

**In the matter of an investigation into the
death of Mr Saeed Radhi Shabram**

Wawi Al-Bazooni

Inspector: Sir George Newman

First Outline Statement of Issues for Investigation- 8 November 2018

1. I have considered the material supplied to me for this investigation and can now set out the factual scope and broad lines of inquiry which should be pursued in order to report in accordance with my Terms of Reference.
2. The factual summary which follows is a framework which identifies the main boundaries of the Investigation. It should not be regarded as exhaustive of the range of facts which will fall for consideration. Nor should the facts as outlined be regarded as my conclusions on the facts. The facts will remain open for consideration throughout the inquiry, and the issues to be investigated will be under constant review. My conclusions will be set out in my Report.
3. The lines of inquiry will be pursued by gathering evidence from the available witnesses and considering documents and records relevant to the facts under consideration.

**4. OUTLINE FACTS FORMING THE FRAMEWORK OF THE
INVESTIGATION.**

- (1) On 23 May 2003, soldiers from 32 Royal Engineer Regiment, based at the former Iraqi Naval Academy in Basra, drove two vehicles to the nearby dockside at the Shatt al Arab River in order to wash them down. One vehicle driven by a Sapper contained a 2nd Lieutenant. The other, also driven by a Sapper contained a Lance Corporal.

- (2) Whilst the soldiers were at the dockside an English speaking Iraqi male, Walid Jasim (now deceased), drew attention to a fire on a nearby oil tanker. The 2Lt called his HQ to alert the civil fire brigade and then went on foot to search for a fire extinguisher.
- (3) In the course of his search within the dock complex the 2Lt came upon two men (Munem Auda and Saeed Shabram). The two men had exposed a length of electrical cable and could have been attempting to steal it. Whether they were or not will have to be considered.
- (4) The 2Lt spoke to them about what they were doing and they went with him to the dockside. The full extent of his exchange with them will need to be considered. Whether his actions involved detaining them or not may be in issue. Equally the reason they went to the dockside will have to be considered.
- (5) At the dockside Walid Jasim was available to act as an interpreter. Conversation ensued. It will be necessary to have evidence on the content of the discussion and consider whether it comprised questioning from the 2Lt. It will be necessary to consider whether a crowd of Iraqis gathered and became hostile to Munem Auda and Saeed Shabram.
- (6) It does not appear to be in dispute that both Saeed Shabram and Munem Auda entered the river, and that Shabram could not swim and drowned. The circumstances in which the two men entered the water are central to the Article 2 investigation. They will fall for my determination after I have taken evidence, where it is available, and have considered any other reliable evidence on this issue.
- (7) Initial rescue attempts and attempts to locate Shabram's body were unsuccessful. His family came to the dockside. After a radio call to the Operations Room a diver and medics attended the scene. A Staff Sergeant and a Sapper attended the dockside. The situation became very volatile and the soldiers were ordered to return to their base. There were radio

communications between the soldiers at the dockside and the base. Some but not all of the radio logs are available.

- (8) At about 13.30 hours a group of some 7 Iraqis, including Shabram's father, attended the army base where they confronted the Captain in command. After the 2Lt, the LCpl and Sappers returned to camp the Capt asked the 2Lt what had happened. The account given in response was confirmed by the Sappers. The soldiers were asked to make notes, and the Capt reported details of the incident to Regimental HQ and Battle Group (BG) HQ for their action.
- (9) At 15.20 hours on 23 May, a diver hired by Mr Shabram recovered the body of Saeed Shabram from the river.
- (10) At 20.30 hours, the SIB were tasked to attend 7 Armd Bde to meet with witnesses. A Serjeant in the SIB spoke to Mr Shabram, Munem Auda, Bassim Al Akaili and Sabah Mutalib (now dead). His evidence and that of Al Akaili is unreliable and will not be included in the investigation. The evidence obtained from the interviews of Mr Shabram, Walid Jasim and Munem Auda will be part of the investigation.

5. THE STAGES OF QUESTIONING AND INVESTIGATION THEREAFTER.

- (1) The conduct and adequacy of the investigations into this incident that have previously taken place, as I presently see it, are not within my terms of reference. It is their product, namely the statements and accounts obtained from the witnesses, which will provide the facts and circumstances for consideration and determination by me, after I have had the benefit of receiving the comments of witnesses capable of speaking to the events recorded. Some statements from Iraqi witnesses are, on the material I have seen, plainly unreliable and they will not be considered as part of the

Investigation. However the inclusion of a witness statement as part of the investigation should not be taken as a finding by me that it is reliable.

- (2) Questioning and investigation occurred as follows. Immediately after the incident SIB investigators interviewed some Iraqi witnesses (see paragraph 4(10) above). On the 29 May 2003, SIB interviews of a number of Iraqi witnesses – Auda, Abdullah (now deceased), Al Akaili and Mutalib – took place. Save for Auda and Abdullah, the other named witnesses will not be considered. On the 30 May, the SIB interviewed further Iraqi witnesses- Jibri, Abd, Samah Ali, Master Kifah Ali and Nasir- but their statements will not be considered in the Investigation. Between the 6-8 June 2003, statements were obtained from the Captain at the base, as well as the two Sappers sent from the base to the dockside. On the 8 June 2003 Walid Jasim was interviewed. He is now dead, but his statement will be considered as evidence. On the 13 June 2003 a diver, Mr Solel, made a statement about the recovery of the deceased's body. His statement will be in evidence.
- (3) A post-mortem was carried out on 24 May 2003 and the cause of death was stated to be drowning. The report and photographs of the deceased's body will be in evidence.
- (4) On the 24 June 2003, the SIB arrested the four soldiers who were at the scene for the purpose of an evidential search. Nothing of value to the investigation was found.
- (5) On the 23 June 2004, three soldiers among the four who first went to the dockside were formally interviewed under caution. Acting under legal advice, pre-prepared statements were delivered by them and when interviewed they made "no comment". The fourth soldier who attended the dockside was dealt with as a witness and he later provided a statement. All these statements will be in evidence.

- (6) On 1 July 2004, the three soldiers were formally interviewed under caution and were reported for alleged manslaughter. They made no comment save that one matter was put to the LCpl and the Sapper concerning whether they had felt influenced by the 2 Lt's rank to give a certain version of events. Both stated they had not.
- (7) Between 15 and 17 March 2006, a Formal Preliminary Examination (FPE) took place in Germany (some of the original papers have not yet been traced). All three soldiers were represented by counsel. Mr Auda and another witness gave evidence. The conducting officer received submissions on the unreliability of the witnesses and on 17 March 2006 ruled that the soldiers should not be tried by court martial.
- (8) Leigh Day & Co Solicitors submitted a claim for damages against the MoD on behalf of Mr Shabram and Mr Auda and Saeed Shabram's family. In July 2011, the MoD paid Mr Auda £45,000 compensation in respect of his claim and the family of Saeed Shabram received £100,000. The settlement was on terms that the claimants would not bring or continue any public law proceedings arising out of this incident.
- (9) On the 6 July 2006, the Army Prosecuting Authority (APA) notified the three soldiers that in accordance with section 83(B)(4) of the Army Act 1955 the prosecuting officer had "decided that court-martial proceedings are not to be instituted against you".
- (10) It is recorded and can be noted as a fact that in 2013 the Iraq Historic Allegations Team (IHAT) reviewed the case and concluded that there should be a fresh full investigation. A new investigation, including the interviewing of witnesses, took place. The IHAT investigation identified new Iraqi witnesses, but their accounts cannot be considered as reliable and will not be considered in the investigation. Further consideration of the case was formally terminated by the officer commanding the Service Police Legacy Investigations (SPLI) and the question whether there should

be a prosecution was considered by the APA. It was concluded that the evidential sufficiency test for a prosecution was not met.

6. EVIDENCE FORMING PART OF THE INVESTIGATION.

- (1) All statements made in the investigations referred to above and identified by me, but not those I have stated are plainly unreliable, should be regarded as part of the investigation.
- (2) Twelve photographs and a sketch plan used by the SIB investigators should be treated as part of the investigation material.
- (3) Available radio logs are to be in evidence. I shall pursue inquiries as to the whereabouts or circumstances of loss of the radio logs not available.
- (4) Annex A to Frago 10 Public Order and Safety will be in evidence.

7. SUMMARY OF THE POSITION IN RELATION TO IRAQI WITNESSES.

- (1) The evidence of Munem Auda, Abdul Nabi aka Ali Abdullah (now deceased) and Walid Jasim (now deceased) are relevant and have a sufficient degree of reliability to be tested in the investigation.
- (2) The plainly unreliable witnesses are: Samah Mohammad Ali, Bassim Al Akaili, Sabah Abdul Mutalib (now deceased), Samir Ali, Qasim Al Quatiani, Jassim Mohammed Lafta Almanaasr, Abbas Khamis Lazim, and the 4 sons of Abdul Nabi (Haider, Seif, Kara and Ali).

8. CURRENT STAGE OF THE INVESTIGATION.

The military witnesses will need a little time to consider the written material, which has been copied and paginated for them to consider in accordance with the above scheme for the investigation. Once their written evidence in

response has been received by me, I shall consider whether there should be an oral hearing, with a video link to Iraq so that the family of the deceased can participate. Munem Auda will also be informed of the hearing and can answer such questions as may be required of him by me.

SIR GEORGE NEWMAN