



Ministry of Defence
Main Building
Whitehall
London SW1A 2HB
United Kingdom

E-mail: DJEP-TOresponses@mod.uk

Ref: FOI2018/04043

[REDACTED]

April 2018

Dear [REDACTED]

Thank you for your email of 7 March requesting the following information:

"If you recall, I asked you for a copy of your retraction of this assertion. If you failed to withdraw this comment, I'd ask for a copy of your communication of this matter with Sir George's office."

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that some information in scope of your request is held.

The information you have requested can be found in the attached document, Annex A, but some of the information falls entirely within the scope of the absolute exemptions provided for at sections 40 (Personal Data) and of the FOIA and has been redacted.

Section 40(2) has been applied to some of the information in order to protect personal information as governed by the Data Protection Act 1998. Section 40 is an absolute exemption and there is therefore no requirement to consider the public interest in making a decision to withhold the information.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact us in the first instance at the address above. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely,

Directorate of Judicial Engagement Policy

From: [REDACTED]
Sent: 08 March 2018 11:23
To: Sanders, Ben B1 (DJEP-Historic Investigations AH)
Cc: [REDACTED]
Subject: RE: 20180308-IFI_Shabram_

Dear Ben

Thank you for your email below. Sir George has seen your draft response and considers the proposed wording is fine. He suggests that you amend it to read as follows:

'I have considered the objection you raised regarding the use of the word "detained" in my letter appointing Sir George Newman to examine this incident. However, as this word is used in the Final Report produced by the Service Police, I am content that it accurately reflects the current state of the evidence. I have notified Sir George that you dispute this point. Sir George confirms that his Terms of Reference provide that all matters of fact will be considered and fall to be determined during the course of his Investigation, and that he is aware that this has been raised as a potential matter of dispute on which it may be necessary for him to make his own conclusion as part of his report.'

Please let us know if there is anything that you would like to discuss further.

Kind regards

[REDACTED]
[REDACTED]
Assistant to the Inspector
Iraq Fatality Investigations
23 Essex Street, London, WC2R 3AA
Telephone: +44 (0)20 7413 4715

From: Sanders, Ben B1 (DJEP-Historic Investigations AH) [mailto:[REDACTED]]
Sent: 08 March 2018 09:49
To: [REDACTED]
Cc: [REDACTED]
Subject: 20180308-IFI_Shabram_
Importance: High

Sir George,

An issue has arisen in relation to your letter of appointment and terms of reference, which I enclosed when writing out to the soldiers (enclosing your letter) yesterday. At 16:58 yesterday, [REDACTED] emailed me (copied to two MPs) as follows:

In your confirmation letter you sent to Sir George Newman, you incorrectly stated:

On the 23 May 2003, three soldiers from 32 Royal Engineer Regiment on the dockside by the Shatt al Arab river observed and detained two Iraqi men on suspicion of stealing electrical cables.

Nobody was detained, and frankly I find it deeply irresponsible for you to assert as such.

Could you please withdraw this false assertion and send me a copy of your retraction to Sir George Newman.

I am satisfied that the appointment letter is correct, as the word "detained" is used in the Service Police Legacy Investigations Final Report, and I intend to reply along the following lines:

I have considered the objection you raised regarding the use of the word "detained" in my letter appointing Sir George Newman to examine this incident. However, as this word is used in the Final Report produced by the Service Police, I am content that it accurately reflects the current state of the evidence. I have notified Sir George that you dispute this point and anticipate that this is one of a number of issues of fact on which Sir George will likely need to reach a conclusion in due course.

As it will be necessary to copy the two MPs into the response to [REDACTED], I shall need to clear my response through Ministers' offices. It is possible, therefore, that the wording will change slightly. Nevertheless, I would be grateful if you could confirm whether you are content that this draft response accurately reflects the position with regard to your investigation.

Regards,
Ben

Dr Benjamin Sanders

Deputy Head (Public Law & Historic Investigations), Directorate of Judicial Engagement Policy

Address: 3H, MOD Main Building, Whitehall, LONDON, SW1A 2HB

Telephone: [REDACTED]

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