundation and on pre-deployment training. 2. Army lawyers now embedded at the DISC to provide integral advice on training 3. On operations, military lawyers are now established at Brigade level. Since 2005 lawyers attached to Brigade formations take part in all Brigade PDT to ensure integration and continuity. 4. Military lawyers deploying on operations who are not part of the OLB must attend a basic Op Law course and a Brigade Legal Course (both run by OLB) prior to deployment. In addition they receive one to one Theatre specific Training in International Law for ALS personnel. 5. Army Prosecuting Authority (APA) deploys prosecutors to operational theatres to support service police directly. 6. Development, Concepts and Doctrine Centre (DCDC) has established a joint legal cell to provide legal advice on doctrine.

Ser	Measure	Detail
3	Improvements to Military Courts	Three new court centres recently opened in Colchester, Bulford and Catterick. Also, a new combined court centre at Sennelager, replacing the existing courts at Osnabruck, Hohne and Gutersloh, is due to open late 2009. All these courts, which compare very favourably with civilian courts, have 2 courtrooms with separate facilities for the Judge Advocate, Prosecution, Defence, Witnesses and the Board. These facilities include vulnerable witness suites, integrated Video Tele Conferencing facilities and dedicated translation/escort services for Iraqi witnesses attending court.
4	Reducing Delay	1. AG's Delay Action Group (DAG), set up in Dec 05, is attended by the relevant Directors of the key elements of the Military Criminal Justice System (MCJS) – Policy, Casework Standards, Police, Legal, Military Court Service (MCS) and LAND Pers. It monitors the progress of casework and holds to account those responsible for the custodianship of casework. The result, through amendments to the process and the setting of targets, has been a reduction in average time to trial from 9 months to under 7 months in less than 2 years. The introduction of an organisation in 2001, the Office for Standards of Casework (Army), (OSC(A)), to track and audit casework across the Army for the first time also reduced the average time to trial between 2001 and 2003 from 11 months to 9 months but the level of operation commitments then slowed progress.

Notes

Ser	Measure	Detail
4		2. Specific measures taken to reduce delay over the last 3 years include: a. More proactive involvement in current casework by Bde and Div Comds through the Army-wide CASEBOOK IT monitoring and tracking system, introduced by OSC(A). b. Action by the Office of Judge Advocate General (OJAG) and the MCS to bring cases more quickly to trial, such as an automatic Directions Hearing and early listing of trial process, which enable guilty pleas to be identified earlier and then disposed of quickly. c. Continual visits by the Director of OSC(A) throughout the chain of command to monitor, advise and spread best practice. d. PM(A) has introduced an Electronic Casefile Management Report (ECMR) covering all cases under investigation by the RMP. In the last 2 years cases under investigation over 100 days have been reduced from 150 to around 50. 3. The primary core metric used to assess delay and identify areas for deeper analysis in casework is mean average time to trial. However, the time taken by each component of MCJS is measured too so that changes and effects can be assessed. Performance is measured against target times set down in AGAIs. OSC(A) tracks progress as it occurs using the CASEBOOK database and OSC(A) staff hasten outstanding actions on a day-by-day basis. AG DAG, which meets every 2 to 3 months, is presented annually with a full progress report and an in-depth analysis of actual and potential issues. It also examines lists of cases that need high-level attention at every meeting; these are reviewed personally by AG. One example of the impact of AG DAG is OSC(A)'s analysis (in early 2006) of MCJS, which indicated that the majority of cases incurring long delays were where the accused was or had been absent without leave. An initiative during that year to recover absentees and to accelerate their trials had a dramatic effect on time to trial.