

In the matter of an investigation into the deaths of Radhi Nama and Mousa Ali

and

In the matter of an investigation into the death of Ahmed Jabbar Karim Ali

Inspector: Baroness Heather Hallett PC DBE

Outline Statement of Issues for Investigation – 3 November 2021

1. I have been requested by the Ministry of Defence to conduct an independent investigation into the deaths of Radhi Nama on 8 May 2003 and Mousa Ali on 13 May 2003. Having considered material provided to me for the purposes of this investigation, I can now set out, in general terms, my approach and the factual scope and lines of inquiry which I currently intend to pursue to report in accordance with my Terms of Reference.
2. The Secretary of State has also asked me to complete the investigation into the death of Ahmed Jabbar Karim Ali, Part 1 of which was concluded by my predecessor, Sir George Newman, in September 2016. I adopted Sir George's decision to return to this investigation after completing the investigation into the death of Saeed Radhi Shabram Wawi Al-Bazooni. My investigation into the death of Saeed Shabram has now concluded. I intend to investigate and report on both the Radhi Nama / Mousa Ali Investigation and the Ahmed Ali Investigations together, for reasons I will set out below.
3. The specific obligations governing my investigations are set out in two judgments of the Divisional Court in R (Ali Zaki Mousa and others) v the Secretary of State for Defence (No. 2) [2013] EWHC 1412 (Admin) and [2013] EWHC 2941 (Admin). By an order of the Divisional Court dated 31 October 2013, the Secretary of State for Defence was ordered to hold inquiries into civilian deaths in Iraq in any cases where he accepted that there existed an Article 2 ECHR obligation to hold an inquiry and where it was clear that there would be no prosecution of any British soldiers alleged to have been involved in the deaths. Details of the legal background to the Iraq Fatality Investigations (IFI) are available on the IFI website (<https://www.gov.uk/government/collections/iraq-fatality-investigations>).

4. This Statement is intended to provide a framework for the investigations as I presently understand them. This should not be regarded as an exhaustive range of facts and matters that are under consideration, nor should it be taken as my conclusions on the facts, which will remain open throughout my inquiry. My conclusions will be set out in my report.

Outline Facts

5. The 1st Battalion of the Black Watch (1 BW) is one of four battle groups within the 7th Armoured Brigade (7 AB). 7 AB was one of the three full brigades under the control of the 1st UK Armoured Division. 1 BW were deployed in the initial intervention in Iraq in March 2003 and were replaced by the 1st Battalion of the Queen's Lancashire Regiment (1 QLR) on 27 June 2003.
6. 1 BW's battle group had responsibility for an area of central Basra and surrounding neighbourhoods. C Company (C Coy), which was part of 1 BW's battle group, used as its base a deserted Basra residence, known initially as 'C Coy Lines'. The base was renamed 'Camp Stephen' in honour of LCpl Barry Stephen, the first member of C Coy to die in the war. Camp Stephen was approximately 190m x 110m and enclosed by a 2m-high wall. There was an 'EPW area' (EPW here meaning 'Enemy Prisoner of War') of approximately 12ft x 12ft that included an 'EPW cage' or 'EPW tent' that comprised three or four poles holding up a camouflage netting roof.
7. Camp Stephen was located approximately 10 to 15 minutes from the Regimental Headquarters, known as 'Black Watch Main'. Black Watch Main housed functions including a Regimental Aid Post (RAP), staffed by a trained doctor and medics, and a Temporary Detention Facility (TDF) at which any detainees were processed and a decision made as to their detention. If the decision was made to detain, detainees were transported to the Regimental Detention Facility at Camp Bucca in Un Qasr. The Regimental Detention Centre was governed by 1 BW with Royal Military Police (RMP) staff from the 111th Provost Company (111 Pro Coy).

Death of Radhi Nama

8. On 7 May 2003, 1 RMP received intelligence concerning an alleged criminal gang involved in the trafficking of weapons and the abduction, rape and murder of young girls. An intelligence report concerning this information was submitted to the Commanding Office (CO) of 1 RMP, copied to 7 AB and 1 UK Armoured Division. The report described the individual, gave a location for his house and named five of the men alleged to be part of his group.
9. Officer Commanding (OC) C Coy authorised an operation to detain the group leader and search his home for evidence. C Coy was given the task of conducting the operation and personnel were briefed later that evening.
10. The operation to search and detain began between 0600 and 0645 hrs on 8 May 2003 and involved two Warrior Armoured Personnel Carrier vehicles and a cordon security team. There were difficulties in identifying the target address as the grid reference in the intelligence report was incorrect. The Sergeant (Sgt) at 111 Pro Coy RMP who had compiled the report was therefore called to the scene to clarify the exact location of the premises. C Coy 1 BW, accompanied by the RMP Sgt, arrived at the address at about 0800 hrs. A woman opened the door, spoke to an interpreter for C Coy and permitted entry. The alleged group leader was not present, but his father (Radhi Nama) and some other family members were home. A search was conducted and various items were seized, although witness accounts as to what was seized vary. Radhi Nama was placed in a squatting position with his hands on his head and was questioned about his son's whereabouts. A decision was taken to detain Radhi Nama and transport him back to Camp Stephen at the end of the search. Radhi Nama was placed into the back of a Warrior. He appears to have been hooded between leaving his home and being placed in the vehicle. The operation was completed between 0900 and 0910 hrs.
11. The Warrior arrived back at Camp Stephen at about 0930 hrs, where Radhi Nama was handed over to C Coy's Quick Reaction Force (QRF) and taken to the EPW area. Two 1 BW members were assigned to the EPW area on guard duty. Radhi Nama was questioned (possibly while placed in a squatting position) as to the whereabouts of his son by the C Coy intelligence officer, with the assistance of an interpreter. Radhi Nama

denied knowledge of this and it was decided that his time in detention would be extended and that he would be questioned again later. The intelligence officer left.

12. At some point, Radhi Nama asked for water and one of the guards gave him a bottle. A few minutes later, Radhi Nama started making gasping noises, doubled over and appeared distressed and in pain. One of the guards placed him in the recovery position and the other guard went to get the C Coy medic. The Coy Sgt Major (CSM) was also called to the EPW area. The C Coy Medic examined Radhi Nama and informed the CSM that he believed him to be dead, although he was not qualified to pronounce this. The Regimental Medical Officer (RMO) was not at the RAP that day, and instructions had been left to transport any medical cases requiring attention to the nearby Czech Military Hospital in Basra. Radhi Nama's body was transported by the medic to the Czech Military Hospital, arriving before 1125hrs. Hospital staff directed that the body be left at the mortuary facility. There was no medical examination of the body by doctors at the hospital at that time.
13. The RMP (Special Investigation Branch) (SIB) were notified on the morning of the death and a Senior Investigating Officer (SIO) was assigned immediately. The SIO attended the Czech Army Hospital on the same day to locate the body. No attempt to preserve or examine the body was recorded. Photographs of the clothed body were taken by the RMP (SIB) in the mortuary the following day.
14. On 10 May 2003, Radhi Nama's son-in-law was handed a letter in Arabic, possibly signed by OC C Coy, stating that Radhi Nama had suffered a heart attack and was at the Czech Army Hospital. This letter did not suggest that Radhi Nama had died. A member of C Coy may also have previously visited Radhi Nama's home and told his daughter that her father was in the hospital. Radhi Nama's daughter and her husband visited the hospital but were told that there were no patients with her father's name. She then checked all other hospitals in the area. The following day, the daughter returned to the hospital and was informed that an unknown person fitting Radhi Nama's description was in the morgue. Radhi Nama was identified in the morgue and was visited by further family members on 12 May 2003. Family members claim to have seen cuts and bruises to Radhi Nama's face, damage to his clothing, a boot mark to the left side of his chest area, redness to the front left-side of his body and scratches on both

legs. The death certificate for Radhi Nama was completed on 12 May 2003, stating the cause of death as cardiac arrest.

15. My provisional lines of inquiry include therefore the facts and circumstances of Radhi Nama's death (which will include consideration of the circumstances of his detention, his transportation to Camp Stephen, his detention at the Camp, the medical response and the reporting of the death both up the chain of command and to the family of the deceased), the cause of Radhi Nama's death, the allegations of mistreatment by British soldiers, the relevant policy governing the detention of civilians and the instructions and training given to British troops on the detention and treatment of civilians.

Death of Mousa Ali

16. On 13 May 2003, approximately four members of the Specialist Military Unit (SMU) arrived at Camp Stephen and met with OC C Coy. As a result, an operation was arranged that same afternoon to arrest a High Value Target (HVT) using C Coy assets, possibly together with SMU personnel. The intelligence is believed to have been provided by the SMU. The chain of command for this operation, namely whether this was a C Coy operation, an SMU operation with C Coy support, or a joint operation, is one of the matters I am investigating.
17. The operation was to search at least three separate dwellings in the Aljamhouria district and involved four Warriors with cordon support. There were varying arrival times for the different call signs, but at 1713 hrs the Radio Log records all call signs were at the relevant target areas. Searches of the target addresses followed. A male occupant at one of the target addresses was believed, incorrectly, to be an Iraqi General and was detained. The detainee was escorted to a Warrior vehicle and placed in the rear of the vehicle while the search was continued.
18. Mousa Ali's home was not on the target list, but it was believed that a man had who escaped one of the target addresses had entered the property. Mousa Ali was at home with two of his sons, his wife and his daughter-in-law. Mousa Ali was described as a very obese man in his early 50s. The family allege that the soldiers who entered the house were aggressive and rough, and on one soldier (who had a beard) knocked Mousa

Ali to the ground and beat him repeatedly with fists and a rifle to the head. It has been alleged that Bashar Ali, one of Mousa Ali's sons, was also beaten and that soldiers pulled off the hijabs of women in the house. Ammunition and a rifle were found at the address and a decision was taken to detain Mousa Ali and Bashar Ali. They were hooded and placed into cuffs, taken to the same vehicle as the first detainee and driven to Camp Stephen. The operation was completed at about 1745 hrs and the call signs arrived back at Camp Stephen at about 1800 hrs.

19. At Camp Stephen, the three detainees were taken to the EPW area, where they were guarded by members of C Coy. It appears that they were hooded at this time and were placed on their knees. Bashar Ali alleges that they were also beaten by soldiers. Some detention paperwork was completed and all three detainees were medically examined by the C Coy Medic, who noted that Mousa Ali had blood coming from a minor cut on his lip but found no medical issues of significance.
20. The CSM arrived shortly after the medical examination, possibly with the intelligence officer, and questioned the detainees with the assistance of an interpreter. There is a suggestion that he used a pole to prop up Mousa Ali, holding it horizontally under his chin. At some point, the detainee believed to be the general was taken away by the intelligence officer for further questioning, and two C Coy Guards were left to guard Mousa Ali and Bashar Ali. Bashar Ali alleges that he and his father were subjected to ill-treatment, including being thrown into a hole, beaten and forced to lie down in the tracks of a tank.
21. The two guards were rotated at 2100 hrs. About 10 to 15 minutes later, Mousa Ali started to put his head on his arm and was lifted back to his knees by the guards four or five times before he fell backwards with blood coming from his mouth. One of the guards attempted first aid and the medic was called to the EPW area. The medic found no signs of life but attempted resuscitation and called for an ambulance crew to help him transport Mousa Ali to the RAP. The radio log records that the RAP was warned by radio at 2135 hrs that a detainee was on route having had "*a fit/epileptic.*" The ambulance arrived at the RAP at approximately 2145 hrs. Resuscitation was attempted, but Mousa Ali was declared dead by the RMO at 2158 hrs. The RMO's paperwork recorded that "*there was no identifiable reversible cause of his non – VF/VT arrest and therefore the cause of death is unknown*". The Battle Group radio log records an entry

at 2157 hrs from the RMO at the RAP reading “*Casualty brought in by C Coy declared dead. Poss heart attack. Sincrep sent by scra 2210.*” I have not yet been able to locate this Sincrep.

22. Mousa Ali’s body was collected by the body transport team early on 14 May 2003 and delivered to the Basra Teaching Hospital, where it was simply left without any conversation with staff. A death certificate was issued on 15 May 2003 stating the cause of death as “*Heart Failure*” and the location of death as “*in the street*”. The doctor who issued the death certificate stated that he did so on the strength of a note written in English that had been attached to the body suggesting there was a blood clot to the heart. No post-mortem examination was performed.
23. At 1635 hrs on 16 May 2003, an Iraqi male visited the Police Station at Regimental HQ of 1 RMP asking questions about money that had gone missing when Bashar Ali and Mousa Ali were detained. The RMP Officer to whom he spoke made further enquiries that revealed that Mousa Ali had died while in detention. The RMP Officer briefed his own chain of command. The OC of the RMP (SIB) was informed on 17 May 2003 and an SIO was assigned to investigate.
24. My provisional lines of inquiry include therefore the facts and circumstances of Mousa Ali’s death (including but not limited to the events relating to his capture and detention, transportation to Camp Stephen, detention and questioning while at Camp Stephen and the response to and reporting of the death), the cause of Mousa Ali’s death, the allegations of mistreatment by British soldiers, the relevant policy governing the detention of civilians and the instructions and training given to British troops on the detention and treatment of civilians.

Previous investigations

25. The conduct and adequacy of previous investigations into the deaths of Radhi Nama and Mousa Ali, as I presently see it, are not within my terms of reference. It is the product of these investigations, namely the statements and accounts obtained from witnesses and documents gathered, together with any material my investigation gathers, that I must consider to determine the facts and circumstances of the two deaths.

26. The RMP (SIB) investigation into the death of Radhi Nama was completed in July 2003, with the final report finding that a cause of death could not be determined. Army Legal Services concluded two months later that no further action was required.
27. The investigation into Mousa Ali's death was completed in February 2004. The final report concluded that, due to the lack of forensic or medical evidence to support a cause of death or the allegations of assault made by Bashar Ali and other witnesses, no one should be reported for any offence. Commander Legal of the Army Legal Services subsequently distributed a document in May 2004 recommending a review of matters of policy and procedure as a result of this case, particularly with regards to the arresting and detention of civilians and the policy in relation to handing over bodies where a detainee has died in custody.
28. The Iraq Historic Allegation Team (IHAT) opened a review of the RMP (SIB) investigations into the deaths of both Radhi Nama and Mousa Ali on 24 November 2010, which was concluded on 18 March 2011. The recommendation was for the circumstances of both deaths to be re-investigated.
29. An IHAT investigation, which included the interviewing of witnesses, was commenced in September 2011. By January 2015, the IHAT investigation had taken 165 statements and collected 136 exhibits and other additional documents for the investigation into the death of Radhi Nama. For the investigation into the death of Mousa Ali, 303 statements were taken and 244 exhibits and additional documents collected. Suspect interviews were conducted between November 2016 and April 2018 and between April 2016 and April 2018 for the investigations into the deaths of Radhi Nama and Ali Mousa respectively.
30. IHAT was closed on 30 June 2017 and the investigation was continued by the Services Police Legacy Investigation (SPLI) team within the service police system. SPLI concluded the investigation and referred both cases to the Army Prosecuting Authority (APA) on 4 April 2019. The Director of Services Prosecutions concluded on 31 July 2019 that the evidential sufficiency test had not been met and no prosecutions would be brought.

Death of Ahmed Ali Investigation

31. The death of Ahmed Ali was the subject of Sir George Newman's report concluded in September 2016. An outline of the incident that led to his death by drowning at the Shatt Al Basra Canal on 8 May 2003 is set out at Section 3 of that Report, and Sir George's findings and conclusions as to the immediate facts and circumstances of the death appear at Section 6. I do not propose to recite all those facts and conclusions here.

32. Section 6.2 of Sir George's report states:

"The immediate circumstances which caused his death are clear: the soldiers, having detained him for looting, forced him to enter the canal and left him floundering. He should not have been detained and held in armed and confined custody in a Warrior, he should not have been transported in the Warrior to the canal, he should not have been forced to enter the canal, let alone left there to flounder and drown. The soldiers' actions give rise to grave concerns about their ability to cope with the responsibilities imposed upon them, as well as grave concerns about the adequacy of the resources available to the BF, and grave concerns about their training and the ability of the occupying force to take on the burden "to act as both policemen and combatants simultaneously" (FRAGO 100). Basra had descended into a state of chaos. Iraqi police could provide no assistance, and no legal processes for dealing with looters existed or could be devised."

33. In Section 7, Sir George set out that paragraph 4 of the Terms of Reference required an investigation into the wider circumstances of the death, including the instructions, training and supervision given to the soldiers involved. He reached conclusions on this aspect of paragraph 4 regarding a lack of training for soldiers in policing methods and on there being no Rules of Engagement for dealing with looting, and stated at Section 7.2:

"There are reasons to believe that the drowning of Mr Ali could have occurred and had its origin in a wider context of events, namely instances of other looters being soaked in water by soldiers in attempts to punish and thereby deter them from looting."

34. Sadly, Sir George died before he was able to conclude Part 2 of this Investigation. It falls to me to complete the investigation in accordance with the Terms of Reference.
35. The death of Ahmed Ali occurred on the same day as that of Radhi Nama. The soldiers involved in the immediate events leading up to Ahmed Ali's death were members of No 1 Company (Coy), 1st Battalion of the Irish Guards (1 IG). No 1 Coy 1 IG came under the subordination of CO 1 BW Battle Group on 11 April 2003 until it was returned to Germany on 9 May 2003, the day following the deaths of Ahmed Ali and Radhi Nama. My investigations into Part 2 of the Ahmed Ali Investigation and into the wider circumstances of the deaths of Radhi Nama and Mousa Ali require intersecting enquiries into the relevant training and instruction provided to soldiers, as well as the wider context. I expect this will require a considerable overlap in witnesses and lines of inquiry. As such, I have decided it will be reasonable, proportionate and desirable to investigate and report on this Investigation alongside my Investigation into the deaths of Radhi Nama and Mousa Ali.
36. My provisional lines of inquiry for the Ahmed Ali investigation Part 2, therefore, include the use of water and bodies of water by British troops as part of the treatment of detainees and whether there existed any policy or accepted practice in that regard. I will also address the concerns expressed by Sir George Newman in his report, namely the ability of British troops to cope with the responsibilities thrust upon them, the ability to act as both police officers and combatants at the same time and the adequacy and dissemination of training on the detention and treatment of civilians.

Evidence for my Investigations

37. All material gathered in the course of previous investigations has been made available to me for the purposes of my Investigations, although efforts continue to locate some items that are currently missing.
38. I shall take into account all previous statements made and interviews given as part of my Investigation. I shall also take into account witness statements submitted as evidence to the Baha Mousa Inquiry and passages from a book written by one witness

to events, where relevant. The fact I consider a piece of evidence as part of my investigation should not be taken as a finding by me that it is reliable.

39. From the material I have received, I have identified key documents relating to the deaths of Radhi Nama and Mousa Ali. Among these documents are photographs of locations, location sketches, intelligence reports, radio logs and reports and detainee processing documents, treatment notes and death certificates for both deceased. I will also consider key documents containing policy and instructions, in particular those relating to the detention of civilians, detention and internment procedures and public order and safety. At some stage I hope to publish this material, with appropriate redactions, online so that it is publicly available. For the avoidance of doubt, I do not suggest that this published material represents the totality of the material I shall take into account.
40. The Divisional Court envisaged that any investigation would first consider the existing documentation and from that material I shall decide the witnesses from whom I wish to obtain further evidence. I am also conscious that a significant period of time has passed since 2003 and the events I am considering. Memories of the events may have faded or altered.
41. My team has contacted certain military and non-military witnesses in relation to the direct and wider circumstances of the deaths under investigation. Among these are a small number of witnesses who have not previously given any account in relation to the deaths under investigation. Where appropriate, I have invited individuals to comment on their previous accounts (if available) and offer evidence relevant to my Investigation by providing me with a signed witness statement. I may continue to make requests from additional witnesses as I consider appropriate to fulfil my Terms of Reference. Witnesses who believe they can provide evidence or suggest lines of inquiry to my Investigations should approach the IFI.
42. When I have received the written evidence, I shall consider whether there should be an oral hearing. I will give an update on my progress and any decision in this regard at the appropriate time.

43. I am also pursuing enquiries to locate documents that I believe to have existed but have not been located by previous investigations. These enquiries presently relate to the intelligence that instigated the search and detention operation that led to the detention of Mousa Ali and the involvement of SMU personnel in the relevant events. I am being assisted in these enquiries by the SMU, to whom I am grateful, and will consider any further steps that I should take in this respect when these inquiries have been concluded.

Assistance to witnesses

44. I am mindful that asking military witnesses to revisit the events that I am required to investigate can be stressful and traumatic. Through the IFI team, I will do what I can to limit their distress. If it is appropriate, a legal adviser can be appointed at public expense to assist the witness in the preparation and course of their evidence. A witness can also seek an anonymity order, and the policy in respect of such applications is available on the IFI website. Details of organisations that can offer support for mental ill-health and stress for those who have performed military service are available through my team.

45. I also emphasise that the principle that the Inspector controls the questions during the course of IFI investigations was clearly established by the Divisional Court. There are no advocates. There is no cross-examination. Questioning of witnesses only takes place through the Inspector, but this may be through members of my team acting on my behalf. Lines of inquiry and questions may be suggested to me, but they will be put at my discretion. As such, military witnesses are not going to be confronted by counsel acting on behalf of the families. They are going to be asked questions by me or my team as I see fit to enable me to carry out a full investigation into the facts and circumstances of events.

46. I am also conscious of the strain that further investigations into these events can place on the families and friends of the deceased and will do what I can to ensure they can participate in my Investigations without unnecessary distress. I remain grateful to QC Law, a law firm based in Basra who have assisted with previous IFI investigations and are assisting my Investigations through providing representation to the family members of the deceased and helping with enquiries in Iraq.

Note on Covid-19

47. My Investigations to-date have been conducted during the Covid-19 pandemic. The IFI have adapted to these working conditions, but the pandemic has complicated the task of locating, receiving and reviewing colossal amounts of sensitive evidential material and of progressing inquiries with individuals. The Government position at the time of this Outline Statement allows for in-person meetings and public hearings to take place should I hold them, but this is a shifting picture and I intend to keep the situation under review. My concern is to enable witnesses to give their best evidence and to conduct a full and publicly accessible inquiry. I will entertain requests from those participating in my Investigations to adapt processes appropriately to facilitate this.

Reporting

48. Responsible reporting will be necessary to enable me to fulfil my Terms of Reference and conclude my Investigations. I have, at present, elected not to state publicly the name of any military witnesses who may have been involved in the events I am investigating and temporarily extend anonymity to all witnesses who have not been publicly named by my Investigations. This is because not all witnesses who have been contacted will have yet had the opportunity to seek legal advice or make an anonymity application should they so wish.

49. I also draw attention to paragraph 7.2 of Sir George's Report into the death of Ahmed Ali in respect of witnesses to that Investigation, which I adopt. This states as follows:

“There is a continuing need for the witnesses and the investigation of Part 2 issues to be safeguarded. My previous guidance is on the website. Witnesses who have made statements should not be approached and asked questions, nor should witnesses who are mentioned be approached to answer questions. Witnesses who believe they can provide evidence should approach the IFI. Lines of inquiry and questions for the Investigation should be provided to the IFI.”

50. Witnesses should not be approached or asked questions while my Investigations continue. Where anonymity orders have been made, I ask that the media respect this.

BARONESS HEATHER HALLETT