

1 A. No, that would -- well, that would have been -- I would
2 have sent that straight away, sir, that incident I would
3 have sent that as soon as I got back on the aircraft or
4 actually outside I would have sent that information.

5 SIR GEORGE NEWMAN: So your best --

6 A. I wouldn't have sent that like you just said.

7 SIR GEORGE NEWMAN: No, all right. So your belief is that
8 you sent that at the time that --

9 A. Yes.

10 SIR GEORGE NEWMAN: -- he was handed over?

11 A. Yes, yes.

12 SIR GEORGE NEWMAN: It was that time he was handed over to
13 the Americans or before he was handed over?

14 A. No, it would have been about the same sort time, sir,
15 because we're talking about a minute, two minutes,
16 difference.

17 SIR GEORGE NEWMAN: Where does this heart attack reference
18 come from?

19 A. Well if I remember rightly I -- rather than going
20 through my statements now, but the conversation at the
21 back of the aircraft was I said -- you know, heart
22 attack was mentioned and I accepted that as -- you know,
23 it wasn't for me to -- a heart attack was -- I accepted
24 it.

25 SIR GEORGE NEWMAN: You accepted it?

1 A. As a reason for death at that moment in time, sir, yes,
2 I did, yes.

3 SIR GEORGE NEWMAN: It didn't come from anybody who was
4 qualified to --

5 A. No, sir, no.

6 SIR GEORGE NEWMAN: Now I mentioned that I would come to
7 this point and that's probably where I would stop so far
8 as you were concerned, namely the hot debrief. Do you
9 remember a hot debrief taking place?

10 A. There would have -- I'm sure it would have taken place,
11 sir, but I can't remember us -- I'm pretty sure it would
12 have happened, sir.

13 SIR GEORGE NEWMAN: Whenever a witness tells me "I'm pretty
14 sure" or "There would have been", I immediately
15 think: oh, well, that's the end of that, he doesn't
16 really remember it.

17 A. Well --

18 SIR GEORGE NEWMAN: Now is that where we are?

19 A. If it's in my statement, sir, then I stand by it.

20 SIR GEORGE NEWMAN: Okay.

21 A. You know, if on my first initial statement, which was
22 14 years ago, then I stand by it, sir.

23 SIR GEORGE NEWMAN: I know it's a long time ago.

24 A. If it says that, then I will go with that.

25 SIR GEORGE NEWMAN: Can you help Julia, please? The hot

1 debrief, his evidence on the hot debrief. The hot
2 debrief references are page 3 of ... It is page 3.
3 A. Yes, of 3, is that? Sheet number 3 of 3, sir, is it?
4 SIR GEORGE NEWMAN: Yes.
5 A. After the debrief, yes.
6 SIR GEORGE NEWMAN: We go down:
7 "It was also" -- we get --
8 A. Right. Yes, I've got that, sir, yes.
9 SIR GEORGE NEWMAN: "We then reloaded the aircraft and
10 returned to our base, and I believe we had a quick
11 debrief, which would have been a quick resumé of the
12 mission."
13 A. Yes, sir, yes.
14 SIR GEORGE NEWMAN: "I learnt that the dead EPW had managed
15 to get to his feet."
16 Is that right?
17 A. Yes, if that -- yes, that's what I am saying there, sir,
18 yes, I stand by that.
19 SIR GEORGE NEWMAN: That's what you are saying, but is it
20 right?
21 A. Yes. Well, that's what I was told, sir, yes, and that's
22 what I am -- that's what I would have put -- that's what
23 I put in my statement at that time.
24 SIR GEORGE NEWMAN: I see. This is you had been told that
25 he had got to his feet --

1 A. Yes, and I --

2 SIR GEORGE NEWMAN: -- and he'd been thrashing around,
3 during which he'd been put down in a controlled fashion
4 and secured?

5 A. Right, sir. That's what would have come out in the hot
6 debrief.

7 SIR GEORGE NEWMAN: That came out in the debrief?

8 A. Yes, sir, yes.

9 SIR GEORGE NEWMAN: Do you remember who attended the
10 debrief? No names.

11 A. Well, no. No, I don't remember, but I would say
12 logically it would have been everybody that was involved
13 in the mission.

14 SIR GEORGE NEWMAN: Right.

15 A. That seems logical to me, and I am pretty sure that's
16 probably how it would have happened but ...

17 SIR GEORGE NEWMAN: Now you later go on to say -- look, this
18 is important, and I am going to leave it, but it's
19 important while I have you here for what happens
20 hereafter. You see:

21 "After the debrief, I contacted my HQ to report on
22 the overall end state of the mission" --

23 A. Mm-hmm.

24 SIR GEORGE NEWMAN: -- "the property recovered and passed
25 the N numbers of prisoners handed over and the issue of

1 the dead EPW."

2 A. Right.

3 SIR GEORGE NEWMAN: Now how do you remember doing that?

4 What do you remember? By what means did you do that?

5 A. I see. That would have been via radio, sir. That

6 information would have been via radio.

7 SIR GEORGE NEWMAN: Are you in any doubt that that is what

8 you did?

9 A. No, I'm not in any doubt about that, no. It would have

10 been my radio, yes.

11 SIR GEORGE NEWMAN: And you are not in any doubt that that's

12 what you did? You informed --

13 A. Yes.

14 SIR GEORGE NEWMAN: -- your HQ?

15 A. Yes, I see. Yes.

16 SIR GEORGE NEWMAN: Is that right?

17 A. Yes, sir, I would have, yes.

18 SIR GEORGE NEWMAN: I can take it you are sure of that?

19 A. Yes, sir, you can, yes.

20 SIR GEORGE NEWMAN: Then you say in this written statement:

21 "Later that day, I received a request from my HQ to

22 provide a written report on the mission and I compiled

23 an initial overview transmitted by written means."

24 What are you referring to there?

25 A. Maybe, sir, I had to write a -- I am assuming I had to

1 write a resumé of what had happened and it was passed on
2 as a written --

3 SIR GEORGE NEWMAN: How was it passed on as a written --

4 A. Well, I was at H-2, and I would have passed it, you
5 know, to -- they would have had some form of passage of
6 messages getting passed backwards and forwards, I guess,
7 and that's because I didn't -- I wasn't -- I didn't
8 remain thereafter that so I don't know how it was passed
9 back. I don't know.

10 SIR GEORGE NEWMAN: You remember doing a written report
11 though, do you?

12 A. I don't remember per se, sir, sitting there, writing
13 a written report, but if that's what it says in my
14 statement, then -- and that would have been fresh,
15 then --

16 SIR GEORGE NEWMAN: You see, the only document I have, which
17 looks as though it's a written report, which could be
18 the one you referred to --

19 A. Mm-hmm.

20 SIR GEORGE NEWMAN: -- is a confusing document.

21 A. Right.

22 SIR GEORGE NEWMAN: Because it's not clear who made it. It
23 certainly -- could you look at the bundle. You have
24 a statement there I think which is a redacted EPW
25 incident witness statement. Have you got that?

1 A. I probably have, yes. Right, I have that, sir, yes.

2 SIR GEORGE NEWMAN: Now this is a confusing document, and

3 I just want to know whether you are able to help me at

4 all, because it commences in paragraph 1 by saying:

5 "I was the ARF commander on the night of the

6 incident."

7 A. Right. I don't --

8 SIR GEORGE NEWMAN: Well, if this is your statement, you

9 were not the ARF commander.

10 A. That's correct. Um, hang on a sec.

11 SIR GEORGE NEWMAN: All I want to know from you is whether

12 or not you can help me about this document?

13 A. Can I just read it, sir, and then --

14 SIR GEORGE NEWMAN: Yes, you read it, and then you can tell

15 me -- you may not be able to help me at all, but as part

16 of a complete process I need to know what you say about

17 it. (Pause)

18 A. Right. Well, that is as basically as we've discussed,

19 sir, on --

20 SIR GEORGE NEWMAN: Yes.

21 A. -- the whole thing.

22 SIR GEORGE NEWMAN: You see, the confusing thing is it's

23 basically as you have told me about it.

24 A. Right, yes. But you are trying to say -- you are asking

25 if I wrote that?

1 SIR GEORGE NEWMAN: Yes, or anything to that effect? It
2 looks to me as though whatever it is is there may have
3 been on the basis of information from you, but I am not
4 sure that it is the ...

5 A. Well, to be --

6 SIR GEORGE NEWMAN: -- something you wrote.

7 A. I can't be definite, sir --

8 SIR GEORGE NEWMAN: You can't.

9 A. -- because ...

10 SIR GEORGE NEWMAN: But there are bits of it which would
11 seem to me to be coming from you.

12 A. Right.

13 SIR GEORGE NEWMAN: Namely, paragraph 3:
14 "The commander [that's the American one] then asked
15 if he was in agreement that he had 15 EPW in his
16 control, to which the answer was 'yes'."

17 A. Right, sir, yes.

18 SIR GEORGE NEWMAN: That sounds as though it's coming from
19 you?

20 A. Yes, sir, yes.

21 SIR GEORGE NEWMAN: Very well. All right. I needed to put
22 that to you for completeness.

23 MR HENDERSON: Sir, I wonder if at this point I might just
24 suggest there is one further question that could be put
25 on this document.

1 SIR GEORGE NEWMAN: Anything which would help on this
2 document, Mr Henderson.

3 MR HENDERSON: I wonder -- in the heading there is what
4 appears to be a reference to the rank, which -- it's
5 been redacted either side of it, but it may assist on
6 the identity of the person who made that statement,
7 because it says:
8 "[Redacted] EPW incident witness statement [blank]",
9 and what I understand to be an army rank.

10 SIR GEORGE NEWMAN: I see, it appears there.

11 MR HENDERSON: Yes.

12 SIR GEORGE NEWMAN: I see. Would that indicate somebody
13 else, or the same person who is on that statement as
14 SSGT staff sergeant?

15 MR HENDERSON: Staff sergeant. I can only speculate, sir,
16 but I would have thought that heading suggests it's
17 a witness statement made by staff sergeant somebody.

18 SIR GEORGE NEWMAN: All right. Thank you.
19 Well, it may be we lean in favour of it being
20 something which emanated from you but with some measure
21 of confusion on the document itself.
22 All right. Okay?

23 A. Yes, sir.

24 SIR GEORGE NEWMAN: We have covered what you have referred
25 to, and thank you.

1 I wanted to finish at this point because I have
2 finished my questions of you.

3 Mr Henderson, thank you very much for that. Is
4 there anybody else who wants me to consider putting any
5 other question of Soldier A? Anybody? Mr Holt, any of
6 your clients? While he is here. I am not inviting
7 a great debate. I just wanted to know whether there is
8 something that leaps out at them or leaps out at you
9 which you would like me to put?

10 MR HOLT: No, sir. Thank you.

11 MR HENDERSON: Sir, I think there is one, if I may, again on
12 this document, if it was a document which this witness
13 produced, whether he agrees that there is no reference
14 in there to the EPW being dead.

15 SIR GEORGE NEWMAN: Well, I think that is certainly
16 a comment which it seems to me to be fair, unless you
17 are drawing an inference from other words there.

18 But look at the document. Look in paragraph 1,
19 would you. You have the document I want you to look at,
20 the so-called statement?

21 A. That, yes. The one you have just been looking at, sir,
22 yes.

23 SIR GEORGE NEWMAN: Yes.

24 A. Sorry, which -- right, yes, I have it now.

25 SIR GEORGE NEWMAN: Look at the first paragraph.

1 A. Yes.

2 SIR GEORGE NEWMAN: Go to the middle of it.

3 A. Yes.

4 SIR GEORGE NEWMAN: You see the words "at this time"?

5 A. Yes, "at this time", yes.

6 SIR GEORGE NEWMAN: You are talking about the time you go to
7 the rear of the helicopter?

8 A. Yes.

9 SIR GEORGE NEWMAN: Take it slowly because this is
10 important.

11 A. Right.

12 SIR GEORGE NEWMAN: "At this time, I walked to the rear of
13 Heli2 and was informed that one EPW had potentially had
14 a heart attack."

15 A. Yes.

16 SIR GEORGE NEWMAN: "I asked how did he know this, and his
17 reply was, 'He was not moving on the aircraft and would
18 request vehicle PV'."

19 What's PV, remind me?

20 A. I would have thought -- I don't know. PV? I don't
21 know, sir. PV?

22 SIR GEORGE NEWMAN: No, it doesn't ring a bell with me.

23 A. RV but I don't know about PV, no.

24 SIR GEORGE NEWMAN: "I also discovered at this point one EPW
25 was immovable due to him having no legs."

1 We need not go into more of that.

2 "I then moved back to reception RV and told the JS
3 to move a vehicle", and so forth.

4 Now, going back to those very important words in
5 this statement, "At this time, I walked to the rear of
6 Heli2 and was informed that one EPW had potentially had
7 a heart attack".

8 A. Right.

9 SIR GEORGE NEWMAN: You see those words?

10 A. Yes, sir, I can, yes.

11 SIR GEORGE NEWMAN: What you've told me today, and what you
12 have in your statements, is in part that somebody did
13 suggest he might have had a heart attack, but you've
14 told me that you were told that he was dead or he was
15 believed to be dead.

16 A. No. Yes, sir.

17 SIR GEORGE NEWMAN: But that's not in this statement.

18 A. Well, no, it's not, but --

19 SIR GEORGE NEWMAN: Why is that?

20 A. I don't know, sir. I can't answer that.

21 SIR GEORGE NEWMAN: Well, have a think?

22 A. Well, unless by writing "heart attack" you just assumed
23 that they are dead. I don't know, sir. I can't --
24 I don't know why ...

25 SIR GEORGE NEWMAN: But somebody reading this --

1 A. Yes, sir, I understand --

2 SIR GEORGE NEWMAN: -- or somebody being told that this is
3 what your account was, wouldn't be necessarily led to
4 conclude that you were saying that you had been told he
5 was dead as opposed to simply being told that he'd had
6 a heart attack.

7 A. Right, yes.

8 SIR GEORGE NEWMAN: That's the significance of this
9 document.

10 A. Yes.

11 SIR GEORGE NEWMAN: Now going back to your evidence which
12 you have given --

13 A. Yes.

14 SIR GEORGE NEWMAN: -- were you told that he was dead or
15 believed to be dead or not?

16 A. Well, I go back to whatever I stated in the earliest
17 witness statement is -- because that would have been the
18 freshest in my memory, whatever I stated in there, sir,
19 I have to stand by that because --

20 SIR GEORGE NEWMAN: You stand by that?

21 A. Well, I have to, sir, because it was the most
22 up-to-date --

23 SIR GEORGE NEWMAN: You stand by that which you believe to
24 be the --

25 A. The most --

1 SIR GEORGE NEWMAN: -- most accurate and reliable piece of
2 information?

3 A. Yes, I have to, sir, because it's -- to try and -- that
4 would, you know, that's a statement that was made,
5 whenever it was made, 14 years ago so ...

6 SIR GEORGE NEWMAN: All right. Thank you.

7 Is there anything more you wanted out of that,
8 Mr Henderson?

9 MR HENDERSON: One more thing, I'm afraid, sir, if I may.

10 I think it comes from other evidence but there isn't
11 anything in this witness's statement itself, but I think
12 a relevant question for him, other than the conversation
13 that took place that back of the aircraft when he was
14 told this EPW had had a heart attack and might be dead,
15 did he learn --

16 SIR GEORGE NEWMAN: That's not quite the words he used, to
17 be honest.

18 MR HENDERSON: I beg your pardon, I'm paraphrasing it.

19 SIR GEORGE NEWMAN: I know the gist of it, but I don't want
20 it on the record that I accept that that is what he says
21 he said. That's all.

22 MR HENDERSON: I think a relevant question is: did he at
23 some subsequent point learn for sure that the EPW was
24 dead and who it was who informed him and when.

25 SIR GEORGE NEWMAN: Certainly. Yes, well ...

1 Go to your statement of 18 November, page 3.

2 A. Page 3.

3 SIR GEORGE NEWMAN: Got it?

4 A. Not yet, sir, no.

5 I've got it, sir. I've got it sir, yes.

6 SIR GEORGE NEWMAN: "Once on the aircraft", the first new
7 sentence on that page, do you see that?

8 A. Which page is that, sir?

9 SIR GEORGE NEWMAN: Page 3.

10 A. Yes, page 3.

11 SIR GEORGE NEWMAN: Third line:

12 "We returned to the Australian position for the next
13 lift."

14 A. Yes.

15 SIR GEORGE NEWMAN: Then:

16 "This time it all went smoothly, quicker."

17 A. S sir yes.

18 SIR GEORGE NEWMAN: "I don't recall anything specific going
19 amiss."

20 Then:

21 "On arriving at the American position, the unloading
22 of EPWs went better but not as good as it could have
23 been. But it was relatively smooth from our ARF.
24 During this handover the American commander confirmed
25 that one of the EPWs handed over on the first lift had

1 in fact been dead. And once he'd confirmed this I made
2 the decision to notify my HQ on this issue."

3 A. Mr.-hmm.

4 SIR GEORGE NEWMAN: Do you see that?

5 A. Yes. I do.

6 SIR GEORGE NEWMAN: That's not quite the same --

7 A. Yes.

8 SIR GEORGE NEWMAN: -- as what you've told me today?

9 A. No, sir, I appreciate that. Now where ... well, I might
10 have reconfirmed it on that -- you know, as a later
11 radio transmission. But I certainly would have sent it,
12 sir, when it happened. I stand by that. And then
13 whether or not I reiterated it in the radio log, there's
14 a second entry at a later period to reconfirm what I've
15 written or what's been said there, I don't know. But it
16 would have been sent straight away, sir.

17 SIR GEORGE NEWMAN: It sounds, just the way in which it
18 reads and this is I think what Mr Henderson is asking
19 through me, that the American commander confirmed one of
20 the EPWs handed over on the first lift had in fact been
21 dead?

22 A. Right.

23 SIR GEORGE NEWMAN: And once he confirmed this, "I made
24 a decision to notify."

25 A. Right.

1 SIR GEORGE NEWMAN: So on one reading what you are saying
2 here is not that "we hadn't discussed the possibility
3 that one of them was dead when he was handed over"?
4 A. Yes.
5 SIR GEORGE NEWMAN: Which suggested possibly he was dead?
6 A. Yes.
7 SIR GEORGE NEWMAN: "When I got back he confirmed that one
8 of them had been."
9 A. Right.
10 SIR GEORGE NEWMAN: But that prior to that confirmation
11 being received you hadn't said anything to anybody at
12 HQ --
13 A. Well unless --
14 SIR GEORGE NEWMAN: And you didn't say it until after, as it
15 were, the mission was completed?
16 A. No, incorrect. I don't see how that would be, sir.
17 I would have -- I would have sent that information.
18 There wasn't a lot more information to be sent, to be
19 fair, sir, so that certainly would have been sent in the
20 first transmission.
21 SIR GEORGE NEWMAN: The radio log we're looking at. All
22 right. Thank you. All right.
23 Anything else emerging? Mr Holt do you want to --
24 MR HOLT: No, sir.
25 SIR GEORGE NEWMAN: All right. Thank you. Well then I'm

1 sorry to have kept everybody to this point, but it's
2 better to complete the witness rather than break and
3 then come back for 15 minutes, 20 minutes. It's better
4 to have continuity. What we'll do now is rise. You are
5 released, Soldier A. Thank you. We will sit again at
6 2.30. Is that all right by you all? Okay. Thank you
7 very much.

8 (1.30 p.m.)

9 (The luncheon adjournment)

10 (2.30 p.m.)

11 SO47

12 Examination by SIR GEORGE NEWMAN

13 SIR GEORGE NEWMAN: Right. SO47?

14 A. Sir.

15 SIR GEORGE NEWMAN: You're there?

16 A. I am, sir.

17 SIR GEORGE NEWMAN: Come forward.

18 A. Thank you.

19 SIR GEORGE NEWMAN: Now can we just check what you have
20 there, SO47?

21 A. Yes.

22 SIR GEORGE NEWMAN: I take it you have the witness cipher
23 guide?

24 A. Yes, I have sir, yes.

25 SIR GEORGE NEWMAN: Have you got the gisting guide?

1 A. I also have that as well.

2 SIR GEORGE NEWMAN: Now the only reason I particularly draw
3 your attention to that is that the terminology on the
4 right-hand side is the terminology which I have adopted
5 for the purposes of this public hearing.

6 A. Yes, sir.

7 SIR GEORGE NEWMAN: All right?

8 A. Yes, sir, happy.

9 SIR GEORGE NEWMAN: It isn't that which accords with
10 anything else that we have discussed together or that
11 you might have been used to. Do you realise that?

12 A. I realise that, sir, yes.

13 SIR GEORGE NEWMAN: And so we're content with that?

14 A. I am sir, yes.

15 SIR GEORGE NEWMAN: For the record, we have met and
16 I interviewed you?

17 A. Yes, sir, you did.

18 SIR GEORGE NEWMAN: And as a result of that we were able to
19 compile a statement?

20 A. Yes.

21 SIR GEORGE NEWMAN: Which if you would, please, you would be
22 good enough to verify and confirm this statement --
23 which is the statement which is in front of you now,
24 I hope?

25 A. It is.

1 SIR GEORGE NEWMAN: Signed by you on 16 February of this
2 year?

3 A. Yes.

4 SIR GEORGE NEWMAN: Is it a statement which you are content
5 is the best of your recollection and belief and is
6 accurate?

7 A. I am content and I believe it is accurate.

8 SIR GEORGE NEWMAN: Thank you. Is there anything you heard
9 from me this morning, in my endeavour to encapsulate
10 what we were concerned with, which you think is worthy
11 of pointing out to me may have been inaccurate?

12 A. No, sir. Happy.


13 SIR GEORGE NEWMAN: Thank you. I will get there in the end
14 but I have so many different guides and so forth here.
15 I want to make sure ...


16 Right. Good. So going to your statement.


17 A. Yes, sir.


18 SIR GEORGE NEWMAN: You confirm in that statement what your
19 current position is?

20 A. I do.

21 

22 

23 

24 

25 SIR GEORGE NEWMAN: But, in terms of these proceedings, you

1 have been accorded anonymity which is why you have
2 a cipher number.

3 A. Yes, sir.

4 SIR GEORGE NEWMAN: And you have the protection of that.

5 A. Thank you.

6 SIR GEORGE NEWMAN: And that anybody here should understand
7 that that protection runs beyond this building.

8 A. Thank you.

9 SIR GEORGE NEWMAN: And your anonymity must be preserved
10 hereafter?

11 A. Thank you.

12 SIR GEORGE NEWMAN: Now I think it is probably easier,
13 having seen you and knowing your grasp of the detail, if
14 to a large extent I ask you in your own words just to
15 tell me -- not in great compass, it's going to be too
16 ambitious in the ground you are going to cover.

17 A. Okay.

18 SIR GEORGE NEWMAN: What it is that you remember as your
19 involvement up to the point of time when the two Lifters
20 came back having completed their overall operation?
21 We'll take that as a sort of goalpost for the moment,
22 all right, destination post for the moment?

23 A. Okay.

24 SIR GEORGE NEWMAN: But prior to that, as I understand it,
25 you were aware that there was to be this operation?

1 A. Yes, I was.

2 SIR GEORGE NEWMAN: In what capacity did you come to learn
3 that?

4
5
6
7
8
9

10 SIR GEORGE NEWMAN: Yes.

11 A. As I've described in my statement, the time of when it
12 was taken away from me is not clear in my mind. But are
13 were two options to that, either when we were at HQ-1 or
14 when we were deployed forward at H-1. As I describe in
15 my statement, the most likely of those events is at H-1.

16 The tasking line of communication was described
17 accurately this morning, earlier this morning. There is
18 one point that I would raise here and I perhaps should
19 have raised it when you asked me the question. In my
20 mind the ARF commander was not S053, it was S055.

21 SIR GEORGE NEWMAN: Half a minute. The ARF commander?

22 A. Yes, ARF commander. The ARF commander was S055.

23 SIR GEORGE NEWMAN: Yes, hadn't I said that?

24 A. Yes, but it was described this morning by -- it was --
25 there was a moment of confusion this morning.

1 SIR GEORGE NEWMAN: Oh, right.

2 A. Where the S053 was described as the ARF commander.

3 SIR GEORGE NEWMAN: Okay. Well, I don't think there is
4 anything other than unintentional confusion. We all
5 know what S053 was.

6 A. We do, sir, yes. Anyway, so the tasking came from that
7 chain of command. I enquired as to exactly what the
8 task would be. There was an initial piece of resistance
9 from the FOB, the commander, who was from the SMU at the
10 time, for reasons of op sec, operational security. But
11 I later found out, per your first question, exactly what
12 the mission was and then I endeavoured to support them
13 as best I possibly could notwithstanding the op sec
14 surrounding the particular mission. In particular I'd
15 emphasise one point, in that I was very careful to watch
16 the initial stages of it if not all of the mission
17 rehearsals that went on. I have previously served with
18 S039 and knew how fastidious he was in the likes of
19 rehearsals. So I knew that that would be a well
20 conducted serial and my thoughts were confirmed.
21 I thought, despite the fact we had some operational
22 security, that meant that I wasn't meant to be
23 understanding where they were going and what they were
24 doing. As the squadron commander it was incumbent on me
25 to still have some sort of oversight. So I watched the

1 rehearsals and you will not be surprised to hear,
2 Sir George, that I was entirely satisfied with the
3 rehearsals. They were conducted in a thoroughly
4 professional manner and there was a range of experience
5 on the ARF, and both SO55, but SO39 in particular, were
6 fastidious in the way that they conducted those
7 rehearsals.

8 Essentially, bearing in mind your question where you
9 said, you know, take us up to the point where the
10 helicopters landed, that is where my involvement ended
11 until the helicopters came back. And even then it was
12 if they came back in the wee hours of the 12th, my
13 re-involvement, to skip forward, happened some time
14 later that day. I don't know if you want me to stop
15 there, trying to keep that as brief as possible.

16 SIR GEORGE NEWMAN: I would like you to turn it back a bit
17 to the beginning.

18 A. Sure.

19 SIR GEORGE NEWMAN: It was very helpful with your
20 indications there. After the rehearsals how did you
21 understand the lifts were going to be carried out?

22 A. Well, there was -- well I understood there was going to
23 be a series of lift. Like you, I was in a little bit of
24 doubt as to the numbers. I think the number I have in
25 my head is 50-odd. The fact that they transpired to be

1 60 odd --

2 SIR GEORGE NEWMAN: 63 in the end.

3 A. 63 was something that they were having to adjust to as

4 the troops on the ground when confronted with that

5 situation when they arrived with the Australians. In

6 terms of how they were going to be conducted, the

7 flight is a flight, it's just a means of transport.

8 The important thing was the SOPs that they'd carried out

9 and rehearsed in the rehearsals, and you see what

10 I mean. And the basic principle that S039 and S055 had

11 come up with was essentially man to man marking, which

12 I thought was entirely sensible given the threat and the

13 risk associated with these EPWs. As S053 indicated this

14 morning, the brief was that these were particularly

15 dangerous people and therefore had to be very tightly

16 controlled on the aircraft. So I thought the SOPs that

17 were developed, the man to man marking, the linking that

18 they'd established, certainly through the rehearsals

19 that I witnessed, looked to cover all of those bases to

20 mitigate the risk as much as possible and that was right

21 at the front of the minds of both S055 and S039.

22 SIR GEORGE NEWMAN: And did you have an idea -- man to man

23 marking, that's man to man marking from pick up point to

24 aircraft or man to man marking on the aircraft? Or

25 both?

1 A. I would have said both and I say "I would have said".
2 I can't remember exactly, but to me it would seem
3 entirely sensible that as they handed the troops over
4 they wouldn't be left to wander in between. There would
5 have been close man to man marking from one human being
6 to another to maintain that control.

7 SIR GEORGE NEWMAN: And you understood they were going to be
8 lying prone on the floor of the helicopters, did you?

9 A. Yes. There is a little bit of supposition in there, but
10 yes.

11 SIR GEORGE NEWMAN: That they were going to be hooded?

12 A. Yes.

13 SIR GEORGE NEWMAN: And cuffed?

14 A. Yes.

15 SIR GEORGE NEWMAN: And did you have any -- was there any
16 discussion that you heard, I have heard it talked about
17 as a herringbone approach to --

18 A. Yes, herringbone is -- well, it's a patrol technique.
19 But it wouldn't be surprised if -- when you stop you go
20 into a herringbone formation. So it would have seemed
21 reasonable to me that that sort of language would have
22 been used.

23 SIR GEORGE NEWMAN: And the herringbone is to protect attack
24 or interference from either side, is that --

25 A. Quite possibly, yes -- sorry, in patrol terms, yes.

1 SIR GEORGE NEWMAN: In patrol terms?

2 A. In patrol terms, yes. In terms of the way that they
3 were handling the EPWs on the aircraft, it seems to me
4 a sensible way of laying them out given the confined
5 space in an SMJ air wing aircraft which has limited
6 space in it compared with other types of aircraft.

7 SIR GEORGE NEWMAN: Give me a moment.

8 A. Sir.

9 SIR GEORGE NEWMAN: I don't want to go over material which
10 is covered in detail in your written statement because
11 I have that.

12 (Pause)

13 Yes, just give me your own description now -- I'm
14 around paragraph 28 in your statement, if that helps.

15 A. In my statement to you?

16 SIR GEORGE NEWMAN: Yes.

17 A. Paragraph 28, yes.

18 SIR GEORGE NEWMAN: Well 27, 28. We're talking about the
19 general environment.

20 A. Well the environment, I have to say, was testing. In
21 the broadest possible terms -- you obviously, sir,
22 described it eloquently in the beginning of this
23 process. We were operating into enemy territory behind
24 enemy lines and there was a considerable threat, as
25 briefed to us, in the broadest sense that we were

1 operating in in terms of the western desert.
2 Specifically it's difficult to overstate the tactical
3 environment that my men were working in that night. And
4 we are talking about a helicopter that is, you know,
5 colloquially burning and turning, so rotors turning
6 engines running. It was dark. It's the middle of the
7 night.

8 The down wash from a Chinook is phenomenal. I've
9 operated out the back of Chinooks for 30-odd years now
10 and the sensory deprivation you have both in the
11 immediate vicinity of the aircraft and even inside the
12 aircraft is almost overwhelming, even for those who are
13 entirely familiar with that operating environment. Add
14 on to that the risk I've talked about and the threat, it
15 is a demanding environment, particularly when you set it
16 against the potential that one of these prisoners have
17 in breaking loose either on the ground or in the air to
18 destroy that aircraft and kill all the lives on board.

19 Now in material terms those aircraft were extremely
20 rare beasts in terms of logistical and indeed combat
21 support in the western desert. But beyond that, of
22 course, there is human life and it would have been very
23 easy, if not well attended, for those EPWs to break free
24 and cause havoc, lose the aircraft and, you know,
25 potentially loss of life of 20, 30, 40 personnel.

1 SIR GEORGE NEWMAN: Just elaborate a little on, if they had
2 broken loose, what they could have done within the
3 aircraft to cause the catastrophic consequences you talk
4 of?

5 A. Quite easily they could have just made it into the
6 cockpit is the most obvious one. If they had broken
7 free and their hands were free and they managed to
8 wrestle a weapon off somebody, they could have caused
9 havoc there. They could have freed other prisoners
10 potentially. But I think the most likely scenario is
11 getting to the cockpit, which was probably the primary
12 risk although I would not discount the other risks as
13 equally less dangerous. Hence the -- and you heard it
14 earlier this morning, sir, and I re-emphasise it. Hence
15 the rehearsals were conducted in such a fastidious
16 manner, particularly by SO39.

17 SIR GEORGE NEWMAN: The ARF men, your men, but they were not
18 at the time as you, as it were, passed them over this
19 mission, they were armed?

20 A. Yes. Yes.

21 SIR GEORGE NEWMAN: I can hear from them but --

22 A. Yes, well, yes.

23 SIR GEORGE NEWMAN: As well as being armed with a weapon
24 which they had to keep control of, they also had to keep
25 control of the EPW they were responsible for?

1 A. Yes. Obviously you will clarify with the men sat behind
2 me, but I would have suspected the man that was man
3 marking may not have had a long weapon and probably just
4 had a side arm. I'm not sure, you'll have to clarify
5 that with them. But, yes, you're exactly right, they
6 would have had to keep control. So one would have been
7 man marking and one would have been in over-watch.

8 SIR GEORGE NEWMAN: How much room for manoeuvre or movement
9 is there around in a Chinook? Imagine you have the
10 floor laid out in Heli2 with ten bodies.

11 A. Yes.

12 SIR GEORGE NEWMAN: Where can you move about? The other
13 side of the vehicle, the vehicle line, is that it, the
14 vehicle --

15 A. Right, I see what you are referring to. I hadn't
16 thought about that before. No. So on those types of
17 aircraft, those specialist aircraft, down the port side
18 of the aircraft, I could be wrong, there is a vehicle
19 rail and that allows rapid onload and offload of
20 vehicles on to -- you know, Land Rovers on to the back
21 of on there. And in those type of aircraft there is
22 also -- you heard it talked about this morning, those
23 military specialist units aircraft, they also have
24 a fuel tank on front and port, I could be wrong there,
25 which occupies a little bit more space.

1 So in terms of room to manoeuvre in a controlled
2 environment, ie not fighting your way to the front, it's
3 reasonably limited which is why you -- I would have --
4 they came up with the SOP that they did, to make sure
5 that there was room to control the EPWs on the floor.

6 SIR GEORGE NEWMAN: When did you become aware that the
7 operation had been completed? Were you aware of the
8 limited completion of the transfer or transport of 15 of
9 them?

10 A. No.

11 SIR GEORGE NEWMAN: Or did you only learn at the end when it
12 was the total of 63?

13 A. Sir -- no, to answer your first question: no, not at 15.
14 Yes, afterwards but it was probably -- supposition, sir,
15 coming up now -- mid-morning the following day on the
16 12th.

17 SIR GEORGE NEWMAN: And who was it who informed you of the
18 operation?

19 A. It is -- and again this a little bit of supposition,
20 I can almost be definitely sure it would have been S055.

21 SIR GEORGE NEWMAN: Did he come to you to make a report in
22 the sense that that was his deliberate purpose or was he
23 seeing you for some other reason, or what?

24 A. Well there may be a little bit of conflation here, but
25 in my mind that was also -- to leap ahead a question

1 that you're probably to going to ask in a minute, sir,
2 and forgive me if it isn't. That was probably the
3 moment as well when he informed me that unconscious
4 casualties had been taken off Lifter2 and that one of
5 them had subsequently been reported as having died.
6 SIR GEORGE NEWMAN: That's how you first heard this news
7 about the EPW who was dead, is that right?
8 A. If you were to ask me in confidence levels, I'm at about
9 between 80 and 90 per cent on that.
10 SIR GEORGE NEWMAN: But you learned that well into the
11 12 April?
12 A. Yes, I mean I would have put it at mid to late morning.
13 SIR GEORGE NEWMAN: And you heard it in terms that, what,
14 only one had been unconscious or in difficulty or
15 that --
16 A. Okay, well there's a bit of -- again, sorry, sir, there
17 is a little bit of conflation here because as you know
18 later I went on to produce my report. So whether he
19 told me that then or when we sat in the tent that night
20 with SO38 and SO39, I am unsure. But I am reasonably
21 confident he would have told me two unconscious taken
22 off the aircraft and one later deceased. I'm going on
23 my statement there from 12, 13 April.
24 SIR GEORGE NEWMAN: And in terms of heart attack, when did
25 you hear that? Do you remember? At this time, the

1 conversation? Or was that subsequently when you began
2 to look into it?

3 A. I think subsequently when I sat down with the three
4 individuals -- I won't keep repeating the numbers, you
5 are familiar with that.

6 SIR GEORGE NEWMAN: No, no.

7 A. Yes, when I was questioning him at that point. That
8 point being in the tent that night.

9 SIR GEORGE NEWMAN: By this time, S053 had gone; is that
10 right?

11 A. Yes, and I say that because I have no recollection of
12 him being in the debrief I carried out with them late
13 that night in the tent. And -- because I just cannot
14 imagine that I would have written that without him if he
15 was available and I have no recollection of him being
16 with the four of us when I wrote that statement.

17 SIR GEORGE NEWMAN: That's this one which I was putting to
18 him earlier?

19 A. Ah. No. No, no, I'm talking about my statements.

20 SIR GEORGE NEWMAN: Your statement?

21 A. Yes, I'll come back to that statement.

22 SIR GEORGE NEWMAN: Well, all right. We've got to at some
23 stage and you want to do it now?

24 A. Yes, it was interesting that -- today is the first time
25 I've seen that. But you -- can I refer back, sir, to

1 when you questioned me before?

2 SIR GEORGE NEWMAN: Of course.

3 A. You questioned me before and the first time that we

4 talked about -- I wasn't clear in my mind when you

5 questioned me about what report I had alluded to in my

6 statement. So at the time you showed me the radio log

7 and I said to you, no, that absolutely isn't it. Why

8 did I say that? I said that because you will recall,

9 sir, that I was typing this out on an extraordinary

10 small laptop, it was about A5 size, and we were having

11 to type like this. It was almost comedic. But

12 I mention that because when I saw that report today, the

13 one with "Staff Sergeant" written at the top, that was

14 the first time I have seen in this investigation that

15 report. But because it was typed up I think I obviously

16 refer to it when I say I read the SMJLO's report, and

17 that to me is that report. So I'm assuming it was

18 sent --

19 SIR GEORGE NEWMAN: Did you think you typed that?

20 A. No, I think he did.

21 SIR GEORGE NEWMAN: You think he typed it up?

22 A. Yes, I do. It says so at the top, doesn't it?

23 SIR GEORGE NEWMAN: Well --

24 A. Which is the point Mr Henderson was trying to make. But

25 when you see the rank --

1 SIR GEORGE NEWMAN: Yes, I have that.

2 A. Sorry, sir, my fault.

3 SIR GEORGE NEWMAN: I have that point. But he wasn't the
4 ARF commander, was he?

5 A. Not in my mind, no.

6 SIR GEORGE NEWMAN: That's why --

7 A. S055 --

8 SIR GEORGE NEWMAN: Mr Henderson may be confident about it,
9 but I am not so confident at the moment. I need help.

10 A. In my mind S055 was the ...

11 SIR GEORGE NEWMAN: Indeed.

12 A. Which is why when you go to the -- without -- I need to
13 tread slightly carefully here because I don't know
14 what's going into the public domain. But S055 witnessed
15 that.

16 SIR GEORGE NEWMAN: He did, did he? I have the redacted
17 piece.

18 A. Is that clear, sir?

19 SIR GEORGE NEWMAN: Apparently.

20 A. I wasn't getting animated, but it was a point when as
21 I was sat watching this morning I think, "Hang on
22 a minute."

23 SIR GEORGE NEWMAN: Yes. It's S055?

24 A. Witnessed it.

25 SIR GEORGE NEWMAN: Witnessed it.

1 A. And S053, cue the bit at the top which isn't redacted,
2 wrote it.

3 SIR GEORGE NEWMAN: Mr-hmm. Well, that sheds useful
4 confirmatory light on this document. Thank you.

5 In terms of any other report I don't think we need
6 to go into that for the moment. We'll be doing that on
7 another occasion, I suspect.

8 A. I would have thought so.

9 SIR GEORGE NEWMAN: Unless there is anything you want to
10 tell me about it now that you would like to?

11 A. The report we wrote in the tent that night?

12 SIR GEORGE NEWMAN: The one that we have seen in its form
13 and then sent on up the chain of command?

14 A. Okay. So my report? The one that ended up in The
15 Guardian for some obscure reason.

16 SIR GEORGE NEWMAN: Did it? I don't remember that bit. But
17 anyway do you want to say anything about that now?

18 A. Only other than the fact that after what I assumed was
19 my meeting with S055 we gathered the key people
20 together. You know who they are.

21 SIR GEORGE NEWMAN: Mr-hmm.

22 A. And we sat, oh, two or three hours on this thing and
23 I drilled them. You know, they may allude to it. I was
24 pretty provocative in my questions. Hence it might not
25 look like a long report, but it felt like a long report

1 typing it.

2 SIR GEORGE NEWMAN: Insofar as you did ask questions, the
3 extent of the information you were given as to what
4 could have given rise to the death of this individual,
5 it was that he'd had a heart attack, is that it?

6 A. Yes, I think allude to that at the bottom of page 2 of
7 my report. But -- and again this now a personal
8 opinion. The expression heart attack, you know, it gets
9 bandied about. I'm not just talking about within this, "Oh
10 my goodness me, he's had a heart attack". The first
11 thing is no one of any medical competence was on the
12 aircraft. So that would be a best guess by my men.
13 And, yes, I will just leave it there. You know, there
14 was no real specialist medical team on the aircraft who
15 in the environment I was talking about, you know,
16 could -- how do you tell if someone is dead in that sort
17 of environment? You know if you put your fingers tot
18 the neck, which is a standard thing or, you know, less
19 dramatically on your wrist, I would challenge anyone to
20 feel a pulse in that environment. I really would.
21 Medical emergency response teams in the back of
22 Chinooks, that we later became used to, of course have
23 all the equipment to be able to tell if someone is alive
24 or dead.

25 So, yes, in blunt terms, sir, the time of death

1 remains a question in my mind as I know it did in yours.

2 SIR GEORGE NEWMAN: Well I have understood that from you and

3 Mr Henderson. So far as you are concerned, you can't

4 help me on that specifically other than give me the

5 account that you have given?

6 A. No, I would -- sorry, sir.

7 SIR GEORGE NEWMAN: It's going to be up to me to have to

8 make a decision on the evidence overall as I hear it.

9 A. Yes, sir, yes.

10 SIR GEORGE NEWMAN: What you did hear about, as I understand

11 it, is a little detail about what had happened on the

12 aircraft which had given rise to some form of

13 disturbance; is that right?

14 A. Yes, some form of disturbance, I think I articulated it

15 as the EPW concerned, arms started flailing around, he

16 possibly broke free -- I'm not quite sure, I would have

17 to refer back to my statement on that particular point,

18 but at which point he was brought under control.

19 SIR GEORGE NEWMAN: How would you expect him to be brought

20 under control? What would you expect to be done?

21 Somebody who -- let's assume in his position he had

22 broken free of his cuffs?

23 A. Yes.

24 SIR GEORGE NEWMAN: Maybe the hooding was not tight enough

25 and he got his hood off?

1 A. Mm-hmm.

2 SIR GEORGE NEWMAN: He was free to move his arms about?

3 A. Yes.

4 SIR GEORGE NEWMAN: What would you --

5 A. I think --

6 SIR GEORGE NEWMAN: -- consider was the way in which he

7 would have to be dealt with?

8 A. Okay, I go back to when you and I had the discussion in

9 your office, sir. Again that -- it is -- I offered you

10 some demonstration and I caveat what I am going to say

11 now with what I caveat then. You know, I wasn't there.

12 It was at the back of the aircraft. Arms and legs are

13 flying all over the place. The physical location of

14 other bodies around are -- I wasn't aware of, but to

15 describe it in clinical terms when the person that

16 tackled this individual -- I use the word tackle not in

17 rugby sense, although that may have been appropriate,

18 I don't know, and brought him under control, it would

19 have been such an intuitive action given the attendant

20 risks that were involved to the aircraft. I would have

21 thought the technique wouldn't have been foremost in his

22 mind but rapidity of control was the key thing in his

23 mind, because if that situation got out of hand all the

24 attendant risks I've previously described could have

25 materialised. We can talk till the cows come home,

1 please excuse the expression, about sweeping people's
2 legs away, rugby tackling them, pinning them against the
3 wall, slowly lowering them to the ground, dumping them
4 on the ground, judo throws and the like. I suggest,
5 sir, it would have been rapidity of action to get the
6 individual under control, to stop the attendant risk
7 happening, was the thing that would have been at the
8 front of the individual's mind. And one could argue
9 that whoever tackled him probably saved the aircraft and
10 all of those people's lives that night.

11 SIR GEORGE NEWMAN: Getting him to the floor, I have
12 a picture.

13 A. Yes.

14 SIR GEORGE NEWMAN: Because I've seen the photographs.
15 I have a picture of the very solid metal floor of the
16 aircraft.

17 A. Yes.

18 SIR GEORGE NEWMAN: If you are putting somebody down on to
19 that sort of hard surface?

20 A. Yes.

21 SIR GEORGE NEWMAN: With, as I would infer, the sort of
22 determination in an important and tense struggle?

23 A. Yes.

24 SIR GEORGE NEWMAN: That might have ensued?

25 A. Yes.

1 SIR GEORGE NEWMAN: How would you describe on a scale of,
2 say, one to ten the force with which the individual is
3 likely to hit the floor?

4 A. Okay. Sir, forgive me. Can I just play a little bit of
5 ping pong with you?

6 SIR GEORGE NEWMAN: You can play as much ping pong as you
7 like.

8 A. Thank you. Of course if he was bolt upright and
9 flailing and the danger was really imminent, I would
10 expect him to have hit the floor. If the individual
11 tackling him at speed to avert the danger -- I know
12 I keep re-emphasising that -- and didn't manage to keep
13 hold of him for whatever method he was using, I would
14 have put it at about an eight or nine.

15 Now, if the individual, the EPW, was closer to the
16 floor and already had got into a crouch position for
17 whatever reason, that just happened to be his body
18 position, then it's not a question of gravity. It's
19 just a question of how much force is generated when he's
20 going down whatever technique is being used. In that
21 case, probably two to three.

22 But I would offer this: if you are in an aircraft
23 as you quite rightly pointed out, it's full of things
24 which can bite you and bite you very quickly. So what
25 ever height you're coming down from, if you choose to

1 flail around in it and bring that risk upon yourself and
2 to the aircraft, as you get subdued and restrained, to
3 save the aircraft and other people's lives, the aircraft
4 itself would do its job in biting you.

5 SIR GEORGE NEWMAN: So there is a high risk -- frankly,
6 there is a very high risk somebody is going to be
7 injured hitting a floor when -- of that solidity and
8 hardness when forced to do so in order to be restrained?

9 A. I come back to you, sir, and say: yes, if at height; no,
10 if at low. There is a range.

11 SIR GEORGE NEWMAN: And of course it's totally impossible to
12 predict what the injury might be or to which part of
13 anybody's body the injury may be sustained?

14 A. I agree with you, sir.

15 SIR GEORGE NEWMAN: Then, as I understand some of the
16 evidence I have seen, a course was adopted of somebody
17 was sitting on the EPW once he was by on the floor in
18 order to keep him in position on the floor. Does that
19 accord with what you would expect to happen?

20 A. Yes. It seems reasonable.

21 SIR GEORGE NEWMAN: It may have been -- well I will hear
22 from the men -- that his hood was put on him more
23 tightly than it had been put before and the plasticuffs
24 were renewed, I don't know. We'll hear about that. But
25 that is what you would expect too?

1 A. Possibly, yes.

2 SIR GEORGE NEWMAN: So we've almost come, therefore, to the
3 point at which you are having to compile the report that
4 you referred to?

5 A. Yes, sir.

6 SIR GEORGE NEWMAN: And you are doing it in company with the
7 three individuals whom we've referred to?

8 A. Yes, sir, yes.

9 SIR GEORGE NEWMAN: Do you revisit the facts again with
10 a view to any subsequent report or is that --

11 A. No. One of the first reasons I didn't revisit it is
12 because at some stage -- and I know this the grey area
13 you talked about in the middle -- sorry, in your
14 introductory remarks, sir, at some point. Did I
15 feel it necessary to do that? No. More importantly
16 perhaps, in my own personal feelings on writing this
17 report, at some point, I can't remember exactly when but
18 it was pretty soon afterwards, I was directed not to
19 speak to the Americans in particular about that. And no
20 further questions came back from the SMU HQ at HQ-1
21 Middle East. So there was no what I would -- in the
22 military we call supplementaries. There were no
23 supplementaries once my report had been submitted.

24 SIR GEORGE NEWMAN: Had you been approached by any Americans
25 to get some material for them?

1 A. Do you know, sir, that's where I'm a little bit shaky on
2 my feet. I don't know, I can't remember. I just
3 remember the -- supposition, yes. What I do remember is
4 being told very clearly, by either SO52 or SO59, that me
5 and my men were not to speak to the Americans.

6 SIR GEORGE NEWMAN: How could the Americans do anything by
7 way of a report without getting some information from
8 the British forces?

9 A. I don't think they could. I think the issue was the
10 chain of command and how they requested that. In air
11 force terms they went VFR direct, visual flight rules
12 direct, straight to me, and there was a chain of command
13 that they would have had to have gone through.

14 SIR GEORGE NEWMAN: So, as you understood it, the problem
15 had arisen because they came direct to you as opposed to
16 going to --

17 A. That's a reasonable assumption, sir, yes.

18 SIR GEORGE NEWMAN: That's an assumption you make?

19 A. Yes. But I -- the bit I don't have to assume is I made
20 it very clear to my men that they were not to speak to
21 the Americans because of that direction that I received
22 from HQ-1 Middle East.

23 SIR GEORGE NEWMAN: Just give me a moment while I ...

24 (Pause)

25 In the course of these meetings --

1 A. Yes. Sorry, my apologies. Yes, sir.

2 SIR GEORGE NEWMAN: Did you make any notes when you were
3 being told something by, for example, S055 or from
4 anybody else?

5 A. I don't -- no, I don't recall making notes. I remember
6 us all crouched around that little machine and then
7 essentially narrating it. I would -- forgive me, lads
8 here. I would then convert it into English. That's an
9 awful thing to say. And, yes, I mean, we were just all
10 lent over this thing, and I'm saying, "Right, say it
11 again. No, what happened there?" Do that. Right, I'm
12 writing this. "Everybody happy with that?"

13 (The stenographer requested the witness to slow down)

14 SIR GEORGE NEWMAN: You have been exhausted, have you?
15 Pause, pause. I'm sorry. I was conscious of you
16 earlier but then, listening to the witness, I forgot
17 you. Okay?

18 A. My apologies.

19 SIR GEORGE NEWMAN: No, not at all. Let's take
20 five minutes.

21 (3.21 pm)

22 (A short break)

23 (3.37 pm)

24 SIR GEORGE NEWMAN: I've forgotten at what stage you'd
25 reached when you were exhausting the transcriber.

1 A. So had I, sir. I was consumed with guilt at that point.

2 SIR GEORGE NEWMAN: What was it we were talking about? We
3 need to ask the transcriber perhaps.

4 A. You asked me if I'd kept notes, and I was describing
5 essentially the he said/she said.

6 SIR GEORGE NEWMAN: Yes. Okay. There is one question I do
7 want to ask you because it has been raised by SO39.

8 A. Yes.

9 SIR GEORGE NEWMAN: And that is whether there was a stage at
10 which you remember SO39 having made a statement to you,
11 or in answer to your questions, and you were able to
12 draw up your report, whether you received anything in
13 writing from him?

14 A. From SO39?

15 SIR GEORGE NEWMAN: Mm-hmm.

16 A. I do not recall that.

17 SIR GEORGE NEWMAN: Well, I haven't seen it. I may or may
18 not be wrong, but we'll find out from SO39 whether
19 that's his clear recollection or not.

20 A. Yes.

21 SIR GEORGE NEWMAN: But it had been suggested through the
22 channels of communication which come to me that there
23 was perhaps a statement from SO39 which I needed to
24 track down, but you don't remember it?

25 A. No. No. No. That's not clear to me.

1 SIR GEORGE NEWMAN: Mr Holt, I can't remember now. Are you
2 an SO39 man?

3 MR HOLT: I am, sir, yes.

4 SIR GEORGE NEWMAN: Can you help me on this? Because it
5 came through to my team as a request for something. If
6 it isn't pursued, then it isn't pursued, that's fine.

7 MR HOLT: I don't think it came from me.

8 SIR GEORGE NEWMAN: Oh, I see.

9 MR HOLT: Unless I asked whether there were any, but I am
10 not aware of --

11 SIR GEORGE NEWMAN: Okay. We'll leave it and see whether
12 there is anything SO39 wants to say about it anyway.
13 All right.

14 That's all I have for you today. Thank you very
15 much indeed --

16 A. Thank you, sir.

17 SIR GEORGE NEWMAN: -- SO47.

18 MR HENDERSON: Sir, I am sorry, I wonder, may I suggest
19 a couple of small questions which might help on this
20 authorship point of this report.

21 SIR GEORGE NEWMAN: On this which point?

22 MR HENDERSON: On the authorship point --

23 SIR GEORGE NEWMAN: Authorship.

24 MR HENDERSON: -- of the report.

25 SIR GEORGE NEWMAN: Of that little report we were looking at

1 earlier.

2 MR HENDERSON: That's right, sir.

3 SIR GEORGE NEWMAN: Oh, right. You've almost persuaded me
4 on that, Mr Henderson, but go on.

5 MR HENDERSON: If you need any further persuasion, sir,
6 I just wondered whether you might put to this witness
7 the statement of S053, which he accepted was correct
8 this morning, in which he makes a couple of assertions,
9 which may explain why that person might have described
10 themselves as the ARF commander.

11 SIR GEORGE NEWMAN: Ah, that's an interesting line.

12 MR HENDERSON: Just in case you do need more persuasion,
13 sir.

14 SIR GEORGE NEWMAN: Well, the dangerous thing about advocacy
15 is --

16 MR HENDERSON: I know, sir.

17 SIR GEORGE NEWMAN: -- that sometimes you can push the boat
18 too far and somehow or other --

19 MR HENDERSON: I feel, sir, it's such an important --

20 SIR GEORGE NEWMAN: -- it turns around and runs you over.
21 Right. Let us have a look.

22 MR HENDERSON: It's such an important document, sir, I think
23 it is important to establish.

24 SIR GEORGE NEWMAN: Which one of --

25 MR HENDERSON: This is S053's statement to you, sir.

1 SIR GEORGE NEWMAN: To me?

2 MR HENDERSON: To you, yes.

3 SIR GEORGE NEWMAN: Right. Okay.

4 MR HENDERSON: Paragraph 3. What he says, sir, is because
5 this was a specialist military unit mission:

6 "I would have been the commander on the ground. In
7 the aircrafts the ARF pilots would have had overall
8 command, but as soon as we landed the troops would have
9 been under my command. I was the one who received
10 information from my HQ about what was required for the
11 mission and I would have relayed any relevant
12 information to HQ through my signaller."

13 That's a point to which he returns, sir, if I may,
14 at paragraph 8, where he says:

15 "After I received a tasking from my HQ I carried out
16 a mission briefing. I cannot now recall who assisted me
17 with the briefing or who was present at the briefing,
18 but I would have included members of the ARF and it is
19 likely [and this is the important bit, sir] that there
20 would have been an ARF officer who would have assisted
21 me."

22 So that may explain why that author, who was a staff
23 sergeant, might have described himself as the ARF
24 commander even though one of the ARF was of a superior
25 rank, SO55.

1 SIR GEORGE NEWMAN: Thank you.

2 MR HENDERSON: But I don't know whether this witness needs
3 to formally --

4 SIR GEORGE NEWMAN: No, no, it's useful comment and I have
5 it in mind.

6 MR HENDERSON: I'm grateful, sir.

7 A. I think that was the point I was inelegantly making at
8 the start.

9 SIR GEORGE NEWMAN: Okay, got it.

10 MR HOLT: Sir, on a separate point I wonder whether this
11 witness can help us with one issue which comes up in
12 some of the statements, which is the SOPs which were put
13 in place by S039 and S055 during the rehearsal process,
14 witnessed by this witness, insofar as it related to
15 communication with EPWs due to the language barrier, the
16 noise.

17 SIR GEORGE NEWMAN: Yes, I remember the point. By all
18 means, the question is --

19 MR HOLT: It is the patting and the chopping.

20 SIR GEORGE NEWMAN: It's the question of keeping your
21 distance. You put it to me again and I'll --

22 MR HOLT: It's this: when you were witnessing the SOPs being
23 rehearsed with the men?

24 A. Yes.

25 MR HOLT: What, if anything, did you see being shown to the

1 men and rehearsed with the men as to how they should
2 communicate with individual EPWs under their control
3 insofar as an EPW may be doing something right or
4 something wrong?

5 A. Okay. Right. There is where conflation comes in
6 because what I saw and what I subsequently wrote -- and
7 I think what I wrote qualifies or supports the patting
8 on the head, the patting on the back, "You're doing all
9 right, son". I'm slowing down. "You're doing all
10 right, you're doing all right."

11 Chopping, you and I had the discussion. I don't
12 recall that. In the way that you and I had the
13 discussion, it came out of -- you know, it almost
14 sounded like you were describing to me a karate chop
15 which -- I don't recall seeing that. I recall the
16 reassurance thing.

17 SIR GEORGE NEWMAN: Mr-hmm. But, Mr Holt, there is
18 a suggestion which has been around in the material I've
19 seen.

20 MR HOLT: Yes.

21 SIR GEORGE NEWMAN: That at least one or more of the ARF men
22 were of the view that, if it was necessary, some form of
23 blow to the --

24 MR HOLT: Chop.

25 SIR GEORGE NEWMAN: Chop, call it whatever you like, to the

1 neck --

2 MR HOLT: To somewhere on the body, the arm --

3 SIR GEORGE NEWMAN: Somewhere on the body was something that

4 could be deployed.

5 MR HOLT: To indicate displeasure, and if somebody was

6 compliant then you would pat him to show that you were

7 happy.

8 A. The patting thing I'm entirely comfortable in

9 remembering. For me to say that I knew exactly what

10 a non-compliant EPW signal was, I would be -- that would

11 be supposition on my behalf. Patting, happy with. The

12 others -- I can imagine what it would be. It would be

13 a little bit more robust handling, it would be a prod in

14 the ribs or something like that. It would be something

15 along those lines. Do I remember exactly? I'm afraid

16 I can't recall that.

17 MR HOLT: Then just one last point, if I may, sir. Having

18 seen the rehearsals and having witnessed the SOPs which

19 S039 and S055 were giving to the rest of the men, did

20 you have any concerns or reservations which you

21 expressed as to those SOPs?

22 A. No.

23 SIR GEORGE NEWMAN: Thank you.

24 A. The contrary, as I emphasised at the beginning.

25 SIR GEORGE NEWMAN: All right. Thank you. Fine. Well

1 I think so far as to day is concerned we can call it
2 a day on those questions and we will pursue the latter
3 events as necessary when we look at the reporting up the
4 chain.

5 A. That's outside of these three days, sir, as I understand
6 it?

7 SIR GEORGE NEWMAN: It's outside of these three days and for
8 reasons you know --

9 A. Yes, sir.

10 SIR GEORGE NEWMAN: -- we have more investigation to make --

11 A. So I understand.

12 SIR GEORGE NEWMAN: -- in order to put that into shape. All
13 right?

14 A. Thank you, sir.

15 SIR GEORGE NEWMAN: Thank you for your help.

16 Now.

17 MR HOLT: Sir, I mentioned something to you earlier, if
18 I may just have a second.

19 (Pause)

20 Earlier this morning I made an application to you on
21 behalf of some of my clients. Having seen the
22 proceedings they are reassured. That is withdrawn.

23 SIR GEORGE NEWMAN: Thank you very much. I am very pleased
24 to hear that.

25 Now I am, to a certain extent, in your clients'

1 hands because for today we have scheduled now S039 and
2 S038 I think. Isn't that right?

3 MR HOLT: Both.

4 SIR GEORGE NEWMAN: It may be that we've had enough for
5 today. If people take the view they've had enough for
6 today then they won't need to repeat the argument to me.
7 I think that is about where I am. On the other hand, if
8 it suits S038 or S039 we could perhaps get in 20 minutes
9 or so. But if they are going to come back tomorrow
10 anyway.

11 MR HOLT: Which they are.

12 SIR GEORGE NEWMAN: Which they are, my preference would be
13 to start afresh tomorrow. Does that suit them?

14 MR HOLT: We are in your hands, sir.

15 SIR GEORGE NEWMAN: It would suit me I think.
16 They would rather start tomorrow?

17 MR HOLT: They are in your hands.

18 SIR GEORGE NEWMAN: They are in my hands. All right. I'm
19 just thinking about the rest of the programme for
20 tomorrow. I don't have it.

21 MR HOLT: There are a number of people attending tomorrow
22 and it may be that some of those would be put back to
23 the day after.

24 (Pause)

25 SIR GEORGE NEWMAN: I'm an optimist. When you are fresh

1 tomorrow morning -- let's hope that we can make a fresh
2 start. Much of the ground has been covered.

3 MR HOLT: S038 and S039 probably are the witnesses where
4 there may be more --

5 SIR GEORGE NEWMAN: There may be more than there would be on
6 the others.

7 MR HOLT: -- in relation to some of the others. 20 minutes
8 is probably not enough for either of them.

9 SIR GEORGE NEWMAN: No.

10 MR HOLT: So it's really a question of whether we go a bit
11 later tonight or --

12 SIR GEORGE NEWMAN: I don't want to sit late tonight.

13 MR HOLT: So be it.

14 SIR GEORGE NEWMAN: We could sit 10.15 tomorrow. How about
15 that?

16 MR HOLT: It's fine by me.

17 SIR GEORGE NEWMAN: Is that inconvenient for anybody? Is
18 10.15 all right by you?

19 We will sit at 10.15 and give ourselves a little bit
20 of a start.

21 MR HOLT: Thank you, sir.

22 SIR GEORGE NEWMAN: Because I know we have to remember the
23 transcriber tomorrow otherwise we will be losing her.

24 MR HOLT: Or her fingers at some point.

25 SIR GEORGE NEWMAN: So let's do that, 10.15. Thank you very

1 much.

2 MR HENDERSON: Sir, before you rise can I mention one very
3 quick point. There was something that was said during
4 the evidence that is sensitive. I wonder if the way to
5 deal with it is if I speak to your counsel and the
6 transcriber, but I'm happy to address you in chambers if
7 you --

8 SIR GEORGE NEWMAN: I know what you mean.

9 MR HOLT: It's the identification of the unit. It was the
10 identification of the unit by the last witness.

11 SIR GEORGE NEWMAN: I missed that bit. By the last witness?

12 MR HENDERSON: Yes. I don't want to go into too much detail
13 sir.

14 SIR GEORGE NEWMAN: Oh, yes. I know what you mean if you
15 are talking about --

16 MR HENDERSON: Sir, it's paragraph 2 of the statement.

17 SIR GEORGE NEWMAN: Yes. We will take it out.

18 MR HENDERSON: Yes, I'm obliged sir.

19 SIR GEORGE NEWMAN: We'll take it out. We don't have that
20 in the transcript.

21 MR HENDERSON: I'm obliged, sir. I think it might need
22 an amendment because it was referred to.

23 SIR GEORGE NEWMAN: Nothing will go on that transcript
24 without my approval.

25 MR HENDERSON: I rest my case, sir.

1 SIR GEORGE NEWMAN: All right. Okay. 10.15 then.

2 MR HOLT: Sir, I'm just -- I apologise. Just on that last
3 point, I'm mindful that what goes on the transcript will
4 be checked and verified by yourself before any
5 transcript is released.

6 SIR GEORGE NEWMAN: Yes.

7 MR HOLT: We do have reporters in court today.

8 SIR GEORGE NEWMAN: Yes.

9 MR HOLT: And of course they won't be reporting from the
10 transcript, they will be reporting from what they've
11 heard.

12 SIR GEORGE NEWMAN: What they've taken.

13 MR HOLT: I think it might be helpful to remind them that
14 nothing should be published which would identify or tend
15 to identify any of the individuals in this case, which
16 would include, in my submission, the identification of
17 the unit in which they serve.

18 SIR GEORGE NEWMAN: When you say that, in terms of the unit,
19 just let's look at the gisting guide.

20 MR HOLT: Yes, there was mention of the specific flight.

21 SIR GEORGE NEWMAN: I don't remember that.

22 MR HOLT: By this last witness.

23 SIR GEORGE NEWMAN: Who have we got from the press? And who
24 are you?

25 A MEMBER OF THE PRESS 1: I am Sam Hook from the Press

1 Association.

2 SIR GEORGE NEWMAN: You are the Press Association.

3 A MEMBER OF THE PRESS 1: Correct, yes.

4 SIR GEORGE NEWMAN: And you are?

5 A MEMBER OF THE PRESS 2: Another press agency, South

6 Western News Service.

7 SIR GEORGE NEWMAN: Okay.

8 A MEMBER OF THE PRESS 2: If it's a problem of the regiment

9 that was mentioned.

10 SIR GEORGE NEWMAN: It's a problem of?

11 A MEMBER OF THE PRESS 2: The regiment that was mentioned.

12 SIR GEORGE NEWMAN: It was.

13 A MEMBER OF THE PRESS 2: Well, I mean -- I'm sure I at

14 least have no interest in identifying the regiment

15 myself.

16 SIR GEORGE NEWMAN: Then I can take that as an assurance

17 from you.

18 A MEMBER OF THE PRESS 2: You certainly can. I don't know

19 about my colleague.

20 SIR GEORGE NEWMAN: And you too?

21 A MEMBER OF THE PRESS 1: The same.

22 SIR GEORGE NEWMAN: Anything else? The other thing will

23 come out from the transcript.

24 MR HENDERSON: Sorry, just to be absolutely clear because

25 I think my friend and I were talking about different

1 things. My concern was this witness's statement to the
2 investigation, paragraph 2, which you put to him, sir.

3 SIR GEORGE NEWMAN: I know. I mean that's quite separate.
4 We are totally -- I understand that entirely.

5 MR HENDERSON: That was our concern.

6 SIR GEORGE NEWMAN: He had every reason to look as shocked
7 as he was when he was up there.

8 MR HOLT: Yes, my point was --

9 SIR GEORGE NEWMAN: It will be clear to the press that the
10 anonymity of these witnesses is very important in
11 relation to these events and I want nothing published
12 which will enable anybody to identify them by following
13 any line or thread of evidence which may have been given
14 or suggested which would enable anybody to identify
15 them. For example, if I had asked him where he
16 presently lived, "Is it right you live at 15 South
17 Street", wherever, that's not what I asked, but you must
18 not follow. You realise that, both of you do?

19 A MEMBER OF THE PRESS 1: We both understand how these
20 inquiries have been taken.

21 SIR GEORGE NEWMAN: Do you realise that? I'm sorry to ask
22 you to stand up, but I am raising matters of some
23 importance. It's just that, when I do raise matters of
24 some importance, I expect a little bit of a response to
25 indicate you accept the importance of it. Is that

1 right?

2 A MEMBER OF THE PRESS 2: I respond by saying I understand,

3 sir, absolutely.

4 SIR GEORGE NEWMAN: Thank you. All right?

5 MR HOLT: Thank you, sir.

6 SIR GEORGE NEWMAN: Thank you.

7 (3.47 pm.)

8 (The hearing adjourned until Wednesday, 16 May 2018

9 at 10.15 am)

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