

OPUS2

April 11, 2023
Day 1

Iraq Fatality Investigations

1 The investigations. As everyone attending will
2 know, I am investigating -- terms of reference,
3 4 November 2020 -- the deaths of two Iraqi civilians,
4 Radhi Nama and Mousa Ali, who both died shortly after
5 their May 2003 capture and detention at Camp Stephen,
6 British military base in Basra. Given the factual
7 similarity between the two incidents, some overlap in
8 personnel involved, and that they were within a week of
9 each other, I am investigating and reporting on them
10 together.

11 As I explained in my directions hearing on
12 3 November 2022, I am also asked to investigate on, and
13 conclude the report into, the death of Ahmed Ali. In
14 part 1 of that investigation, Sir George Newman reached
15 the sad conclusion that Mr Ali died by drowning in the
16 Shatt Al-Basra Canal after being forced to enter the
17 water by British soldiers on 8 May 2003. That is
18 the same date upon which Mr Radhi Nama died at
19 Camp Stephen.

20 Part 2 of the investigation arises out of evidence
21 of a practice of "wetting" civilians to deter looters by
22 forcing them into bodies of water. I decided to conduct
23 part 2 of the Ali investigation alongside my
24 investigation into Radhi Nama and Mousa Ali's death,
25 and I explain my reasons in my 3 November 2022

1 directions hearing, which adopts those set out by my
2 predecessor, Baroness Hallett, in her outline statement
3 of 3 November 2021.

4 Hearings. I am very grateful to those witnesses who
5 provided written evidence, and in some cases
6 supplementary written statements, in relation to these
7 deaths.

8 These are not adversarial hearings, they are
9 inquisitorial. Their purpose, their primary purpose, is
10 that I hear from witnesses in person so I can understand
11 their evidence and recollection of events. I am
12 interested in what individuals remember and have to say.
13 I am not trying to catch people out or challenge the
14 finer details of their recollections. There will be no
15 cross-examination, and all the questions will come from
16 me and from the team.

17 Participants have access to the bundle I will use.
18 I know it couldn't be provided until last week; it was
19 essential to complete redactions, so we could organise
20 public use. But let me allay any anxiety: I don't
21 consider this will prejudice participants given my
22 intended line of questioning.

23 I might, from time to time, take a witness to
24 documents other than their own statements in my bundle,
25 but we will make sure they can consider and comment on

1 that material. I repeat: I want to hear and clarify
2 individuals' best recollections, not trip them up.

3 I have, from the start, been very alive to events in
4 play being 20 years ago. Memories and recollections
5 might be weakened by the passage of time. I am also
6 acutely conscious that both for those who lost loved
7 ones, and for those who served in the British military,
8 revisiting historic events can be troubling and, for
9 some, traumatic. My team and I have always aimed to be
10 considerate and understanding, and that is the pattern
11 for these hearings too.

12 These are the first public hearings for taking
13 evidence in these investigations. Witness availability
14 means I will take some discrete evidence later in
15 hearings for that purpose, but the team will aim to
16 update participants and the public on future hearings.

17 I again thank everyone who has worked hard with my
18 team along the way; and those are not mere words, they
19 are borne of genuine gratitude. Thank you.

20 Anonymity. In a moment Natasha Jackson will set out
21 the procedure we will follow and she will field any
22 questions, but just let me pre-empt one point she will
23 cover in more detail and that is anonymity. I made
24 a general order protecting from publication the names of
25 any British military personnel involved in my

1 investigations. All specific applications made for
2 anonymity by witnesses have been granted. All witnesses
3 attending are protected by public anonymity. We shall
4 use ciphers instead of names, and my team have
5 broadcasting safeguards in place to prevent accidental
6 streaming of confidential or anonymised material.
7 However, in the unlikely event that anonymised names are
8 used publicly, can I remind everybody present that both
9 my specific and my general anonymity orders remain in
10 force. I don't expect the names of any British military
11 personnel to be published without my express written
12 permission.

13 I will hand over now Natasha Jackson. Natasha.

14 Housekeeping

15 MS JACKSON: Thank you, Dame Anne.

16 As Dame Anne said, I will just run through some
17 matters of housekeeping before we get started with the
18 hearings.

19 Firstly, the intended running order. A timetable
20 was circulated towards the end of last week. As I hope
21 is clear, the team have done what can be done to
22 accommodate individuals' availability, and so we are
23 hoping to follow the most recent version that was
24 circulated unless circumstances change, which means that
25 today we will be hearing in the following order the

1 evidence of SO98, followed by SO85, and then SO88 and
2 SO91 after the lunch break. We are planning to take
3 a lunch break between 1 and 2, there will be other
4 breaks during the course of the day for the transcriber,
5 but the Inspector is willing to sit later today in order
6 to complete all four of those witnesses' evidence in
7 order to avoid having to call anyone back to continue
8 their evidence tomorrow. Hopefully that is going to be
9 okay with everyone, it is a decision taken to
10 accommodate availability.

11 The preference for the smooth running of these
12 hearings is that all witnesses do remain in the hearing
13 room with their cameras and microphones off during the
14 course of the day. That said, witnesses are not
15 required to attend unless they are giving evidence, and
16 we are not expecting to hear the evidence from SO88
17 until after the morning break and, as I just said, SO91
18 until after the lunch break.

19 Mr Cherry, I am looking at you in particular because
20 I think both of those are your clients. If you are in
21 touch with them and you are confident that you can
22 ensure that your clients are back in the hearing room at
23 the point in time they need to give evidence, then we
24 are certainly not requiring them to sit around waiting
25 in the hearing all day. I think SO91 hasn't actually

1 joined us yet in any event, but I will leave that with
2 you. We will, at the morning break, hopefully have
3 a clearer indication of the time that SO88 in particular
4 is likely to give evidence.

5 MR CHERRY: Thank you, Natasha. I am live with SO88 as we
6 speak, and I will check with 91 shortly. Thank you.

7 MS JACKSON: I am grateful.

8 Finally, these are public hearings, of course, and
9 they have been advertised as such, so members of the
10 press and public are able to attend. We haven't, so far
11 as I am aware, been made aware of any members of the
12 public or press who are attending these hearings, but
13 obviously they are public. And a transcript is being
14 taken, and that is going to be published on the IFI
15 website in due course after the hearings.

16 In terms of how the evidence is going to be taken,
17 instructions to witnesses were sent out last week, so
18 hopefully everyone has had the opportunity to consider
19 those, but I will just run over some key points for
20 today.

21 Firstly, cameras. Hopefully it will be clear, and
22 then we can give directions as we go, but just in
23 general terms, if we can ask everyone to keep your
24 microphone off unless you are giving evidence or
25 addressing the hearing.

1 Representatives, you are invited to turn your
2 cameras off when we start taking the evidence, unless it
3 is your client giving evidence, in which case you may
4 prefer to keep it on. Again, that is a not a hard and
5 fast rule, but it is just easier to keep the screens
6 decluttered and allow everyone to focus on the videos of
7 those who are giving evidence.

8 As we were discussing when we came into the hearing,
9 there have been some applications for witnesses to give
10 evidence with the additional protection of keeping their
11 camera off. Where those requirements have been granted,
12 of course, there is no requirement for the camera to be
13 turned on. That said, I would reiterate it is of course
14 helpful to the Inspector to be able to see who she is
15 talking to, and we aren't, as I said, currently aware of
16 any members of the public attending. So it may be that
17 having seen the inside of the virtual hearing room,
18 witnesses do feel more comfortable turning their camera
19 on than they expected to. If that is the case, then
20 of course we would welcome that, but permission has been
21 given.

22 In terms of asking questions to witnesses, as
23 Dame Anne has already emphasised, these are not
24 adversarial proceedings and the hearings are intended to
25 be relatively informal. The questions will be asked

1 primarily by Dame Anne, with assistance from the counsel
2 to the Inquiry team. That is not to say representatives
3 will not have the opportunity to invite the Inspector to
4 ask questions, but the way that we will run that is that
5 at the end of the Inspector's questions and the counsel
6 team's questions, what we will do is we will ask
7 representatives in turn whether there are any matters
8 that they wish the Inspector to put to that witness, and
9 the Inspector will be able to take a view as to whether
10 she considers those questions should be appropriately
11 put.

12 So we will go through that at the end of, as I say,
13 the Inspector and the Inquiry team's questions, and we
14 will finish, not in any kind of overly structured way,
15 but we will come to the representative who is
16 representing the witness giving evidence last, so you
17 will have the opportunity to have the last word in that
18 regard.

19 When the Inspector or anyone else is asking
20 a question would like a witness to look at document that
21 is in the Inspector's hearing bundle, which is the one
22 hosted on the Opus 2 platform, that will be magically
23 conjured up for us by Opus 2 on the screen, so hopefully
24 no-one should have to root around to find that.
25 Obviously, if there are any problems with seeing the

1 documents, please do interrupt and flag, but hopefully
2 that should be projected on the purple screen.

3 Documents that are in individuals' initial
4 disclosure bundles, which are those bundles that were
5 sent out to witnesses before they were asked to give
6 a statement to the IFI, those have not been redacted for
7 publication, they are not able to be put on the Opus 2
8 platform. We ask if witnesses can have those to hand.
9 And if questions are being put to those, they will be
10 asked to refer to page numbers within that bundle, but
11 they will not be able to appear magically on the screen
12 for reasons I hope you understand.

13 Finally on anonymity and confidentiality, which
14 Dame Anne has already introduced as obviously a matter
15 of core concern to us, as I am sure it is to some of
16 those on the call, ciphers have been applied to all
17 witnesses, and -- sorry, all witnesses who are attending
18 today, and everyone should have access to a list of the
19 ciphers that will be used during this hearing.

20 Representatives and witnesses are asked to use that list
21 and to have it to hand during the hearings and to use
22 ciphers instead of names throughout.

23 If there is a name that -- I am talking to the
24 witnesses here -- if there is a name that anyone wants
25 to give that you know to be a member of British Forces

1 or is otherwise British military personnel, and you
2 don't have a cipher for that individual, we would ask
3 you don't say their name in these public hearings,
4 please do continue to give your evidence about this
5 individual without naming them, but we would ask, and we
6 can give further instructions on this if it does arise,
7 but we would ask that you communicate that name to your
8 representative who can pass it on to the Inquiry. And
9 if any further questions do arise out of that particular
10 name, then we can deal with that after these hearings.
11 But please don't say the name in these hearings unless
12 you already have a cipher to apply to it.

13 As Dame Anne said as well, and as has been indicated
14 in the instructions, we do have safeguards in place to
15 prevent the accidental public streaming of any
16 anonymised names. There is a delay on this stream to
17 the public stream, and we can cut the link in the event
18 there is a slip-up. So in the unlikely event that this
19 does happen, because hopefully everyone has the ciphers
20 to hand, then we will be vigilant to make sure that it
21 doesn't go any further than this room. And in the
22 unlikely event that it does get past that safeguard, as
23 I said at the start, the way these hearings are going to
24 be published is not through putting a recording on the
25 website, what we will be doing is publishing the

1 transcripts of the hearing, which will obviously give us
2 the opportunity to redact any missteps in that regard
3 before they are published.

4 So there are various measures in place to protect
5 the anonymity, but as Dame Anne said, the anonymity
6 orders are nevertheless in place. So in the event that
7 something does slip out, it is still the case that that
8 name cannot be used publicly or published as a result of
9 that slip-up, and the anonymity order should prevent
10 that from happening.

11 I hope that reassures those who are subject to the
12 anonymity orders, but we will all do our best that
13 regard.

14 One final note that connects to that, relating to
15 confidentiality material. As we are all aware, the
16 public hearing bundles have been redacted for
17 publication, and those are the ones we have access to
18 and will be using in these hearings, and the line of
19 questioning that I understand the Inspector is intending
20 to pursue is not a line of questioning that we expect is
21 likely to stray into issues of security or sensitivity.
22 Nevertheless, if -- and again I am addressing the
23 witnesses here, but representatives as well -- if there
24 is any concern that the response you would like to give
25 to a question posed by the Inspector might require you

1 to give information that shouldn't be publicly
2 disclosed, then we would invite you to simply inform the
3 Inspector that you do have concerns, and again, we can
4 follow up what that evidence would be out of the public
5 hearing, and through a closed mechanism, if appropriate.

6 So again, we would invite you to err on the side of
7 caution, but, as I say, we are not expecting to be
8 straying into that territory.

9 As I said, the Inquiry team we will be vigilant
10 about confidentiality and anonymity issues, and we will
11 be cutting the stream if we need to. To representatives
12 as well, if there is anything that is said in the
13 hearing that you have concerns about, and it doesn't
14 seem to you like the Inquiry team are responding to it,
15 please do interrupt in that instance so that we can be
16 extra cautious if needed. As I say, hopefully that
17 won't be the case.

18 Are there any questions about how the hearings are
19 going to be conducted? (Pause)

20 I will take that silence to indicate everyone is
21 happy, but of course please do put them during the
22 course of the hearings. As I said, these are not
23 intended to be overly formal, and this is the first time
24 that the IFI has conducted virtual hearings at all, let
25 alone used the Opus 2 platform. So hopefully it will

1 all run smoothly, but if there are any teething issues,
2 hopefully you can bear with us and we will get where we
3 need to get to in the end.

4 If there are no questions, we will start with the
5 evidence.

6 SO98 (called)

7 Introduction by MS JACKSON

8 MS JACKSON: SO98, are you with us?

9 A. Good morning. Yes, I am.

10 Q. Good morning, SO98. You have been given permission by
11 the Inspector to have your camera off, so we will expect
12 that to be the case unless we suddenly see you.

13 Can I also check you have the cipher list to hand?

14 A. I do. I have both cipher lists to hand, yes.

15 Q. Excellent. Are you able to just confirm to us that you
16 are the individual ciphered SO98?

17 A. I am. I am cipher SO98.

18 Q. Brilliant. Can I also check you have to hand the
19 initial disclosure bundle that your representatives were
20 sent when you produced your first statement to us?

21 A. I do. I have a copy of it, yes.

22 Q. Excellent. Thank you.

23 You have produced a statement for these
24 investigations. If I can ask Opus to call up {A/83/1}.
25 Here is where we test the screen. There we go.

1 So you should be able to see there on the projected
2 screen the first page of a statement. Obviously it is
3 redacted, so it's a little hard to ... If we go to page
4 {A/83/10} of that document, and just go right down to
5 the bottom of that document, we can see it is signed on
6 31 March 2023.

7 Is this a statement that you have provided to the
8 investigations?

9 A. It is, yes. It is.

10 Q. Thank you. In your initial disclosure bundle, I am not
11 going to ask you to go through that, but can I just
12 check that that contains witness statements from 2013
13 and 2014 that you gave to the IHAT investigations?

14 A. Yes, there are two statements there to IHAT -- from
15 IHAT.

16 Q. And you were able to consider those previous accounts
17 when you were giving your evidence to this Inquiry?

18 A. Yes, I did.

19 MS JACKSON: Thank you very much, SO98. Dame Anne will have
20 some questions for you, and I will pass over to her.

21 Questions from DAME ANNE RAFFERTY

22 DAME ANNE RAFFERTY: Thank you.

23 Good morning, SO98. Can you hear me loud and clear?

24 A. Yes. Good morning, Dame Anne.

25 DAME ANNE RAFFERTY: Now, remember I can't see you, so

1 I have no visual clues on whether you are comfortable or
2 disconcerted, so I am going to be reliant upon you to
3 tell me if anything is bothering you or not going as you
4 wish. Are you happy with that?

5 A. Yes, I am fine, thank you very much.

6 DAME ANNE RAFFERTY: Good. Right.

7 Let's get do it, SO98. Could you start with giving
8 us an underlying outline of your military career.

9 For example, get us into the Army with you and get us,
10 at a canter, through your promotions and up to
11 Camp Stephen, if you would.

12 A. Yes, certainly. I joined the Army in 1985 into the
13 Black Watch as a junior soldier, serving initially in
14 Edinburgh, moving through into Berlin and
15 Northern Ireland in the late 1980s/1990s, and it was in
16 [REDACTED] I was promoted to platoon sergeant. I moved
17 to the first training establishment, which was the
18 infantry training centre in Catterick, as a platoon
19 sergeant instructor, and then from there was accepted
20 into the Royal Military Academy, Sandhurst as a colour
21 sergeant instructor, teaching officer cadets from
22 overseas and the British Army to become an officer.

23 It was on completion of this posting in 2003 that
24 I returned to the Black Watch in Fallingbostel, assumed
25 the position of company quartermaster sergeant in colour

1 sergeant rank with C Support Company. It was then, in
2 2004, approximately February of 2004, that I deployed to
3 Kuwait and then into Basra with C Company as part of
4 1 Black Watch, 7th Armoured Brigade. I was under the
5 command of SO88, and the person directly above myself in
6 seniority from a soldier's level was SO101.

7 DAME ANNE RAFFERTY: Thank you very much.

8 So your role in 2003 -- we have got you there now,
9 through your chains of promotions -- what was your role
10 out there in 2003 as CQMS? We don't need dots on Is and
11 crosses on Ts, but give us a fleshed out picture, SO98,
12 if you would?

13 A. So the CQMS's role is actually to provide direct support
14 to the company when it's on operations and also in camp.
15 Obviously it differs from in-camp duties, but on the
16 operational side it was providing direct support to
17 those who were in the front-line in the war-fighting
18 phase. So that was to provide logistics support through
19 ammunition re-supply, water, rations re-supply, critical
20 spares, and obviously assisting as required with medical
21 facilities, and bringing up just primary logistic
22 support.

23 DAME ANNE RAFFERTY: Thank you very much.

24 I am going to turn now, SO98, to training given to
25 you and instruction you received in post-war Iraq. What

1 was your general view -- broad strokes of the brush --
2 of the training and instructions you got? Did you feel
3 well prepared? Under prepared? On an arc somewhere for
4 your role as CQMS?

5 A. My role as CQMS was very easy to do, because I had been
6 qualified in that by going through the defence logistics
7 school. But there was no major issues. The only real
8 issue was actually prior to going into Basra, and that
9 was the supply by the Brigade and through the UK
10 divisions, because it was very slow.

11 DAME ANNE RAFFERTY: Did you have any what we might call,
12 in fact I think you used the word, formalised training?
13 You knew about the Law of Armed Conflict, you knew about
14 the Geneva Convention and the Rules of Engagement,
15 et cetera, et cetera, as one would expect, and you knew
16 about medical care to the wounded. Was that something
17 that you had absorbed as opposed to -- I noticed you
18 said there was no formalised training at that stage.
19 Could you just unpick that a little for me.

20 A. When you are talking about formalised training, the Law
21 of Armed Conflict, Rules of Engagement -- in fact, if
22 you take out the Rules of Engagement, but the Law of
23 Armed Conflict and the Geneva Convention is a mandatory
24 subject that we do annually in the military. When we
25 went into Kuwait there was obviously not a class of

1 formalised training but a reminder on the Law of Armed
2 Conflict and the Geneva Convention, but also we had the
3 addition of the Rules of Engagement as we were now going
4 into actually a war-fighting phase. So the Rules of
5 Engagement would have been applicable, and it is very
6 similar to other operations, if you take
7 Northern Ireland.

8 DAME ANNE RAFFERTY: I am interested that you have picked up
9 that soldiers were reminded of those duties. Can you
10 unpick it a little further for me? How were soldiers
11 reminded?

12 A. Soldiers are reminded verbally, and also issued with
13 a Rules of Engagement card.

14 DAME ANNE RAFFERTY: The card, yes. The card, yes. Would
15 there be a general rank of person reminding them, or did
16 it differ event on event?

17 A. It would be dependent upon who was actually tasked to
18 it. So it would have been given to a Company if it was
19 either at Battalion level or Brigade level, but in this
20 instance, if I recollect, it was down to Company level,
21 so it would be the Company instructors, ie the platoon
22 commanders and the platoon sergeants, who would deliver
23 that verbal training and issue the cards to those
24 individuals.

25 DAME ANNE RAFFERTY: Thank you. I think I might know the

1 answer, but let me ask you. You have helped us with no
2 formalised training. Were there any implications, as
3 far as you are concerned, arising from the absence of
4 it?

5 A. There was no implications, but it depends how you want
6 to classify formalised training. There was no
7 centralised training, as in formulated with a large
8 audience, it was all down to small groupings. So that
9 could actually be subjective in the way it was ...

10 DAME ANNE RAFFERTY: Yes. When you say small groupings, do
11 you mean --

12 A. Company groupings.

13 DAME ANNE RAFFERTY: Yes. And do you mean directed to the
14 issue as to which training was going to be different, so
15 tailored might we call it?

16 A. I wouldn't say tailored, I would say they had to stick
17 to the subject. But how one delivered that would
18 obviously differ from each speaker.

19 DAME ANNE RAFFERTY: Got it, thank you very much.

20 You told us that Geneva and the Rules of Engagement
21 covered things including prisoner handling. Was
22 prisoner handling -- would that description catch
23 civilians, detainees, in other words not prisoners of
24 war?

25 A. They are not classified as -- well, the military, when

1 it goes into a war-fighting stage, classifies all
2 prisoners of war as active members of an opposing force.
3 If you are coming up against a civilian, and it is
4 extremely difficult to determine whether or not they are
5 a civilian, then you have to take it that they are
6 classed as a prisoner of war until you can verify their
7 true identity.

8 DAME ANNE RAFFERTY: So you start with the default position
9 that they are a POW, unless ...

10 A. Yes, that is correct.

11 DAME ANNE RAFFERTY: Okay. Once you had reached
12 a conclusion, was there a difference you could identify
13 between the handling of the non-POWs as opposed to the
14 handling of the POWs?

15 A. It would only be down to the level of questioning and
16 how you would actually move them back to the base.
17 Because obviously if they are a military person, then
18 they may have intelligence. That would be used
19 through -- going through a different level of prisoner
20 of war handling. But if they are a civilian, then
21 obviously if you do have a police force in place, then
22 they should really be handed over to a police force.
23 But that wouldn't happen directly with ourselves, that
24 would be further down the line.

25 DAME ANNE RAFFERTY: Okay.

1 A. But everyone should be treated the same: humanely.

2 DAME ANNE RAFFERTY: Yes. Thank you.

3 I am going to ask you a bit about the culture at
4 Camp Stephen, SO98, if I may. And again I am after
5 broad strokes of the brush, at least to begin with. If
6 I said to you just explain the culture to me, you were
7 an experienced NCO, what was it?

8 A. The culture was no different to how we would actually
9 operate as a battalion back in a base. It was well
10 disciplined, well run, highly organised, and everyone --
11 there was a lot of ups and down, as you would expect
12 from what had went on, but the culture in the main was
13 generally good.

14 DAME ANNE RAFFERTY: Yes. And order and discipline
15 maintained how?

16 A. Order and discipline was maintained through the normal
17 chain of command, coming from the company
18 sergeant major, down to his platoon sergeants and
19 corporals.

20 DAME ANNE RAFFERTY: I want to capitalise, if I can, on your
21 very considerable experience. How do you think
22 Camp Stephen compared to other military environments you
23 had worked in, in a long and distinguished career?

24 A. Well, that is an extremely difficult question to answer,
25 because the only place operationally we had been prior

1 to this was Northern Ireland, and Northern Ireland is
2 a totally different operational environment. We're
3 talking about being in a war-fighting environment here
4 with very little law and order. I would say that the
5 discipline and the culture within Camp Stephen is what
6 I would expect for a Company on operations.

7 DAME ANNE RAFFERTY: Thank you. After the war ended, so the
8 post-war phase, and the troops entered into the post-war
9 phase, atmosphere changed in Camp Stephen?

10 A. The atmosphere didn't change at all, no. It stayed the
11 same. People were slightly more relaxed, as you would
12 expect.

13 DAME ANNE RAFFERTY: Thank you. Did soldiers out there
14 often interact with civilians? Did they have much
15 contact with them?

16 A. We had some civilians working alongside ourselves, from
17 people assisting with trying to give us basic life
18 support, ie, you know, trying to give up -- fix the
19 buildings up so they could be accommodatable, and we
20 also had some translation support.

21 DAME ANNE RAFFERTY: Yes. And in general terms, if you had
22 to describe the quality or comfort level, call it what
23 you like, of interaction with civilians, you would
24 describe it as what?

25 A. I would say it is normal, normal interaction. In fact,

1 I think sometimes if you look at it, they were a welcome
2 change and a welcome addition.

3 DAME ANNE RAFFERTY: Thank you. In general, soldiers, and
4 I am asking you about all ranks, were they encouraged to
5 use some initiative to sustain law and order? So was
6 initiative encouraged?

7 A. I would say there was the -- to use initiative was
8 encouraged in all aspects of war-fighting. It was an
9 aspect of being in Iraq.

10 DAME ANNE RAFFERTY: Thank you.

11 I am going to turn now to the way detention was run
12 at Camp Stephen, if I may, SO98. So what you have told
13 us is you had no role yourself on managing detainees,
14 but I notice that SO88 tells us that oversight of
15 detainees at Camp Stephen was largely under either the
16 CSM, or the CQMS, that's you, if the CMS weren't
17 available. One of those two should always have been
18 present.

19 Just let me give you an opportunity to comment on
20 that remark by SO88.

21 A. He is quite right in what he says. If SO101 was not
22 available, then I would step in and support it. But in
23 the majority of the time it was not a role that I would
24 be expected to do, because I would be out looking after
25 all the sub-units that we pushed out to the other

1 Companies. If I was available to assist, then, yes,
2 I would assist, but it was not my primary role.

3 DAME ANNE RAFFERTY: I follow. I follow. Thank you.

4 Then you have also helpfully told us that the
5 arrival of detainees would be reported up the chain of
6 command. Can you tell me who the Battalion RSM was?

7 A. I can.

8 DAME ANNE RAFFERTY: Right. Got it. Thank you. Pause.

9 I will ask the next question, SO98, thank you. SO88
10 tells us not all detainees would be reported up the
11 chain; that was only necessary if there had been
12 a decision to refer them for further detention. What do
13 you make of that? Does that make sense to you? Ring
14 a bell?

15 A. Could you please repeat that? Sorry.

16 DAME ANNE RAFFERTY: Of course I can, yes. SO88 tells us
17 that not all detainees would be reported up the chain;
18 that was only necessary if there had been a decision to
19 refer them for further detention. I just wondered
20 whether you had any comment on that.

21 A. I have no comment, because obviously SO88 is in a better
22 position than myself. I am only assuming that every
23 single detainee was reported up the chain.

24 DAME ANNE RAFFERTY: Thank you. I am going to turn now to
25 what we might call process and procedure. I am going to

1 ask you to help us, if you can, with the EPW area and
2 the EPW cage. So you are going to find on screen now
3 some information, and then one of the team, probably
4 Ms Jackson, will read out the relevant paragraphs. They
5 are quite detailed and they're a bit difficult to
6 follow, so let's pause.

7 MS JACKSON: Thank you.

8 If we can just turn first to {A/83/4} on the screen.

9 I am looking at paragraph 18 which is towards the bottom
10 of the page. This is this your statement, SO98. In
11 your statement, hopefully you can read it, and I will
12 read it out if it is too small, you say:

13 "I have been asked to describe the EPW area and EPW
14 Cage. I understand the EPW Cage to be the holding area
15 which was an area of ground within Camp Stephen that was
16 adjacent to the main entrance. It comprised of an open
17 cleared area with a 2m wall to the rear and right of it.
18 This area was secured by picket fencing and barbed wire
19 on the other two sides. There was a cam net over the
20 structure to provide shade. There was no furniture in
21 the EPW Cage - the whole of Camp Stephen had been looted
22 and stripped of everything before C Coy arrived. The
23 EPW Cage was located near the vehicle park and not here
24 any accommodation areas."

25 Then over the page to paragraph 19 {A/83/5}, you

1 say:

2 "The EPW Area is what I understand to be the
3 processing tent which was away from the EPW Cage. That
4 was a 9ft x 9ft military canvas tent with a table and a
5 couple of chairs inside."

6 We should have, at {A/4/1} of the Inspector's
7 bundle, some photographs of Camp Stephen. And if it is
8 okay with you, SO98, it would be helpful if we can just
9 go through those photos and you can maybe add photos to
10 your description. So that is the first photograph
11 there. If this is a photograph of something you are
12 able to recognise, are you able to just describe to us
13 what we are looking at?

14 A. That looks like ... the very first building on the left
15 side as you come in through the camp. I am not too sure
16 from the angle.

17 MS JACKSON: Thank you. Can we go to the next photograph.

18 {A/4/2}

19 Same question to each photograph, really, SO98. How
20 about now?

21 A. Without seeing the larger environment and where they
22 are, it's very difficult with the frame sizing you have,
23 but that looks like one of the accommodation areas.

24 MS JACKSON: Thank you. And the next photograph. {A/4/3}

25 How about now?

1 A. So that is obviously Camp Stephen. I am just trying to
2 find the entrance. So the building that we are looking
3 at directly is either the Company -- I don't believe
4 it's the Company HQ, but it possibly could be another
5 accommodation building.

6 MS JACKSON: Thank you. And to the left of that image, what
7 are we looking at there, the blue metal-like structures?

8 A. Blue metal-like structures?

9 DAME ANNE RAFFERTY: You are not alone, SO98. I can't find
10 them either.

11 MS JACKSON: They look like they are shelters of some
12 description.

13 A. Okay. So they are vehicle shelters, so they would have
14 been there for vehicle shade when it was obviously
15 occupied by some individual. But just looking at this
16 now, that top building was the Company Headquarters,
17 because I can see a 4-tonne vehicle which was most
18 likely one of my own.

19 MS JACKSON: Thank you. If we go to the next picture, what
20 about this one? {A/4/4}

21 A. That is right at the start of it, and that was the
22 Mortar Platoon accommodation.

23 MS JACKSON: Thank you. And the next photo? {A/4/5}

24 A. That would be ... looking at that, that could possibly
25 be the roof of the first building, because it has

1 a guard tower on it, and I believe we only had one
2 building with a guard tower, right at the entrance
3 point.

4 MS JACKSON: Okay. Then the next photo? {A/4/6}

5 A. It just makes sense with the background.

6 MS JACKSON: Thank you.

7 A. That there is the -- it looks possibly like our Company
8 HQ building again, but with the veranda where we would
9 hold the nightly orders group.

10 MS JACKSON: Okay. And the next photograph? {A/4/7}

11 Apologies, this is a bit laborious, but obviously
12 none of us have been to the site, so it is incredibly
13 helpful to benefit from ...

14 A. That is an accommodation building but I couldn't tell
15 you which one.

16 MS JACKSON: Thank you. Next one? {A/4/8}

17 A. Again, the roof of a building. But looking at it,
18 because we have an antenna array, I would say that would
19 be Company HQ's building.

20 MS JACKSON: And if we can go to the next photo? {A/4/9}

21 A. That looks like the rear of Company HQ, because you can
22 see the logistical stuff there. Or it could possibly be
23 the anti-tanks accommodation, because we were putting
24 a makeshift kitchen up.

25 MS JACKSON: And just on this photo, where is the EPW area

1 in relation to this photo?

2 A. If you take it that this is at the rear of the camp, you
3 are in the totally opposite direction.

4 MS JACKSON: Thank you. And then the next photograph?
5 {A/4/10}

6 A. Again this is the rear, nowhere near the EPW cage.

7 MS JACKSON: Thank you. And the next photograph? {A/4/11}

8 A. Again the rear of an accommodation. I couldn't tell
9 you.

10 MS JACKSON: And the next one? {A/4/12}

11 A. Looking at this, the EPW cage there would be somewhere
12 in the central part behind those vehicles that you can
13 see in the foreground -- sorry, in the background.

14 MS JACKSON: Thank you. Then if we look to the right of
15 this image, to what looks like it might be a tower, is
16 that the same watch tower you pointed out to us earlier?

17 A. Sorry, I just need to move some of your pictures ...

18 Yes, that is correct, that is the entrance point there.

19 MS JACKSON: That is helpful. Thank you.

20 If we go to the next picture {A/4/13}, someone -- we
21 don't know who, but it was no one as part of this
22 investigation -- has drawn an arrow and written "EPW"
23 on. I don't know if you have a comment on that?

24 A. That is exactly where I believe it to be, up against the
25 base of that wall, yes.

1 MS JACKSON: Thank you. I'm not sure if the remaining
2 photos are going to take us that much further, but we
3 will go through them anyway just in case.

4 The next one, please? {A/4/14}

5 A. That is going into Company Headquarters.

6 MS JACKSON: Thank you. The next one? {A/4/15}

7 A. That looks like -- that is the image of that central
8 building, the Mortar Platoon building from the other
9 side, from the rear.

10 MS JACKSON: Thank you. Next photo, please? {A/4/16}

11 A. That's just Tarmac around the -- the area has been
12 churned up by the armoured vehicles on the Tarmac.

13 MS JACKSON: Thank you. Then final picture? {A/4/17}

14 A. Again, that is a churned up area. But where you have
15 the vehicle shades, that is what we saw in one of the
16 earlier pictures, the vehicle shades, that is looking
17 back towards that one.

18 I am trying to remember the way the map runs. That
19 is possibly the east side, I can't remember. Without
20 looking at a map again, I couldn't tell you which is
21 north to east.

22 MS JACKSON: That is still incredibly helpful. Thank you.

23 I wonder if we can go back to the {A/4/12}
24 photograph. SO98, I think this was the photograph in
25 which you identified the EPW area as being kind of

1 towards the centre at the back. Are you able to clarify
2 for us whether, when discussing the EPW area and the
3 EPW cage, you are talking about the same thing? If you
4 can use the photo to help us understand if there is
5 a difference.

6 A. There is -- I am trying to remember what I said. So the
7 EPW area and EPW cage. The EPW area is a holding area,
8 so it was just an open area where we could actually see
9 people, as in you could physically see them. They
10 weren't enclosed in any way, ie confined. They weren't
11 invisible to the camp. They were in an area where they
12 would sit, and then you would take them out one at
13 a time across to a processing area, which was the 9 by 9
14 tent, take down their personal details, and then they
15 would be moved back to there.

16 MS JACKSON: Thank you. That is incredibly helpful, SO98,
17 and thank you for bearing with us with those
18 photographs.

19 Dame Anne, I will pass back to you.

20 DAME ANNE RAFFERTY: Thank you very much. That really
21 helped, SO98, thank you.

22 Just moving on a little bit, you have told us in one
23 of your statements that detainees were never questioned
24 at Stephen except to verify identity. There was no
25 tactical questioning. Just see if you can help me with

1 this: SO88 tells us that he can set out the questions
2 that were to be asked, but his view -- this is what I am
3 really interested in your view on -- was that there were
4 common sense approaches to what could be questioned,
5 I think he means what could be asked. And that
6 common sense approach was adopted.

7 Now, where are you on this?

8 A. Obviously, the primary thing first of all is to confirm
9 the identity of an individual, and if it was a military
10 person then you would obviously ask questions of
11 tactical importance, and it's totally different to
12 tactical questioning.

13 DAME ANNE RAFFERTY: Ah, yes, thank you.

14 A. Tactical importance is -- especially if it was
15 a military personnel, tactical importance would be:
16 okay, how many people are in your unit? Where is your
17 unit located? A tactical question is more of a violent
18 nature.

19 DAME ANNE RAFFERTY: Thank you.

20 Whilst we are on this topic, there is quite a bit of
21 suggestion that there were tables and chairs, or maybe
22 a table and some chairs outside, and at them some
23 detainees would be questioned. Ring any bells?

24 A. My recollection of that was it was actually in the
25 9 by 9 tent, there was a single table with a couple of

1 chairs, one for an individual, such as myself, another
2 one for a translator, and then there would be a chair
3 for the detainee.

4 DAME ANNE RAFFERTY: Yes. Yes.

5 A. The reason it was done in the tent was obviously to make
6 sure that nobody could see the translator outside of
7 that individual being questioned.

8 DAME ANNE RAFFERTY: Thank you very much.

9 Your comment is that -- I am turning to interpreters
10 and translators now -- you had two female interpreters
11 in the processing tent. The tent is the 9 by 9,
12 isn't it? I have got that right?

13 A. That is correct, yes.

14 DAME ANNE RAFFERTY: So you would have two female
15 interpreters in the 9 by 9 processing tent, and then you
16 say at another stage you had two female translators
17 embedded and they were both well treated and well
18 respected.

19 Just see if you can get me a little bit further.
20 Were those translators always working alongside
21 detainees who were being processed?

22 A. Those two females are actually one and the same, so they
23 were translators and interpreters.

24 DAME ANNE RAFFERTY: So the two female interpreters are the
25 two female translators.

1 A. That is correct, yes, they are the same person. And
2 basically both of them wouldn't be in there at all
3 times, because we would be running a shift system, so
4 one would be in there. The other one would be assisting
5 with any general activities in the camp that required
6 translating.

7 DAME ANNE RAFFERTY: Sure. And these two ladies, they would
8 be asked to help with translations in the EPW 9 by 9
9 tent and the EPW area, or both of them? Or how ...

10 A. They would only be in the tent.

11 DAME ANNE RAFFERTY: Only in the tent. That is a great
12 help, SO98, thank you.

13 I am coming now to the death of Mr Radhi Nama. You
14 have been able to tell us that you have no recollection
15 of having completed the operation slammer for Mr Nama
16 because it wasn't in your roles or responsibilities, and
17 you have no recollection of seeing Mr Nama's collapse,
18 no recollection of talking to anyone about the collapse
19 of a detainee.

20 Just let me check what you think of something said
21 by SO95, so you have got him in your head. He suggests
22 that after Mr Nama's death, you went to the ops room and
23 told the 2IC ops officer in the ops room at the time
24 that Mr Nama had died and, having got that info, 2IC
25 radioed BG Main, Brigade Group Main, for next step

1 advice. So that is SO95's recollection.

2 Do you recall any of that, SO98?

3 A. To be honest, no.

4 DAME ANNE RAFFERTY: Okay. I will write down "no" as your
5 answer then. You don't recall. Thank you.

6 A. If I could just ...

7 DAME ANNE RAFFERTY: I was just about to say, I am not going
8 to close you down. Do please feel free, if there is
9 anything you want to add on that topic.

10 A. If SO95 has stated that I came to him and told him that
11 there was a detainee had collapsed, then obviously
12 someone would have informed myself. So I would have
13 quite rightly went to SO95 told him that a detainee had
14 collapsed and that we required further medical support.
15 And if that is the case, then it would be in the Company
16 log.

17 DAME ANNE RAFFERTY: Thank you.

18 I am going to move to the death of Mr Mousa Ali.
19 Natasha Jackson will help us in a minute, because we
20 have radio logs that you might be able to help us with.
21 You, I know, unlike everybody else, has seen
22 an unredacted copy. What you have been able to tell us
23 is that you don't recall acting as SO88 suggests, don't
24 worry about that at the minute, but what you go on to
25 say is it could be verified by the Company radio log.

1 So we will let Ms Jackson call up any logs she needs,
2 and then see if you can tell us -- talk us through,
3 using any log you like, what a log would show.

4 MS JACKSON: Thank you, Dame Anne.

5 I wonder, Opus, can we call up {A/36/1}, please. My
6 projection screen has disappeared, so I am hoping it
7 returns with the copy of the logs.

8 DAME ANNE RAFFERTY: So has mine.

9 MS JACKSON: While we are waiting for that to come up, the
10 copies of the radio logs we have in the public bundles
11 are quite heavily redacted, and for this reason, SO98,
12 we did send you a copy of the unredacted logs, but
13 I know that was only received relatively recently.
14 Can I ask if you had the chance to look at those and if
15 they are to hand?

16 A. I don't have it to hand, but I have seen it.

17 MS JACKSON: Thank you. So as Dame Anne said, at
18 paragraph 39 of your statement, which I won't pull up
19 now, but you say you have no recollection of the events
20 described, at that paragraph, but your recollection
21 could be verified by the Company radio log.

22 First question, the log that is currently on the
23 screen, is this the Company radio log that you are
24 referring to?

25 A. This is a radio log but it is not the Company radio log.

1 This is actually the Black Watch Battle Group log, so
2 that is every single Company's messages going back to
3 base headquarters.

4 MS JACKSON: That is incredibly helpful. So if these were
5 the only logs that we have been able to be provided with
6 so far, is it your view that there should additionally
7 be Company radio logs that we can track down?

8 A. There should be, if they are still available, yes.

9 MS JACKSON: In that case, we will follow that up through
10 other channels.

11 Before I leave these logs, is this in general, this
12 form of log sheet, something that you are familiar with
13 such that you would be well placed to give us
14 an explanation of what we are meant to be looking at?

15 A. Yes. So what you have got there is -- obviously the
16 security classification states it is "Restricted", and
17 you have the unit that is receiving the log, so it's
18 "1 Black Watch (Battle Group net)", the date and the
19 sheet number. Any subsequent sheet numbers for that day
20 would be added, so it could be 01 to 10 in that one day,
21 depending on the level of traffic that has been
22 received.

23 MS JACKSON: Thank you. So in the left-hand column we have
24 a serial number.

25 A. That is for every line entry.

1 MS JACKSON: Thank you. So within the Opus document that we
2 have up at the moment, we have what appears to be one
3 set of logs that run from page 1 to 10. And then if we
4 can turn up page {A/36/11}, we then have serial numbers
5 starting from 1 again, but we seem to have the same
6 heading, "1 Black Watch".

7 A. You have actually got on this one "1 Black Watch Brigade
8 Log", "BDE", and the other one was Battle Group. So
9 Battle Group is all of Black Watch; Brigade is the whole
10 Brigade of 7th Armoured Brigade.

11 MS JACKSON: Thank you. So are you able to explain to us
12 then who would be completing first this log?

13 A. Both logs would be completed by the communications watch
14 keeper, so that is a signals-qualified individual, who
15 would be there with a second person who would assist
16 with radio messages.

17 MS JACKSON: Thank you. Then in the "To" and "From"
18 columns, can you just give us a hint on how we are meant
19 to understand those?

20 A. Right. So "To" is 0, which is the base station. And
21 the one here, you have X40, and that is basically coming
22 from a call sign. It is easier if you go back to the
23 earlier one, I can tell you what the Black Watch
24 Companies were. That is easier.

25 MS JACKSON: If we go back to page {A/36/1} then, please.

1 A. So in this instance you have -- the first one is
2 Kilo 20. If my memory serves me right, that would be
3 B Company, 1 Black Watch. You then have Kilo 40 down at
4 005, which I believe would be D Company. And then you
5 have Kilo 32, which is Charlie Company. And if you have
6 a 10, Kilo 10, it would be A Company. But I note here
7 we also have a W10, I don't know from memory who that
8 is.

9 MS JACKSON: Thank you. Can we turn to page {A/36/6},
10 please.

11 A. Then the initials on the side that you have redacted are
12 those people who have actually put the message in.

13 MS JACKSON: Thank you. That is helpful.

14 The bottom entry here, 066, I appreciate you didn't
15 have a role in creating those logs, so I won't ask you
16 to comment on the substance in terms, but we can see
17 there it says "3 x searches". And then if we go down,
18 we can see at number 2 we have "ABD AL - JUNBAR - MUSA".
19 On the working assumption this relates to the capture of
20 Mousa Ali, are you able to give us an explanation of the
21 "K32" in that context?

22 A. That would have come from Kilo 32 stating that during
23 the search, that they had apprehended three individuals.
24 And the other items there would be the items that they
25 obviously removed during that search.

1 MS JACKSON: Thank you. So if we are looking at these logs,
2 if we look for any entries from Kilo 32 that follow from
3 this, then that is likely to be from the same unit
4 who -- thank you, that is incredibly helpful. I won't
5 ask you further questions in light of your clarification
6 that these aren't the logs you were after, but as I say,
7 we will follow that up and see if we can get copies of
8 those.

9 Dame Anne, was there anything else you wanted me to
10 ask?

11 DAME ANNE RAFFERTY: I don't think there is. Thank you.

12 I think we could go -- we might just ask SO98 one
13 more question about C Company's medic, SO84. His
14 evidence, SO98, is of you saying to him that something
15 "doesn't stand very well", and he is referring obviously
16 to a death. It's about a collapse which led to death,
17 so you will be familiar with that. Your evidence is
18 that you don't recollect SO84 talking to you at all
19 about the collapse.

20 I just thought I might pause to say, given that SO84
21 does describe your comment after the collapse, "it
22 doesn't stand very well", does that jog your memory?
23 Leave you unaffected? You still have no recollection?
24 Where are you?

25 A. I will be totally honest with you, I still have no

1 recollection. I have said that a couple of times now,
2 and I still stand by that statement.

3 DAME ANNE RAFFERTY: Thank you. You are not here to guess
4 or to try and please, you are here to do exactly what
5 you have just done, and we are all grateful to you,
6 SO98, thank you very much indeed.

7 That I think is all I want to ask. I will just turn
8 to the team, if I may, to see whether there is any
9 helpful topic they would suggest they would like to
10 cover.

11 Natasha, can I leave you to think about that?

12 Questions from MS JACKSON

13 MS JACKSON: Thank you, Dame Anne.

14 Just a small line of questioning, if that is okay,
15 SO98. You referred to a card containing instructions on
16 the Rules of Engagement during Dame Anne's questions.

17 Opus, can we turn up {A/8/1} first, please.

18 In the bundle we have copies of what we understand
19 to be a Law of Armed Conflict Aide Memoire, which is
20 dated from 20 January 2003, which should be on the
21 screen now. That is obviously from January 2003, so
22 before the end of Operation TELIC. Firstly, when you
23 referred to a card, was it this document that you were
24 talking about?

25 A. That is the Law of Armed Conflict Aide Memoire, but you

1 should also have a Rules of Engagement card, and

2 I believe there's one in your bundle.

3 Q. If we look at {A/9/1}, there should be a leaflet. So

4 again, this is on the Law of Armed Conflict. That is

5 not one you are talking about?

6 A. No, that is not.

7 Q. I don't think we have a copy of any other card. But

8 just so, then, we are clear, the card that you are

9 referring to is neither of those two documents, but it

10 was a separate card that was issued after the completion

11 of the war-fighting phase?

12 A. No, it was issued prior to the war-fighting phase.

13 Q. At the end of the war-fighting phase, was there any

14 difference in instruction handed down on either the Law

15 of Armed Conflict or the Rules of Engagement at that

16 point in time?

17 A. The only difference -- well, there was no difference.

18 We were just reminded that we were now in the

19 war-fighting phase, and anything that we had to do had

20 to come with restraint.

21 Q. Thank you. We have heard the term "Alpha card" being

22 used. Are you able to comment on whether that is

23 something that you are referring to when you talk about

24 the cards and memoirs?

25 A. It depends on who you spoke, it depends on which unit it

1 is. But under the Black Watch, what I call it is the
2 Rules of Engagement card.

3 Q. That is helpful. Thank you. That is all the questions
4 I had on that.

5 Just one other question that is a bit more general,
6 because Dame Anne asked you some questions about what
7 tactical questioning was, and you very helpfully
8 identified there was a difference between questions
9 being asked of tactical importance compared to tactical
10 questioning, which I think you described as being
11 a bit more forceful.

12 That distinction that you drew in your evidence, is
13 that a distinction that you think was widely appreciated
14 across the Company, or might those terms have been used
15 in less precise manners than you have used them in your
16 evidence today?

17 A. I don't believe anyone did anything that would have been
18 classed as ill-treatment of anybody. Everybody worked
19 under the Law of Armed Conflict and to the Rules of
20 Engagement. That is my --

21 Q. Sorry to cut you off, SO98. What I was wondering,
22 though, was specifically the use of the term "tactical
23 questioning". When you used that term, it meant
24 something very specific to you. I just wondered if
25 other members of the Company -- if you are able to

1 comment -- might have used the term a bit more generally
2 to instead refer to the type of questions you said were
3 questions of tactical importance, rather than tactical
4 questioning as you --

5 A. I can't give an honest answer on that, because I wasn't
6 present for the majority of the time.

7 MS JACKSON: That's alright, thank you.

8 I don't have any other questions for you.

9 Can I just check with Mr Judd, Ms Bailey and
10 Mr Bottomley if they have anything else they wanted to
11 ask?

12 MR JUDD: No, thank you.

13 MR BOTTOMLEY: No, thank you.

14 MS BAILEY: Nothing from me, thank you very much.

15 DAME ANNE RAFFERTY: Thank you very much.

16 Dame Anne, unless there are further questions you
17 wanted to ask arising out of that, I wonder if I could
18 ask the representatives in turn whether there are any
19 questions that they wish you to ask in light of SO98's
20 evidence.

21 Perhaps first I could turn to you, Ms Al Qurnawi?

22 MS AL QURNAWI: No questions.

23 DAME ANNE RAFFERTY: "No questions" I think I just heard.

24 MS JACKSON: Thank you, Ms Al Qurnawi.

25 Mr Foley, if I come to you next?

1 MR FOLEY: No questions from me.

2 MS JACKSON: Mr Cherry?

3 MR CHERRY: Yes, please. I wonder if it might assist if --
4 SO98, could you just confirm that you may subsequently
5 become aware there was a specific course called Tactical
6 Questioning and Prisoner Handling which you would
7 normally do as a sergeant major?

8 MS JACKSON: Apologies. Thank you very much, Mr Cherry. As
9 I said at the beginning, because of the way in which
10 these inquiries are designed, all questioning does have
11 to come from the Inspector.

12 DAME ANNE RAFFERTY: Mr Cherry, it's an apt question.
13 Thank you. We will filter it through Natasha. If she
14 needs you to repeat it, she will ask you.

15 MS JACKSON: SO98, do you still have that question in mind?

16 A. I do, yes.

17 MS JACKSON: Thank you. Please go ahead.

18 A. I have no recollection of -- sorry, I have no
19 recollection of having attended one of those, and
20 I don't actually know if a person of my level would have
21 attended one of those.

22 MR CHERRY: That would be correct, Natasha. It would be --
23 there wasn't sufficient time prior to the 2003 TELIC 1
24 for all the units to be up-to-date, but it is just that
25 SO98 would probably become aware there was a specific

1 course called Tactical Questioning, which is how we
2 would differentiate.

3 MS JACKSON: Thank you, Mr Cherry, that is helpful context.

4 Was there anything else you would like the Inspector
5 to ask?

6 MR CHERRY: Yes. Obviously I am asking on behalf of SO88 at

7 this point. It was asked by the Inspector that -- there
8 was a question about minor detainees might be released,
9 but those of further interest may be passed on further.

10 Madam Inspector, the reference to minor looters were
11 being released because there was nowhere to send them,
12 but those which had some form of tactical or
13 intelligence interests were being sent forward to L4,
14 which was the joint force interrogation centre. That is
15 the sort of person that would be referred up to Battle
16 Group Headquarters for onward transmission, and that is
17 possibly the clarification you seek.

18 DAME ANNE RAFFERTY: Thank you.

19 MR CHERRY: That was it, thank you.

20 MS JACKSON: Thank you very much, Mr Cherry.

21 Sorry, the representative from Maddox Legal, who I
22 thought I'd jotted the name down, can I take your name
23 again, please?

24 MR HAMILTON: Certainly. It's Ian Hamilton.

25 MS JACKSON: Mr Hamilton, I'm sorry about that. Do you have

1 any questions?

2 MR HAMILTON: There is no question arising out of that,
3 thank you.

4 MS JACKSON: Thank you very much. And Ms Moss, I am correct
5 that SO98 is your client, aren't I?

6 MS MOSS: That is correct.

7 MS JACKSON: Did you have any questions arising?

8 MS MOSS: No, nothing at this point, thank you.

9 MS JACKSON: Thank you very much. In that case, SO98, that
10 completes your evidence. I hope I am not speaking out
11 of turn in extending Dame Anne's thanks for your
12 assistance. You are welcome to sign out of the hearing,
13 but you are also welcome to remain should you wish to do
14 so.

15 DAME ANNE RAFFERTY: Let me add my voice to that. SO98,
16 thank you very much for (a) coming, and (b) all the help
17 you have so carefully given us. It is much appreciated.

18 A. Not a problem. Thank you.

19 (The witness withdrew)

20 MS JACKSON: I will pass over to Mr Judd who is going to be
21 helping from the counsel team for the next witness.

22 MR JUDD: Thank you, Ms Jackson.

23 Might I just check with you, Inspector, whether we
24 proceed now, because I understand SO85 is not due to
25 give evidence in the running order until 11.45 am, and

1 there was a break planned. We can proceed now or we can
2 bring that break forward.

3 DAME ANNE RAFFERTY: I was just thinking exactly the same
4 because we are well ahead, and if I look at the
5 projected time for SO85 ... (Pause)

6 Have you a view, Mr Judd?

7 MR JUDD: I wonder if we could take a very brief break now,
8 and then SO85's evidence I don't believe will take very
9 long. We can then move through fairly quickly.

10 DAME ANNE RAFFERTY: Okay. So if we think of it as 11.15 am
11 now, give or take, shall we reconvene at 11.30 am? What
12 do you think?

13 MS JACKSON: I think that sounds excellent. And I would
14 just ask Mr Cherry, if SO88 is not currently in the
15 hearing room, given that we are expecting to move
16 through the next witness's evidence relatively swiftly,
17 if you could just ensure that SO88 joins us at 11.30 am.

18 MR CHERRY: Yes, I will do thank you.

19 MS JACKSON: Thank you very much.

20 DAME ANNE RAFFERTY: Thank you, Mr Cherry.

21 So we are going next, when we reconvene, to SO85,
22 aren't we?

23 MR JUDD: We are, yes.

24 DAME ANNE RAFFERTY: We are just lining up SO88 with the
25 typical forethought one would expect.

1 Right, 11.30 am. Thank you all very much.

2 (11.16 am BST)

3 (A short break)

4 (11.30 am BST)

5 DAME ANNE RAFFERTY: I will ask Mr Judd to call the next
6 witness, if he would.

7 SO85 (called)

8 Introduction by MR JUDD

9 MR JUDD: Thank you, Dame Anne.

10 Can I check that SO85 can see and hear me?

11 A. Yes, I can hear you, but I can't ...

12 Q. As long as you can hear me, that should be okay. I will
13 run through some questions, if I may, before turning
14 back to Dame Anne.

15 Can you firstly confirm you have the cipher list in
16 front of you, please?

17 A. No, I do not. I didn't have a cipher list shared.

18 Q. I see. I wonder if we can rectify that. Can I also
19 confirm that you are indeed SO85, before we do that?

20 A. Yes, I confirm I am SO85.

21 Q. Thank you. You were sent a disclosure bundle before
22 this hearing. Can you confirm that you have had sight
23 of that, please?

24 A. I have access to the online -- the general disclosure
25 bundle, but nothing specific for myself, if that is what

1 you refer to.

2 Q. I will take you to some specific witness statements.

3 You have given two witness statements in these
4 proceedings. We will just go to them in turn. The
5 first one, if you have the platform open, is at
6 {A/68/1}. If we could bring that up on screen, perhaps.

7 Can you see that, SO85?

8 A. Yes, I see on the screen now.

9 Q. Perfect. If we can just scroll down to the final page
10 of that statement, which appears at {A/68/8}, we see
11 there it's dated 8 June 2022. Is that the first
12 statement you gave in these proceedings?

13 A. I believe it is, yes.

14 Q. Fantastic. Thank you. The next statement appears at
15 {A/69/1}, if we can bring that up, please. Thank you.

16 Is this the second statement you gave in these
17 investigations?

18 A. Yes, I believe so.

19 Q. Wonderful. I would ask you to do the same thing again,
20 if I may. If we scroll down to {A/69/6-7}, dated
21 20 December 2022, again, is that the second statement
22 you gave in these investigations?

23 A. That is correct.

24 MR JUDD: Thank you very much. I will now hand you back
25 over to Dame Anne who will have some questions for you.

1 Questions from DAME ANNE RAFFERTY

2 DAME ANNE RAFFERTY: Good morning, SO85. Thank you very
3 much for coming and being prepared to lend us a hand.

4 Just let me check you can hear me clearly?

5 A. Yes, madam, I hear you clearly.

6 DAME ANNE RAFFERTY: Good. Remember, I can't see you, so
7 I won't get any visual clues on whether anything is
8 bothering you or making you uncomfortable. So if
9 anything concerns you, I am reliant on you just to tell
10 me and then we will deal with it. All right?

11 A. Okay, madam, clear.

12 DAME ANNE RAFFERTY: Good, good. Just give us, broad
13 strokes of the brush, if you would, your military
14 career -- I don't need Is dotting and Ts crossing, I
15 just want a feel for start to Camp Stephen.

16 A. Yes, madam. I commissioned -- or I joined the military
17 in 2001, where I spent time at the Royal Military
18 Academy, Sandhurst. After commissioning from the Royal
19 Military Academy, [REDACTED] I believe, I then went
20 on to the Platoon Commanders' Bravo course, which is
21 an Infantry Platoon Commanders course where all infantry
22 officers partake, [REDACTED]
23 [REDACTED] Upon completion of that course, I joined my
24 Battalion in Catterick in England. We then deployed to
25 Canada on a short training exercise, followed by

1 a period on coverage for the firefighter strikes, early
2 2003 possibly, maybe back in 2002/early 2003.

3 Then we went through a period of pre-deployment
4 training and deployed to Kuwait, I believe at the start
5 of June 2003, where we spent one or two weeks I believe
6 before coming over into Iraq, to Basra, to Camp Stephen.

7 DAME ANNE RAFFERTY: Thank you. And I know, tell me if I am
8 wrong, that out there in Camp Stephen you were one of
9 the multiple commanders, is that right, SO85? Have
10 I got that right.

11 A. Yes, madam, I was multiple commander.

12 DAME ANNE RAFFERTY: Good. Can you tell us, what does
13 a multiple commander do, SO85?

14 A. A multiple is a division of two halves of a platoon.
15 Ordinarily I would be responsible for the full platoon,
16 but on operations we split it into two, half commanded
17 by myself, half command by the platoon sergeant. We are
18 responsible for a number of different duties, from
19 patrolling around the Basra area. We would also take
20 a turn as what is called QRF, Quick Reaction Force,
21 standby duty in the camp to react to incidents that
22 needed additional support. The multiple will also take
23 their turn on guard duty within the camp and then cycle
24 with a period of rest as well.

25 DAME ANNE RAFFERTY: Thank you. Very helpful. And I can

1 see, I think, again tell me if I am wrong, that you
2 would have had -- in your multiple you would have had
3 a sub-team, in other words, a small team, a radio
4 operator, one or two others, is that right?

5 A. Within the multiple I think we had -- I think we had
6 three teams, so the multiple is broken down into three
7 teams of four.

8 DAME ANNE RAFFERTY: Okay.

9 A. I am not certain of the exact number but I believe it
10 was three teams of four.

11 DAME ANNE RAFFERTY: And some of the sub-teams in the
12 multiple, were they led by soldiers, in other words by
13 Privates?

14 A. I believe one was led by a senior private and one was
15 led by a lance corporal.

16 DAME ANNE RAFFERTY: That makes perfect sense. Thank you
17 very much, SO85.

18 I am going to come now to training and instructions.

19 It's a general question for you. Did you feel well
20 prepared for the role of multiple commander?

21 A. I think for the role of multiple commander, madam, yes,
22 well prepared. That is something that the Army does
23 extremely well, from -- right from training in
24 Sandhurst, up until the pre-deployment training in terms
25 of tactics, how to patrol.

1 DAME ANNE RAFFERTY: Did I hear reservation in your answer?

2 You were confident in your prep for the role of multiple
3 commander. Did I hear a reservation about other things
4 for which you might have felt less prepared, or have
5 I imagined that?

6 A. The tactical aspect, madam, we were extremely well
7 prepared for. There were a number of areas where we
8 perhaps weren't as well prepared. One in terms of
9 prisoner handling, and I referred to it in one of my
10 statements regarding how prisoners were handled.
11 I think it is quite well known, when we first deployed,
12 it was common practice, the use of sandbags, which
13 subsequently changed. We also, pre-deployment training,
14 as well as once in theatre, there was -- it wasn't
15 a full lack of clarity, but there were questions around
16 the Rules of Engagement, because we were in a grey
17 window between the official declaration of the end of
18 the war, I think everyone remembers that speech from
19 Mr Bush, and what actually it meant to be in a -- what
20 I would determine a peace-keeping role, but it was
21 actually the early stages of insurgency, and there was
22 a lot of grey areas regarding what the Rules of
23 Engagement actually were.

24 DAME ANNE RAFFERTY: Did you have any additional training or
25 further training or different training or instruction

1 when the war phase came to an end?

2 A. Just to be clear, we were not involved in the war phase.

3 We deployed after the declaration that the war had
4 ended. But in terms of additional training, I don't
5 believe so, no.

6 DAME ANNE RAFFERTY: Okay. You are quite right in your
7 witness statement. You refer, in fact I have gone to
8 paragraph 52, if anyone wants it, to you running your
9 team on a tight leash, and you were a man for the rules.
10 And you refer there to "even if those rules included
11 stress positions and hooding", which at the time you
12 thought acceptable because they were part of your
13 training. Compare and contrast what you later came to
14 know.

15 Can you unpick it a little bit for me? Can you give
16 us a fuller account of the training that you had, that
17 we might say embraced stress positions and hooding?

18 A. I don't remember the exact details, madam, but

19 I remember --

20 DAME ANNE RAFFERTY: -- details.

21 A. -- the pre-deployment training took place in Catterick.

22 I believe it was joint with a different Battle Group.

23 As far as I can remember, it took place for ... I think
24 it was one-half day of theory and then either a half or
25 full day of practical training. That is the part

1 I refer to where I feel tactically we were taught how to
2 patrol, how to operate in an urban environment. We were
3 also taught how to handle detainees, to place a sandbag
4 on them, and the use of Plasticuffs. Exact details of
5 the training scenarios I can't remember, but ...

6 DAME ANNE RAFFERTY: No, understood, understood. Thank you.

7 I am going to come to the culture at Camp Stephen.

8 Can you describe it for me?

9 A. In what respect, madam? The overall culture within the
10 camp or within the Company?

11 DAME ANNE RAFFERTY: Let's think about how was order and
12 discipline maintained.

13 A. In any military unit, and Camp Stephen or our Company
14 was no different, the responsibility for discipline is
15 ultimately with the company sergeant major. There's
16 clear rules as to how -- or what behaviours are accepted
17 and what are not. There is a clear routine. There is
18 a clear chain of command, from the company commander.
19 The way the military works, there are two legs almost in
20 terms of the command. The discipline and that aspect is
21 run by the company sergeant major, the platoon sergeants
22 down to the corporals, and I believe the previous
23 witness also described that scenario cascading from
24 sergeant major, sergeant, corporal, lance corporal. And
25 then I would say the tactical and the operation, as well

1 as the general management of the Company or platoon, is
2 run by the officers. Then it's a dual responsibility.

3 DAME ANNE RAFFERTY: Thank you. We know, because you have
4 been forthright about it, that you faced issues with
5 some of your team after two occasions where you reported
6 incidents, as per process and rules, and some of the
7 team didn't like it, because you had effectively
8 reported them, and that led to difficulties for you. If
9 you want, we can throw up this reference in your
10 statement for you, it's paragraph 53, but you might not
11 need it. One was negligent discharge of a weapon in
12 accommodation, and the second was a civilian claim to
13 have seen one of your team taking money from a safe.
14 I think I am right, you searched and found the money and
15 reported the thief.

16 That being so, my question is you had to face the
17 fact that you were seen as a "grass". What effect did
18 that have, if any, on you? Just flesh it out a little
19 bit. Give us a feel for how tough it was, whether
20 you -- your resolve was unaffected. Whether it was more
21 difficult to do what you knew was right. Do you
22 understand the sort of general feel I am after?

23 A. Yes, madam. And to answer your first -- your last
24 question first: absolutely not, it made no difference
25 for me to do what I felt was right. It made the

1 relationships much more difficult. But I think I also
2 said in my statement, I didn't hold anyone responsible
3 to a different level I do myself. I had two incidents
4 myself, one I described. I also had an incident where
5 a weapon discharged that I was responsible for, and
6 I reported myself in that case.

7 DAME ANNE RAFFERTY: That is different from the weapon
8 discharge in the team accommodation. That is you --

9 A. Yes, madam. I was in command of a vehicle and the
10 machine gun on top discharged, and I reported it
11 directly.

12 DAME ANNE RAFFERTY: So you self-reported.

13 A. Yes, madam.

14 DAME ANNE RAFFERTY: Can I just interrupt your train of
15 thought for a moment. Was that because that was the
16 right thing to do, full stop? Or was it in part to show
17 to members of the team: I won't ask you to do anything
18 I won't do myself, and if I have got something wrong
19 I will report myself just as readily as I will report
20 you? Was it both or one of those things?

21 A. I don't believe it crossed my mind it was the second
22 one.

23 DAME ANNE RAFFERTY: The right thing to do.

24 A. Yes. As I explained, we had a very disciplined
25 structure from Company level to commanding officer.

1 That was the climate that was -- we operated in, and it
2 was the right thing to do. Something happened, and it
3 needed further investigation that wasn't by myself.

4 DAME ANNE RAFFERTY: Thank you. You have been in other
5 military environments. Can you give us a feel for how
6 Camp Stephen compared to them during your career?

7 A. I think it is maybe a little bit unfair for me to make
8 that statement, madam. The only operational deployment
9 that I had with my own unit was to Camp Stephen.

10 DAME ANNE RAFFERTY: Understood. If you are uncomfortable
11 to try and answer something that you really can't or
12 don't want to answer, do exactly what you have
13 said: tell us. Thank you.

14 I might know the answer to this, because you told us
15 you deployed after the end of the war. I was wondering
16 if you could help us with any change in atmosphere or
17 change in approach after the end of the war, but it
18 sounds as though that is when you began. Am I right?

19 A. Yes, madam. We began after the war.

20 DAME ANNE RAFFERTY: You couldn't spot any difference, in
21 any event?

22 A. No. What we did experience during our deployment was
23 the rise of the insurgency, but not between the war --
24 I have no gauge to comment on the war-fighting part.
25 I wasn't there.

1 DAME ANNE RAFFERTY: So you can't do a comparative for us.

2 We start with you post-war.

3 A. Yes, madam.

4 DAME ANNE RAFFERTY: You might be able to help with this.

5 Did soldiers interact often with civilians, in your
6 experience?

7 A. I would say daily, madam. Part of our responsibility
8 was to patrol. Sometimes those patrols had a specific
9 task. Sometimes they were -- call it a reassurance, or
10 a presence on the ground. So I would say ... I'd put my
11 neck on the line and say it was daily that we interacted
12 with civilians.

13 DAME ANNE RAFFERTY: Understood. Thank you. If you had to
14 try for a broad heading of what those interactions were
15 like, I don't want to put words into your mouth, but
16 were they, for example, generally benign, often prickly,
17 entirely unpredictable, depended on time of day of
18 course, who knows? What were the interactions like, if
19 you can generalise?

20 A. If I was to generalise, I would say very ... I think in
21 the sense that some people were very glad that we were
22 actually there to support the local population. Others,
23 there was resentment. I think with some there was maybe
24 unease with a force from another country being in their
25 country. So it was very varied.

1 DAME ANNE RAFFERTY: So if I record in my head your answer
2 to my big broad question as "it depends on the
3 reaction"; your analysis, you SO85's analysis of what
4 were the interactions like would depend entirely on the
5 audience and the audience' perception of the British
6 military presence, is that fair?

7 A. Yes, I think that is fair.

8 DAME ANNE RAFFERTY: Thank you.

9 I am going to hand the questioning now, SO85, over
10 to Mr Judd. I might -- if you can bear it, I might come
11 back at the end with a couple of general questions, but
12 even that may not happen.

13 Over to Mr Judd.

14 Questions from MR JUDD

15 MR JUDD: Thank you. I am just going to run through some
16 questions on the detainees at Camp Stephen. Turning to
17 your first witness statement, I will just bring it up,
18 it's at {A/68/3} at paragraph 17. Thank you.

19 You tell us here that detainees of intelligence
20 value "would be taken to Camp Stephen to be interviewed
21 by our intelligence officer". Just pausing here for
22 a moment, I appreciate you may not have the cipher list
23 in front of you, so when I ask whether you can identify
24 someone, I think in those circumstances a yes or no
25 would be helpful, and we can follow up later on as to

1 the exact identity, so that we are not naming people in
2 these hearings.

3 But when you reference there in paragraph 17 "our
4 intelligence officer", can you recall who that
5 intelligence officer was, again without giving a name?

6 DAME ANNE RAFFERTY: We want a yes or no answer, Mr Judd.

7 I can or I can't recall.

8 MR JUDD: Yes, please.

9 A. Yes, I can.

10 Q. Thank you. Is it your understanding that detainees
11 would be questioned for that intelligence information at
12 Camp Stephen itself?

13 A. Sorry, could you rephrase the question? Sorry, Mr Judd.

14 Q. Of course. Sorry, I have a tendency of speaking fairly
15 quickly as well. I do apologise for that.

16 When you mention in paragraph 17 that you question
17 detainees "of intelligence volume", can you just confirm
18 for us whether or not detainees would be questioned for
19 that information at Camp Stephen itself?

20 A. Yes. But just to be clear, when you said that I would
21 question, I didn't question detainees personally. But,
22 yes, they would be questioned at Camp Stephen.

23 Q. Thank you. That is helpful. They would be interviewed
24 by the intelligence officer, then? Not yourself
25 personally?

1 A. Yes. Correct.

2 Q. You also go on to say that "the detainees were
3 interviewed in an area outside the operations room where
4 there was outdoor table and chairs". Could you just
5 confirm where that is. If we can bring up {A/4/1},
6 please. These are the photos of Camp Stephen itself.
7 I think what we will have to do is go through them, and
8 if you can stop me when we see the outdoor table and
9 chairs that you refer to, outside the operations room,
10 that would be very helpful.

11 So we first have a photo here, and I assume it is
12 not in this image, so I will move on to the next one.

13 {A/4/2} Is this the area you are referring to?

14 A. No, I don't think so. It looks too narrow.

15 Q. Thank you. We will go on to the next page {A/4/3}.

16 Again, if you could help us with whether it appears in
17 this picture, that would be helpful.

18 A. I think ... it is a little bit difficult to orientate,
19 but if you look at the centre of the screen, there is
20 a building there with two windows, and then to the right
21 of those two windows there is an open area.

22 Q. Okay. Thank you.

23 A. I think that is the area. It's a little bit hard to
24 orientate the perspective of the camp right now, but
25 looking at what ... From what I remember, there were

1 three buildings inside Camp Stephen. And then the back
2 two, one was the Company Headquarters, and then opposite
3 that there was what was the A Company and the kitchen
4 area. Both had a similar outdoor area. But if this is
5 orientated -- I think it is the one in the centre of the
6 screen now.

7 Q. Thank you, that is helpful.

8 I'll try and do it at a fair clip. I might just go
9 to the rest of the photos here, because, as you say, it
10 is quite hard to work out, given the orientation, where
11 we are. Some of the later photos might help.

12 So if we can go to the fourth photograph, please
13 {A/4/4}. Thank you. Does this help with your
14 recollection at all as to where that area outside the
15 operations room was?

16 A. Yes, I think in the -- the top left, or mid to top left,
17 I think that is the outside area there.

18 Q. Thank you. We will go on to page {A/4/6} of the same
19 stream of photos. Again, does this help with working
20 out exactly where we are talking about?

21 A. I think that is the area.

22 Q. Thank you. I am just going to go through the photos and
23 make sure there is nothing else. If we can go on to
24 page {A/4/15} of those photos, please.

25 Again, does that help with your memory as to where

1 that area was?

2 A. I don't recognise that at all.

3 Q. Thank you. That is helpful. I appreciate lots of these
4 images are -- you don't know which direction you are
5 pointing, so that is helpful to know where you are
6 describing in paragraph 17.

7 If I can take you back to that witness statement we
8 looked at, and if we can look at paragraph 22, please,
9 which is on {A/68/4}, which should pop up on the screen.
10 You helpfully tell us here that you don't believe there
11 was an EPW cage at Camp Stephen during Op TELIC 2, you
12 think it may have been there during Op TELIC 1.

13 Again, if we can just go back to those photos,
14 please. We will do a similar exercise. So that is at
15 page {A/4/1}, if we can bring those photos up again,
16 please. Thank you. Again, I appreciate this is fairly
17 laborious, but I will just go through these photos
18 again. If I could ask you to confirm whether or not
19 this alters your recollection or refreshes your memory
20 about the existence of an EPW cage, that would be
21 helpful.

22 So starting with this one. Again, is there any
23 memory of an EPW cage that is assisted by this photo?

24 A. No.

25 Q. Going on to the next photo, you have already confirmed

1 that is the table and chairs area outside the operations
2 room? {A/4/2}

3 A. No, that one is the not the table and chairs. I think
4 that one is too narrow to be the area.

5 DAME ANNE RAFFERTY: That is the one you said was too
6 narrow, isn't it?

7 A. Yes, madam.

8 DAME ANNE RAFFERTY: You can see a pair of legs at the back,
9 do you see? So there is a table, I think, says the
10 expert. Hang on. There is a blue table and then
11 something else, and then at the back of that photo
12 I think there is a relaxed pair of legs attached to
13 a body in a chair. Are we looking at the same photo?

14 MR JUDD: We are. I have my references mixed up in the
15 photos. SO85 has already confirmed that is not the
16 table and chairs area. It has a table and chairs in it,
17 but it's not the area being discussed.

18 If we can go on to the image on {A/4/3}, please.

19 Can you recall again whether, in this image, there was
20 an EPW cage that you can recollect?

21 A. No, and actually I believe these images are from
22 Op TELIC 1, not Op TELIC 2, because the equipment that
23 is visible on the screen, the armoured vehicles, we
24 didn't have on Op TELIC 2.

25 Q. Okay, that is helpful. I will carry on, if I may,

1 because these photos may have been taken at different
2 times.

3 If we go on to the fourth photo {A/4/4}. Again, if
4 you could just confirm whether this helps with your
5 memory or not about an EPW cage, that would be very
6 helpful?

7 A. No, I believe that was an accommodation block.

8 Q. Going on to the next photo, please. {A/4/5}

9 A. I don't recognise that roof-top.

10 Q. Okay. Thank you. Then on to the sixth photo, {A/4/6}.

11 Again, does this help at all?

12 A. No, that is the area I believe is the Company orders and
13 the table and chairs that are referred to.

14 Q. Okay, thank you. I will skip over a few. If we can go
15 to {A/4/9}, please. I think it is the next one if we
16 can. Thank you.

17 SO85, does this help at all?

18 A. No, I don't recognise that area.

19 Q. On to the next photo, please, {A/4/10}. Again, does
20 this help at all?

21 A. No, unfortunately I don't recognise that area again
22 either.

23 Q. Thank you. I am just going to show you some sketches,
24 if I may, of the same camp. They appear at {A/3}, so if
25 we can bring up {A/3/1}, please. Again, I appreciate

1 that this -- or, one, these sketches are in different
2 styles, but you have also said you don't recognise them.
3 It is helpful just to know what your recollection is
4 about where an EPW cage within the layout of
5 Camp Stephen is.

6 So looking at {A/3/1}, does this help at all with
7 any memory of an EPW cage or where one might have been?

8 A. No, I still say I don't believe we had an EPW cage at
9 all in TELIC 2. Looking -- this looks like -- maybe
10 I was wrong that it was three buildings, because this
11 looks like it's four. But I still say that I don't
12 think there was one at all in Camp Stephen or TELIC 2.

13 Q. Okay. Thank you.

14 Just while we are on the sketches, I won't carry on
15 with this, but if we can go over to {A/3/2}, please.
16 You can see on the left-hand side there, this is not in
17 reference to EPW cages, but it references a sewage or
18 small river. Can you just help us with your
19 recollection as to what that might have been, please?

20 A. I think as you drove down from the main road to
21 Camp Stephen, on the right-hand side there was what
22 I would classify as a drainage ditch or small stream
23 running the full length of the road.

24 Q. Okay. Thank you, that is helpful.

25 If we could also turn, please, to {A/2/8}, we should

1 see some aerial photographs of the camp. Again you can
2 see on the right-hand side there we have "EPW" marked.
3 Does this help with your recollection at all as to
4 whether there was an EPW cage and where it might have
5 been?

6 A. I believe on TELIC 2 the area marked "EPW" was a vehicle
7 park. And then we had -- there was a shower block
8 somewhere in that area with portable showers, and then
9 I think that was a vehicle park there.

10 Q. Thank you. That is helpful. Whilst we are on this, can
11 you see any other changes to those labels which you can
12 recollect from your time there during Op TELIC 2, again
13 appreciating this photo may have been taken and labelled
14 before your time there?

15 A. I think the Company stores and ops room is correct.
16 Then accommodation in the top right, as you look towards
17 the compound there, centre accommodation as well. The
18 stone oven I don't recognise. And I don't think
19 interpreters actually lived in the camp, I think they
20 were civilians that came in and then left after their
21 shifts, so to speak.

22 Q. Thank you. That is very helpful. I won't take you to
23 any more of those sketches, unless Dame Anne believes --
24 no, I am getting a shake of the head. Thank you.

25 I appreciate that was not necessarily the most

1 engaging exercise, but it is helpful to know how those
2 sketches need to be looked at.

3 Just one other question on your witness statement
4 with reference to the detainees. If we can go to
5 {A/68/4}, please. Paragraph 24. You mention here that
6 you can recall detainees put in stress positions, but
7 you cannot recall where and when this was:

8 "Stress positions were used commonly and using
9 stress positions was part of our pre-deployment
10 training."

11 Can you just assist us as to a description of those
12 incidents you witnessed and where those witnesses may
13 have been placed into those stress positions, please?

14 A. Specific details? I can't remember, Mr Judd. But in
15 terms of stress positions, what I refer to is people sat
16 down, it can be that they were hooded, it can be that
17 their hands were zip-tied behind their backs,
18 alternatively they can be zip-tied behind their back
19 without a hood, but I would classify that as a stress
20 position. Exact examples I can't say with any clarity.

21 Q. Thank you. Can you recall where in Camp Stephen that
22 may have happened?

23 A. I have a memory, and the problem is honestly right now
24 there has been so much since 2003, I struggle at times
25 to understand what actually happened and what maybe

1 I have dreamt or anything else, but I have
2 a recollection in the area where the table was, where
3 the Company orders were, of individuals sitting there
4 with their hands behind their backs.

5 Q. Thank you. That is helpful. When you say "where the
6 Company orders were", is that the photo with the table
7 and chairs --

8 A. Sorry, the table and chairs where the detainees were
9 questioned by the Company staff.

10 Q. Thank you. Can you help us with a description in your
11 view as to why those stress positions were used, please?

12 A. In my view, in the same way that when a police officer
13 arrests someone, they use handcuffs. It is there to
14 control them, to stop them running away, to stop them
15 assaulting. I don't believe it was any more than that.

16 Q. Thank you. That is very helpful.

17 I am just going to keep you on this witness
18 statement. If we can go to paragraph 36, please.
19 {A/68/5}. At the bottom of the page there, you describe
20 a ditch running alongside the camp into Camp Stephen
21 from the main road. You also say it was visible from
22 the guards towers, but you cannot remember whether it
23 was fully or partially visible.

24 It would be helpful if you could just assist us
25 a bit more on that ditch. I have already taken you to

1 the sketches, but we will go to them again briefly. If
2 we can bring up the aerial photo of Camp Stephen,
3 please, that is {A/2/1}.

4 Can you just describe in reference to this photo
5 where that ditch was, please?

6 A. I believe the ditch is running from the bottom centre to
7 the middle right. What I can't see -- there was a road
8 and a ditch. I can't make out whether the wide is the
9 road and the narrow is the ditch, or what is ...

10 Q. Thank you, that is very helpful. I will just take you
11 back to the sketches, if I may. If we can bring up
12 {A/3/2}. Sorry, SO85, I know I am jumping around
13 between documents, but we are just trying to make sure
14 we can work out how they all fit together.

15 This is the sketch we spoke about a moment ago. On
16 the left-hand side there, where it says "sewerage small
17 river", is that the same ditch we have just seen in the
18 aerial photograph?

19 A. I think so. Looking at the drawing of Camp Stephen
20 itself and where it says "main gate", I think it is,
21 yes. And then the streets running parallel to the
22 ditch.

23 Q. Thank you, that is really helpful. Can we just go into
24 a bit more detail about what that ditch looked like.
25 Can you give us a description, please, as far as you can

1 recall?

2 A. It's a little bit hazy, but I believe it had banked
3 sides on the way down. And then it was what I would say
4 dirt ground or scrub on either side. And then depth,
5 I don't remember how deep it was, but I believe we used
6 to patrol across it, so it can't have been particularly
7 deep. We had one of our interpreters lived on the other
8 side of the ditch and we regularly visited him.

9 Q. By "patrol across it", am I right to understand you
10 could walk through it without much of a problem?

11 A. I can't say we walked through it, because I can't
12 remember walking through it. But we were either walking
13 through or, more likely, jumping across, I would say.

14 Q. Can you describe the water just in a bit more detail,
15 please? I know it's marked here as "sewerage", but it
16 would be helpful to know if it was flowing or if it was
17 stagnant or if it was clean water or if it was dirty
18 water and so on.

19 A. I can't describe it in any detail. But what I can say,
20 I mean, there was no clean water at that time in Basra.

21 Q. Okay. Thank you. Again keeping your eyes on that
22 sketch, we have the gate marked there and the ditch.
23 Can you recall roughly how far it was between the two of
24 them?

25 A. No. I would guess ... 30 metres, but I haven't got

1 a clear picture of the distance from the gate to the
2 road and then the ditch, which is why on that first
3 aerial photograph I can't remember whether it was the
4 wide road and then a ditch, or whether it was dirt
5 ground, then a road, then a ditch. I would guess around
6 30 metres, but I am not confident at all to say with
7 certainty.

8 Q. That is very helpful. We have spoken about whether the
9 ditch was visible from the guard tower. Again on the
10 sketch we can see in the bottom building there is a --
11 in the top left-hand side there is an area marked
12 "tower". Can you recall whether that was the watch
13 tower that you mentioned in your witness statement?

14 A. Yes, that was the guard tower.

15 Q. Again, any recollections you have would be very helpful
16 about how visible that ditch was from that watch tower.

17 A. I can't remember ever being in the watch tower.

18 Logically I would have been, but I can't remember ever
19 being in there.

20 Q. Thank you. So would you say that -- again, any
21 information you have would be really helpful, but can we
22 fairly describe it as visible from the watch tower or
23 not, can you recall that?

24 A. I can't recall. But the purpose of the guard tower was
25 to be a lookout for the camp, so I would imagine there

1 was a good field of vision from the guard tower in all
2 directions.

3 Q. Thank you. Can you recall any incidents where detainees
4 were put into that ditch?

5 A. No, never.

6 Q. They can be either ones you witnessed yourself or you
7 heard about on the grapevine?

8 A. No, never.

9 Q. Thank you. I am now just going to come to a specific
10 incident that you have been asked about in your witness
11 statement. We are now going back to July and August of
12 2003. If we could just go back to your statement at
13 {A/68/6}, please. I won't go through in detail, it's
14 a fairly long description, but you have the paragraphs
15 there if you need them.

16 If I could summarise it: you and your multiple were
17 at the docks at Basra in an observing position to
18 prevent executions of security guards in those docks,
19 and you were split up around the area, and you recall
20 that three men approached the dock by boat, they came
21 ashore, they were issued a verbal challenge to stop, and
22 then one individual opened fire. He was then engaged
23 and shot in turn. And two other individuals ended up in
24 the water as they tried to return to their boat.

25 Can you just help us at all with any recollections

1 you may have about how common an incident like this was
2 at that time?

3 A. I can only talk from my experience. This was the only
4 incident we had of this kind. The executions of the
5 security guards, they were happening quite frequently.
6 We had what were called observation posts in the areas
7 of the docks to try and apprehend the individuals that
8 were doing that. But on this one occasion there were
9 three individuals that came ashore, and they engaged my
10 patrol.

11 Q. Thank you. How often was it that the waterways were
12 used by looters or prospective looters to get to the
13 docks? Was it fairly common or was it fairly rare?

14 A. I think we believed, both from the intelligence that we
15 were given but both locally and from the battalion, that
16 there was a tribe on the other side of the waterway that
17 was using the docks for various different reasons. So
18 I would say it was quite regular people came across from
19 the other side of the water to -- I don't want to
20 classify it as Basra, but certainly the Camp Stephen
21 side.

22 Q. Thank you. That is incredibly helpful. This incident
23 here, they used a small boat. Is that the main means by
24 which they came from the other side of the river to the
25 docks, or did they have other forms of transport which

1 they might have used?

2 A. I make an assumption, because I can't comment on every
3 case, but I would imagine the majority were in small
4 boats.

5 Q. Thank you. The two other individuals in this specific
6 incident who ended up back in the water when they tried
7 to get back to their boats, can you just help us with
8 a description as to whether those men got back in the
9 water under their own steam, were they prompted to enter
10 the water by you or by any other members of your
11 multiple?

12 A. No, absolutely not. They left the scene. My main focus
13 at that point was, after we had engaged with one of
14 the individuals, we followed the protocol to call for
15 medical support, and that was the main focus. Until
16 that was done, those two individuals were second
17 priority.

18 Q. Thank you.

19 I am just going to turn to another incident now.
20 You were asked questions about a specific incident
21 in October 2003, if you can recall that. If I could
22 summarise it, you were asked questions about an incident
23 in which, at the dry dock on the Shatt Al-Arab river,
24 you were in charge of a multiple and you were flagged
25 down by a security guard who alerted you to the fact

1 that that dock was being looted. And in that multiple
2 you had SO112, and I appreciate you may not have the
3 cipher list in front of you, so if anything I say is
4 unclear, do let me know. You were asked about
5 an incident in which some of those looters were
6 detained, and it was alleged that as part of that
7 detention a question was asked to the effect of how
8 shall we punish them? And somebody else responded to
9 say let's push them off the dry dock.

10 Firstly, do you have any recollection of an incident
11 of that nature?

12 A. No, absolutely not. I can say it didn't happen.

13 I respect the questions that I was asked, but it just
14 didn't happen.

15 Q. If I can just take you to one particular document to see
16 if it helps with any recollection. It's {A/131/1},
17 please. Thank you. It's the bottom of the page under
18 "Incident 2". If we can scroll down. Thank you.

19 So this is evidence of SO112, and this is the
20 incident which I summarised which occurred
21 in October 2003. Does this help at all with your
22 recollection as to this incident in which the detainees
23 were, it was said, threatened with being pushed off the
24 dry dock?

25 A. I am reading this now because this is the first time

1 I see it.

2 DAME ANNE RAFFERTY: Take your time. Take your time.

3 MR JUDD: We might want to go on to the next page as well
4 when you have had a chance to read that paragraph under
5 "Incident 2".

6 A. I don't recognise this at all.

7 Q. If you can just confirm to me when you have had a chance
8 to read through. As you said, it's the first time you
9 have seen this perhaps, but on that second page it gives
10 the description which I summarised about the dry dock
11 and the security guard flagging you down, and so on. If
12 you wouldn't mind having a read through, that would be
13 very helpful. (Pause).

14 A. Yes, this second part is what I was asked about in the
15 first statement I gave, and I still stand by that it
16 didn't happen.

17 Q. Thank you, that is helpful.

18 Just as a broad question, thinking about the two
19 incidents we have been discussing, again I appreciate
20 this is some time ago, but can you help us with
21 a description as to how often, in your experience, it
22 was that detainees ended up in either the Shatt Al-Arab
23 river or any other waterway when they were detained?
24 Was it a common occurrence or was it something which was
25 rare?

1 A. The only issue or the only incident I can recall is the
2 one that I described where we were in the observation
3 post, on the previous -- the previous -- I can't
4 remember the reference you used, but where I engaged the
5 individual, and two further left from the dry dock into
6 a boat. That is the only one I can recall.

7 MR JUDD: Thank you. That is really helpful. I don't have
8 any other questions or things on which I would like to
9 get assistance on, so I will perhaps check if Dame Anne
10 has anything she would like to clarify?

11 DAME ANNE RAFFERTY: No, thank you. Really helpful. Really
12 helpful. Thank you.

13 MR JUDD: I will just check whether any of the
14 representatives have any questions they would like to
15 put through Dame Anne.

16 DAME ANNE RAFFERTY: Or you.

17 MR JUDD: Or me, yes. (Pause)

18 I will take that as "no".

19 I will just double-check whether there are any
20 questions from your representative.

21 MR CHERRY: Mr Judd, there are two things that might assist
22 in clarifying. SO85 could probably clarify. They were
23 the second unit into this camp, the first unit being the
24 Black Watch who had withdrawn and were totally replaced,
25 which might account for why he doesn't recognise which

1 unit was in which block, because the QLR did a different
2 allocation in this particular camp of accommodation to
3 that that the Black Watch had used.

4 The second point that SO85 may be able to assist you
5 with. You asked him about when he had seen stress
6 positions when guarding, and I know he has given
7 evidence previously when I have listened to him. He
8 gave evidence in a previous case. Following the theft
9 of the money by one of his soldiers, they then --
10 prisoners were at this point known as detainees and not
11 EPWs, because this was after the war-fighting, and he
12 and his platoon were deployed to the Battle Group
13 Headquarters for two days to guard the group of
14 prisoners from the hotel, and it was at that point that
15 the prisoners were put in stress positions under
16 the direction of the Provost NCO, who will be a person
17 SO85 will know. Will that assist you?

18 MR JUDD: Yes, what I will do is ask SO85 if he can comment
19 upon that.

20 SO85, did you hear that clarification?

21 A. Yes, I heard. Which part would you like me to clarify?

22 The detainees from the hotel?

23 Q. Yes, please.

24 A. Yes.

25 Q. Any recollections you have from that summary would be

1 helpful.

2 A. Sorry, yes, I confirm what -- I am not sure who it was
3 who spoke, sorry. I confirm what was said there, that
4 we were responsible to guard the prisoners or detainees
5 under the supervision of the Provost staff. I think my
6 unit were there the full time. I was there on and off
7 during the period due to other tasks.

8 DAME ANNE RAFFERTY: I might ask something to clarify, if
9 I may. Thank you, Mr Cherry.

10 Am I understanding you correctly, SO85, it was your
11 task to get people to and hand over to the Provost?

12 Once you had done that, was that task over for you?

13 A. Generally, yes. But I think the specific case that
14 I think it was Mr Cherry referred to ...

15 DAME ANNE RAFFERTY: It was, yes.

16 A. My unit had a responsibility of guard duty during that
17 period.

18 DAME ANNE RAFFERTY: Once the individual had reached the
19 Provost?

20 A. After the individual had reached the Provost.

21 DAME ANNE RAFFERTY: That is what I meant, yes, after.

22 A. I don't believe it was for the full time, I believe it
23 was parts of the time that my unit were responsible.

24 DAME ANNE RAFFERTY: Thank you. That is all I wanted to
25 clarify.

1 Thank you again, Mr Cherry.

2 MR CHERRY: Thank you.

3 MS AL QURNAWI: We have a question here from Basra.

4 DAME ANNE RAFFERTY: Right.

5 MS AL QURNAWI: A question from one of the attendees here,
6 Dame Anne, for your kind consideration.

7 SO85 said he received training on stress positions
8 and prisoners handling. What training, if any, the
9 officers received re wetting, if any?

10 DAME ANNE RAFFERTY: Mr Judd will ask. It's fairly clear
11 I know what the answer will be, but he will ask a brief
12 question.

13 MR JUDD: Yes. SO58, I will just summarise that question.
14 You have helpfully set out what training you received in
15 respect of prisoners generally. The question was: did
16 you receive any specific training on what has been
17 termed "wetting", that you can recall?

18 A. Absolutely not.

19 MR JUDD: Thank you. That is helpful.

20 DAME ANNE RAFFERTY: Thank you very much to those from
21 Basra. Thank you.

22 Mr Judd, if I am right, that concludes what we need
23 to turn to SO85 for help in, does it?

24 MR JUDD: It does, yes.

25 Thank you. That has been incredibly helpful, SO85.

1 DAME ANNE RAFFERTY: It certainly has. Thank you again for
2 coming and thank you for doing all you have to help us.

3 We will let you go now.

4 A. Thank you, madam.

5 MR JUDD: Dame Anne, we have SO88.

6 DAME ANNE RAFFERTY: I was just thinking about that. Shall
7 we do half an hour-ish?

8 MR JUDD: Half an hour and then break.

9 DAME ANNE RAFFERTY: Yes. Because SO88 I think is expecting
10 to join us from 12.15 until 1 o'clock and then from 4
11 until 3.15, so he might find it convenient to do sort of
12 half an hour now. Shall we try that?

13 MR JUDD: Yes.

14 DAME ANNE RAFFERTY: Good. Let's have SO88.

15 SO88 (called)

16 Introduction by MR JUDD

17 MR JUDD: SO88, can you see and hear me?

18 A. I can. Can you hear me?

19 Q. I can, thank you very much. I will run through some
20 questions before Dame Anne asks some questions. Can you
21 confirm firstly you have the list of ciphers in front of
22 you, please?

23 A. Yes, I do.

24 Q. Can you confirm you are indeed SO88 on that cipher list?

25 A. Yes, I am SO88.

1 Q. Thank you. You will have, as I understand it, received
2 a disclosure bundle before this hearing. Do you have
3 that in front of you?

4 A. I think I have the majority of it. I printed out
5 I think the majority of it. I may have not printed out
6 every single page.

7 Q. Okay. Thank you. You have made a number of previous
8 statements. Are all those statements in that disclosure
9 bundle?

10 A. I think I have printed out all those statements, yes.
11 So there are eight of them in total and then the
12 statement I have made to this Inquiry.

13 Q. I will just go to those statements, if I may. The
14 statement is at {A/74/1}, if we can just bring that up.
15 Is that the statement you have made in these
16 investigations?

17 A. That is one of them, yes.

18 Q. If we just go to the final page of that. Sorry, mine is
19 being fairly slow. For me, it's at {A/74/17}, dated
20 December 2022. That is the statement you have made in
21 these investigations?

22 A. Yes.

23 MR JUDD: Thank you. I will hand you back to Dame Anne, if
24 I may.

25 DAME ANNE RAFFERTY: Thank you very much.

1 Questions from DAME ANNE RAFFERTY

2 DAME ANNE RAFFERTY: Good afternoon, SO88. I would like to
3 check you can hear me clearly.

4 A. Yes, Dame Anne, very clearly.

5 DAME ANNE RAFFERTY: I can't see you at the moment. I can
6 hear you very well indeed. First of all, thank you very
7 much for coming, thank you for being prepared to help
8 us. And I can't remember, I think you might not have
9 been in the virtual room when we began. Just in case
10 you weren't, may I repeat something I said more than
11 once in my opening remarks.

12 This is not an adversarial process, it is
13 inquisitorial, and all I am after is what you can
14 remember and what flesh you can put on bones. I am not
15 here to do any tripping up or catching out. I hope you
16 know that already, but it bears repeating.

17 A. Yes, understood.

18 DAME ANNE RAFFERTY: May we proceed on that basis?

19 A. Yes, understood.

20 DAME ANNE RAFFERTY: I think you probably heard that what
21 I thought might be reasonably practical approach is to
22 do sort of half an hour-ish with you now, give or take,
23 and then have a lunch break, and then ask you to come
24 back to us. Would that suit?

25 A. Yes, that would be fine.

1 DAME ANNE RAFFERTY: Good, good. Right. Could we have
2 an outline -- I don't need Is dotted and Ts crossed --
3 of your military career. Just give us a headline
4 flavour of start to now.

5 A. To now?

6 DAME ANNE RAFFERTY: No, not to now; to now in terms of this
7 Inquiry. Thank you.

8 A. Oh, I see. Yes, Dame Anne. So I joined the military in
9 1988, and after a year at Sandhurst I was deployed to
10 Northern Ireland for the first of my three tours,
11 I spent two years there. Northern Ireland at that time
12 was a violent area, operation. It was internal
13 security, it was led by the police, and we were there to
14 support them, but nonetheless there were frequent
15 bombings and shootings and those sorts of terrorist
16 activities. But it gave me a very good flavour for the
17 first six years of my career spanning those tours about
18 internal security and working with the police.

19 I went on to train soldiers for two years, which
20 I think helped me understand how to train soldiers and
21 work with soldiers, especially those who were new to the
22 military and under training, what training they needed.
23 I then returned to my battalion, the Black Watch, 1BW,
24 and took over the Reconnaissance Platoon, which was
25 probably one of the better trained -- the best platoons

1 in the battalion for its skills.

2 Then I went to junior staff college, which is the
3 normal process. And then I elected to join a specialist
4 [REDACTED] and conducted numerous operations with
5 them, including several arrest operations. And then
6 I went to my first staff officer job [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 DAME ANNE RAFFERTY: Bring us out with you into Iraq in
14 2003.

15 A. So the expectation, as everyone is probably well aware,
16 was that this would be a war-fighting operation, and
17 when we arrived into Basra it turned into a sort of
18 internal security operation, which was in the context of
19 a lot of violence still. There were shootings. And if
20 you refer back to the page I saw earlier in the hearing
21 with the report log, we had some discussion over which
22 log you were looking at, you would have noticed that
23 there was a lot of serials about shots fired. So that
24 was the sort of situation.

25 There was insecurity, but there was a lot of chaos

1 and mayhem. And as I put in my statement, it was
2 heartbreaking, some of it, to see. The generator that
3 was stolen from the hospital, which meant that people
4 died on hospital beds, or the attacks on the electricity
5 network. Iraq had a very good system of high voltage
6 network, of electricity, and people would cut down those
7 pylons, and then cut up the wire and melt it down and
8 steal the copper, which would put the whole of the Basra
9 city into darkness without electricity.

10 So these were the sorts of environments we were
11 facing, as well as the -- you know, the shootings and
12 sporadic firefights that went on.

13 DAME ANNE RAFFERTY: You are describing, in words that
14 I might use, a primary and secondary, both of which
15 disturbed you. The primary is the conflict and the
16 violence, soldier to civilian, soldier to soldier. And
17 the second is the difficulties caused to the supply side
18 and the consequential human tragedies that occurred. Is
19 that a fair categorisation of primary and secondary?

20 A. Yes, I think -- yes, I think so.

21 DAME ANNE RAFFERTY: Both equally heartbreaking for you?

22 A. Yes. On one hand, soldiers will naturally be scared.

23 For many soldiers, this was their first operation. For
24 me, it was not. But for some it was naturally a very
25 scary environment, the unknown, and yet at the same

1 time, you know, there was a lot of internal security to
2 try and improve the situation for the lives of everybody
3 in Basra, and that was really a challenge.

4 DAME ANNE RAFFERTY: Yes. You were Commander C Company
5 1 Black Watch, weren't you?

6 A. Yes, I was. I was --

7 DAME ANNE RAFFERTY: -- part of your role? I'm so sorry,
8 I didn't mean to talk across you. Carry on.

9 A. Sorry, Dame Anne. Just to reiterate, I was well before
10 SO85, Mr Judd's questions to SO85. To me, it is almost
11 as if you are talking about a different time, a time
12 that was well after my ... and therefore the relevance
13 of it.

14 DAME ANNE RAFFERTY: And "well before" meaning how long
15 before? If you can do it at this gap in time.

16 A. Their unit took over. So when you are talking about
17 Camp Stephen, I presume they moved into Camp Stephen and
18 SO85 moved into Camp Stephen. But that is irrelevant to
19 me. He might as well have been on Mars.

20 DAME ANNE RAFFERTY: Yes, understood. Understood. So
21 outline your role for us as Commander C Company, if you
22 would?

23 A. Initially, before we moved into Basra city, I was --
24 I had a different role. And then as we moved into Basra
25 city, there was a requirement for internal security.

1 And the Mortar Platoon, the Recce Platoon and the
2 Anti-tank Platoon were brought together back under my
3 command, which was something I had done. I was in
4 charge of them but in barracks. And there was
5 a requirement to provide security within Basra city.
6 It's a huge city, as you know. And whilst the Mortar
7 Platoon, the Recce Platoon and Anti-tank Platoon have
8 different functions in war-fighting, as soon as we moved
9 into Basra city it was obviously the commanding
10 officer's view that he needed to have as many troops on
11 the ground, and he reformed the Company and we were
12 given several areas, including Aljamhouria and another
13 large area towards the south end of the city.

14 DAME ANNE RAFFERTY: Can you help me with this: who was --
15 in terms of the structure of C Company, who was in
16 charge of what in May 2003? You might need to use rank,
17 not name, but you are more than up to this. I am just
18 thinking that this will perhaps give us a frame as we
19 move on through the evidence.

20 Structure of C Company, who was in charge of what?

21 A. I was in charge of the Company, and I have a Company
22 Headquarters which consisted of a captain and a CQMS and
23 a sergeant major, and then a couple of signallers and
24 an ambulance. And then fundamentally there are three
25 different elements underneath me, which was three

1 platoons, and in each of those platoons there was
2 a captain, which is unusual, as I underlined in my
3 statement. Most platoons, like SO85 was I believe
4 a junior officer in charge of a platoon, whereas my
5 platoon commanders were more senior because of the role
6 that they did. And then within those platoons,
7 underneath them they would have a platoon
8 second-in-command, which again is unusual. Most
9 infantry platoons do not have that. And then they had
10 a platoon sergeant which is normal, and normal infantry
11 platoons have those.

12 Then within each platoon there is also usually three
13 sections, which are commanded usually by corporals. But
14 again, being a slightly different organisation,
15 C Company had slightly more senior people and,
16 for example, could have had corporals I think or
17 sergeants in charge of those -- in charge of those
18 sections, but probably corporals.

19 DAME ANNE RAFFERTY: Extremely helpful. Thank you.

20 Can we turn now to a little bit of help with
21 training and instruction. Let's give it that heading.
22 I know from your witness statement, paragraphs 7 and 8,
23 you can have it on the screen if you like, that you
24 candidly consider training that you had pre-Op was
25 inadequate. And there was no training on maintaining

1 law and order or on the prevention of looting, so I have
2 a pair of twin questions for you and they are
3 deliberately broad, SO88.

4 First of all, can you elaborate on the inadequacy
5 that you have identified, and then can you do some work
6 for us on what flowed from it. In other words,
7 implications therefrom.

8 A. Yes. I think the clearest example of this was about
9 internal security policing and detainee handling. So
10 under war-fighting one expects to taken enemy prisoners
11 of war, EPWs. Of course, war-fighting can take place
12 outside a city, if it is going to be tank on tank with
13 mass casualties on each side. And there was a little
14 bit of that at the beginning; let's not great 36 British
15 servicemen died in the first three months, I think it
16 was 16 on the initial landings, two in my Battle Group
17 and one in my Company. He was shot in the chest with
18 an RPG. So that stuff happened initially.

19 Then when we moved into Basra city, whilst there was
20 some firefights going on, and when you are at the sharp
21 end of a firefight it is always pretty nasty, it doesn't
22 really matter how big the size of that firefight is, it
23 feels a little bit the same. But on a larger scale it
24 wasn't, it was this -- it was just violence and shooting
25 and some, you know, risk of people being killed. So

1 when you went to do a search operation you didn't know
2 if you would be killed that day. You might, you might
3 not. The expectation was probably not, but it could
4 happen.

5 But it became a policing and internal security
6 issue, and that is not what we were trained for. We
7 were trained for war-fighting. I had experience of
8 policing from Northern Ireland, but that is not what we
9 were prepared for, and I don't think politicians and the
10 military expected that, and the de-Baathification
11 programme, in my personal judgment, was a catastrophic
12 error, and all the police and all the other apparatus of
13 control, whether it be civilian, local council, all
14 those leaders, they evaporated and they weren't there.
15 That was probably a result of a lack of understanding of
16 what would happen on the invasion.

17 So therefore, specifically when you think about
18 EPWs, we were trained for EPWs, but we didn't conduct
19 training for detainees and conducting internal security,
20 and I think that obviously probably has some bearing on
21 everything that has happened.

22 DAME ANNE RAFFERTY: Did you cope, insofar as you could,
23 on-the-hoof whilst you were there, having had no
24 pre-training?

25 A. Yes, I would like to think that we -- my experience and

1 trying to do, you know, good things in difficult
2 circumstances meant that we did try our best. And I am
3 sure people will then scrutinise that in great detail as
4 to which date a certain FRAGO came out, an order,
5 fragmentary order, and therefore had you done something
6 before that that was now outside of policy, and
7 therefore one could be, you know, criminally liable for.
8 But I would like to think that we used our common sense
9 and tried to do our best in that regard.

10 DAME ANNE RAFFERTY: One of the reasons I wanted to explore
11 this a little bit with you is I did wonder whether your
12 Northern Ireland experience, which was not only in
13 a different context but, from what you have always said,
14 imported different levels of preparation, might -- tell
15 me if I am wrong -- make you think that actually you are
16 as well placed as many to answer the question I first
17 posed about the inadequacy. Am I on the right track if
18 I use your Northern Ireland comparative experience?

19 A. I think you are. We were issued with a card, which was
20 a specific card for Northern Ireland called the Yellow
21 card, and it had very clear differences about how you
22 would deal with people. In Northern Ireland you were
23 there for three reasons. You were there to reassure the
24 public with this heavy security presence, you were there
25 also to escort the police. So usually with every

1 element, every section -- they weren't called sections,
2 they were multiples, but if we think of them in the same
3 sort of lowest level building block -- there would
4 usually be a policeman with you, and your job was to
5 escort him and to provide them with security. So there
6 was a sort of reassurance element and to allow normal
7 policing activity to go ahead. Of course, that wasn't
8 the case in Basra because we didn't have police. There
9 was then the deterrence, you are there to deter attacks,
10 and I can see a parallel to Basra with that, to try and
11 deter enemy action or criminality.

12 And then, thirdly, the real disruption of terrorists
13 in Northern Ireland was probably not done by your
14 average infantry because they simply didn't have the
15 intelligence, and I would say that is probably again
16 similar to Basra, which is that, you know, those sort of
17 High Value Targets would be based on intelligence which
18 was not what the average infantry unit had.

19 But the training that you would go into with the
20 Yellow card was six months of training, in a specialist
21 facility which the United Kingdom built because it had,
22 whatever it was, 15,000 troops in Northern Ireland, and
23 each unit would go through specific training for
24 three months. And you go into very, very detailed
25 scenarios about when it was legal that you could use

1 lethal force, et cetera. If you think about somebody
2 with a petrol bomb, the moment they raise their arm to
3 throw that petrol bomb, only if they are within distance
4 of you, they are a lethal threat. If they are not
5 within distance of you, they are not a lethal threat.
6 It is therefore illegal to use lethal force. And once
7 that petrol bomb has left their arm, they are again
8 no longer a legitimate target because the petrol bomb is
9 now in the air.

10 So those sorts of intricate training scenarios would
11 be played out and played out, and that wasn't the case
12 for this internal security environment in Iraq that was
13 faced.

14 DAME ANNE RAFFERTY: Thank you. You have in earlier
15 evidence, particularly your BMI, for example, described
16 an annual requirement for a briefing on LOAC, Law of
17 Armed Conflict. And you can remember, I think -- and
18 tell me if I am wrong -- two specific training events.
19 One was an all ranks of a battalion, and one where the
20 cards were issued.

21 I just want to triple-check: would all C Company
22 soldiers have been briefed or trained, call it what you
23 like, on the Law of Armed Conflict?

24 A. Yes. I did read that back in my statement, and I think
25 it wasn't as clear as I hope I can make it now.

1 DAME ANNE RAFFERTY: That is why I have asked you.

2 Thank you.

3 A. There is an annual requirement for all British soldiers
4 to undertake what are called MATTs, Mandatory Annual
5 Training Tests, and that is a requirement across
6 a number of subjects, including fitness through to, you
7 know, drills required for nuclear, biological and
8 chemical, but it also includes the Law of Armed
9 Conflict, so that must be done once a year by every
10 British soldier, in fact I think in all three services.

11 There was then, as I said in my statement, I recall
12 two separate briefings, one which was in Germany, an all
13 arms briefing, and one which then took place in a big
14 white tent in the desert at which we were issued Law of
15 Armed Conflict cards.

16 DAME ANNE RAFFERTY: Much clearer, thank you. Thank you.

17 So staying with your soldiers, would they have had
18 specific training or specific briefing at any stage on
19 what questions LOAC would permit them to ask, or should
20 we see that as a complete desert as far as they are
21 concerned?

22 A. No, I think every British soldier would know LOAC
23 comprises of the big four questions, and that has
24 changed now to six questions. But they would all
25 understand that that is the mandatory and compulsory

1 questions. And I think, as your earlier witness
2 described, SO98, this idea of tactical importance is
3 interesting, because Law of Armed Conflict is there so
4 that you understand what you may be asked and what is
5 lawful when you are captured, as well as when you
6 capture EPWs. But naturally within those questions, the
7 four questions, you are allowed to ascertain their
8 identity, and so I think that includes what unit they
9 are from. Of course, that is a little bit more
10 difficult if you are talking about the Fedayeen or a
11 militia. With those sorts of thing it is less clear --

12 DAME ANNE RAFFERTY: It doesn't exactly translate, does it?

13 A. No, it doesn't. So I accept there is always -- it could
14 be interpreted that there is a slightly grey area as to
15 what you can ask when you are dealing with EPWs. And
16 of course we were not really given any direction or
17 training as to what you are could therefore ask
18 a detainee. But as SO98 said, you don't know who is
19 what when you first detain somebody or capture somebody,
20 which is probably the parlance one uses when you are
21 talking about war fighting and EPWs.

22 DAME ANNE RAFFERTY: Let me just ask you one more thing,
23 because you have used the word "tactical", which we have
24 been listening to for a little bit, before we invite you
25 to have your lunch. You, I think, have not done any

1 tactical questioning course. Is that right?

2 A. That is correct.

3 DAME ANNE RAFFERTY: Yes. Do you remember whether anyone in
4 C Company had done such a course?

5 A. I don't believe anyone in C Company had done a tactical
6 questioning course. It may well be that, as Mr Lewis
7 outlined, it may well be that some people had done some
8 more specific training, and I can't -- I can't say that
9 there was -- I don't know if -- now I cannot recall,
10 some years after leaving that sort of environment,
11 whether there was a detainee course that, for example,
12 company sergeant majors would do.

13 There would naturally be some training that you do
14 throughout your career. For example, corporals -- just
15 like I outlined that I went on a specific staff officers
16 course, corporals will go on a specific corporals'
17 course, and sergeants also go on a specific sergeants'
18 battlefield course. And in those training areas they
19 will have had training specific to their rank, and
20 I think that may have included detainee training but you
21 would have to ask those sorts of ranks.

22 DAME ANNE RAFFERTY: I follow. So potentially tailored to
23 their rank, and the best purveyor of that information
24 would be one in that rank, is that your tip?

25 A. I am afraid it is, because I am now so long out of the

1 field. This was 20 years ago when I was a Field
2 Commander.

3 DAME ANNE RAFFERTY: That is fine. I appreciate someone
4 saying "I don't know", or, as you have just done, "ask
5 somebody else, and preferably this type of somebody
6 else", so thank you.

7 That is a pretty natural break. So what I think, if
8 it suits, we might now do is pause for lunch, SO88. Let
9 me just check with the team that that will suit
10 arrangements, and let me check, if we aimed to come back
11 at 2 o'clock, that would not cause problems.

12 Natasha?

13 MS JACKSON: That should be fine, Dame Anne.

14 DAME ANNE RAFFERTY: We will do that then. We will stop
15 now. Does that suit you, SO88, to come back at
16 2 o'clock, for me?

17 A. Yes, Dame Anne. Perfect.

18 DAME ANNE RAFFERTY: Excellent. We will look forward to
19 hearing more from you at 2 o'clock. Thank you all. We
20 will see you then.

21 (1.04 pm BST)

22 (The short adjournment)

23 (2.00 pm BST)

24 DAME ANNE RAFFERTY: Do we have SO88 back with us?

25 A. Yes, we do, madam.

1 DAME ANNE RAFFERTY: Thank you very much. I am going to
2 come to a different heading now, we have touched on it
3 a bit, and it's detention and the command structures at
4 Camp Stephen.

5 I think you can probably paint us a picture of
6 when -- more accurately, in what circumstances --
7 a detainee would be taken to Camp Stephen, and
8 particularly why there, as opposed to to another
9 facility.

10 Would you like to see what you can help us with, if
11 anything?

12 A. Yes, I understand and I recollect, and all my previous
13 statements I think would support, that my understanding
14 now is that both capturing of enemy prisoners of war and
15 detaining those who were interfering with a mission was
16 permissible, prior to FRAGO 152 coming out on 20 May.
17 They were permissible, and I can't tell you what date
18 that was permissible from, but from an early part of the
19 operation. Because I remember from the very earliest
20 part of entry into Basra it was probably not possible
21 that you could detain civil civilians, but I think that
22 was for a very, very short period of time, a couple of
23 days.

24 DAME ANNE RAFFERTY: Really short then?

25 A. I think so, but you would probably have to ask somebody

1 like SO91 for that detail. I say that because it was
2 very evident from the first few days in Basra that there
3 was a huge amount of insecurity, and therefore having
4 powers as the interim authority was blatantly necessary
5 to all of us who were on the ground. So I think within
6 a very few -- very few days, that was then allowed
7 legally, I guess, or at least by policy.

8 So back to your question as to why they would come
9 to Camp Stephen, it's simply a matter of triage. It
10 would be natural to take detainees back to Camp Stephen
11 to process them, and then to see which detainees or EPWs
12 would then be transferred on to Battalion Headquarters.
13 And then I am sure they would do a similar function as
14 to determining whether people would then transfer on to
15 Umm Qasr and the TIF, Tactical Internment Facility.
16 Because you couldn't automatically take everybody to the
17 ultimate destination, there would need to be some
18 process.

19 DAME ANNE RAFFERTY: You needed to appoint yourself into an
20 A&E nurse doing the triage on the patient's arrival.

21 A. Yes.

22 DAME ANNE RAFFERTY: Got it. Can you also paint a picture
23 for us of what instructions, what orders, were coming
24 from above. So let's think about before 8 May, that is
25 the sad death of Mr Radhi Nama, and 13 May 2003,

1 Mr Mousa Ali. Can you help us with what instructions or
2 orders had come down in the chain of command about when
3 civilians should be captured and detained and, if they
4 were, what should then happen.

5 A. I can't recall at this stage. I can go off my previous
6 statements and give you what I have said before, but
7 I can't recall now what I was directed to do.

8 DAME ANNE RAFFERTY: All right. So you have already
9 mentioned FRAGO 152, 20 May. If I understand you
10 correctly, your view is pre-FRAGO 152 there was no
11 direction on how long, for how long, a detainee could be
12 held. Have I got that right?

13 A. Yes, I think that is correct, that prior to FRAGO 152
14 there was no timeline.

15 DAME ANNE RAFFERTY: Timeline. That is the word, thank you,
16 timeline. Good.

17 Just thinking about FRAGOs. How were they
18 disseminated to your Company?

19 A. My recollection is that in those days, you know,
20 pre-internet or secure radio, the only communications
21 one had was insecure VHF radio, and by that of course
22 I mean that VHF, very high frequency, only transmits
23 a certain distance, so you might be out of radio contact
24 as certain points. I think that did happen, not just
25 because there were what are called black spots, in other

1 words, areas you can't get -- for some technological
2 reason you don't get a radio signal, but also simply the
3 distance.

4 So the issuance of orders was always by radio, and
5 that is an insecure radio, and therefore there was
6 a normal process of attending a meeting which we called
7 in an O group.

8 DAME ANNE RAFFERTY: Operations -- ops group?

9 A. Yes, every day at Battalion Headquarters. And I am sure
10 there were probably days when it didn't happen, but I
11 think by and large it was every day. And I think this
12 happened around 5 o'clock, to allow people time to get
13 back to their Company locations before it got dark. And
14 then back at C Company Camp Stephen, we would then have
15 another meeting where I would then divulge, you know,
16 the matters from that meeting.

17 DAME ANNE RAFFERTY: It would cascade.

18 A. That is it, absolutely. And then after, if that meeting
19 happened at 7 o'clock, to the platoon commanders, and
20 I was included as far as I recall, the platoon sergeants
21 or the platoon seconds in command. They would then go
22 back to their platoons and should have had a meeting
23 straight after that with them.

24 DAME ANNE RAFFERTY: Further cascading.

25 A. Yes. There would be some people who missed those orders

1 because they would be out on patrol at the time. There
2 would also be, I am sure, some days when I missed the
3 meeting in Battle Group Headquarters because I was
4 elsewhere, but it should have been normal that someone
5 else went in my place.

6 DAME ANNE RAFFERTY: Would you have known if someone else
7 did? In other words, would you have picked up the
8 negative of: we didn't know about this and we haven't
9 been able to pass it down?

10 A. There should be a process. I can't answer that, Dame
11 Anne. But there should be a process that if that was
12 the case, then maybe there was some way to mitigate
13 that, either by radio, or possibly the next day when
14 someone attended the Battle Group Headquarters.

15 DAME ANNE RAFFERTY: Thank you.

16 Same topic but a slightly more refined area. I am
17 pretty sure you put in place -- or you designed
18 processes and procedures in the camp. For example, you
19 required medical examination on arrival. So that is
20 the area in which I am currently interested, if you can
21 help me.

22 When you were thinking that through, let's stay with
23 medical examination on arrival, that will do, what
24 considerations did you have in mind when you issued that
25 instruction?

1 A. I honestly can't answer that because I just can't recall
2 it. But I also can't say that it was me that directed
3 there should be a medical examination. I would like to
4 think that my experience and common sense directed that
5 I might have had a hand in that, but it could well have
6 been the company sergeant major who determined that.
7 And the Ops Slammer form that was required to be filled
8 in, again I would like to think that before I was
9 directed to do that by the headquarters that I might
10 have instigated such a process.

11 I am fairly convinced that this requirement to have
12 a process was something that I would have had a hand in
13 at least designing or directing.

14 DAME ANNE RAFFERTY: I have written myself the next
15 question. Just to introduce a slightly lighter note,
16 I have also written what I suspect will be your answer.
17 My question is: when you were designing the processes,
18 what experience in career terms could you draw on? The
19 answer I have written is: well, he will say
20 Northern Ireland for a start.

21 So what is the answer? What experience could you
22 draw on when you designed those processes, SO88?

23 A. I think ... I am trying to think why I would have -- you
24 know, it's a very valid question. Because without
25 something to back it up, you would naturally question:

1 did that really take place?

2 I think Northern Ireland was something a little bit
3 different in that we always had police with us, and
4 there were occasions when police weren't with us that we
5 were the de facto authority in Northern Ireland, and you
6 were allowed to arrest. Actually, I don't think you
7 were allowed to arrest, you were allowed to detain in
8 Northern Ireland, and then police would deploy out to
9 you. But I think Northern Ireland was a different
10 circumstance where you had multiple helicopters on hand,
11 it was the busiest heliport in South Armagh in Europe at
12 the time. So there was always that sort of ability to
13 immediately respond with police, and that obviously
14 wasn't the case in Basra.

15 So in Northern Ireland it would be very unusual for
16 soldiers to have detained people for anything other than
17 a short time. In the immediate aftermath of a bomb or
18 something you would, but then quickly the police would
19 take over. So those -- but there was naturally a whole
20 process and procedures in Northern Ireland that I think
21 I would have had some expectation that we needed some
22 process ...

23 DAME ANNE RAFFERTY: Some version of.

24 A. Yes. Partly, you know, one has an eye on litigation
25 and, you know, after-action procedures, so that would

1 have made sense to have a medical in-processing.

2 DAME ANNE RAFFERTY: Sorry, do say that again, SO88.

3 A. Sorry, I can't attribute it to any particular

4 circumstance now. I can't, I'm afraid.

5 DAME ANNE RAFFERTY: Fine. No need to apologise.

6 The last bit on this, and again you may not be able
7 to answer it, but when you were configuring processes,
8 designing them, did you have -- were you given any
9 advice on LOAC when you were doing it?

10 A. I think I did probably think about back to LOAC, because
11 it would be a natural procedure that within LOAC you
12 have to have medical attention on hand when detaining --
13 when capturing EPWs, or at least within an EPW cage. So
14 that is an area I could attribute it to and say, because
15 of that, we would have had a medic on hand and
16 processes.

17 And yes, when you are capturing EPWs, there is
18 a requirement obviously to take a note of those who you
19 are capturing, so that leads one to have a process.

20 DAME ANNE RAFFERTY: So it's not so much that you had any
21 advice on LOAC when you were doing it, but you derived
22 from LOAC valuable stuff for your design process, have
23 I got that right?

24 A. Yes, I think that is correct. In the training one does
25 around LOAC, one can then -- from that, you know there

1 has to be a process of dealing with EPWs. And whilst
2 I don't think in any LOAC it says you have to have
3 medically examined someone you have captured, it is
4 there that you would have to have medical attention on
5 hand, just as there is that you must provide food and
6 water.

7 DAME ANNE RAFFERTY: Thank you.

8 A bit on numbers, now. Can you tell us roughly how
9 many civilians C Company had detained, and had gone to
10 Camp Stephen for processing, by the time we come
11 to May 2003? I can help you if you like with what you
12 have previously said. About 10 detained after search
13 ops, and more than 200 for looting and possession of
14 arms, et cetera. Does that still ring true to you?
15 Still the recollection?

16 A. Yes, I would think those statements I made on
17 25 May 2003, I think -- I think that is accurate to that
18 date. I think what I would add is that we may have
19 detained in excess of that but never taken them to
20 Camp Stephen. I think that is --

21 DAME ANNE RAFFERTY: Right.

22 A. What do you determine as to actually detaining people?
23 When you see huge numbers of people carrying away things
24 they have looted, I think my policy was that you must do
25 something, you must stop them, make them put it down.

1 But there is clearly no point in trying to detain them.
2 This is something that is just happening. And I know
3 that other company commanders had a different opinion.
4 I think one company commander and I had a discussion and
5 his view was that in those very early days, as I say,
6 probably before regulations had been put in place,
7 revolution includes a distribution of wealth, and
8 I disagreed with that point of view.

9 DAME ANNE RAFFERTY: I think you have told us this before we
10 stopped for lunch but can I just double-check. Were
11 you, with SO101, responsible for detainees at
12 Camp Stephen? Have I got that right?

13 A. Was I responsible for them? I think, yes, overall
14 I would be responsible for everything in C Company. Was
15 I responsible on a daily basis? No. My job was not to
16 be involved with detainees, my job is to be out and, you
17 know, either commanding operations that might have taken
18 place, or to be out meeting people and understanding the
19 situation on the ground. I could have been with other
20 patrols or on my own. I was on my own for a large
21 number of time meeting people. But I -- therefore, as
22 I said in my statements, I don't think I had a direct
23 role in management of detainees.

24 DAME ANNE RAFFERTY: Yes. If we distinguish from management
25 I understand what you mean.

1 One of the reasons I asked you was -- have you got
2 your cipher list there?

3 A. Yes.

4 DAME ANNE RAFFERTY: SO84 tells us that you and SO101 were
5 responsible for detainees at Camp Stephen. That is why
6 I asked you the question. But as I understand your
7 answer, it is, well, you had umbrella responsibility,
8 because you had umbrella responsibility for that and
9 everything else.

10 So who had what, carelessly, we might call
11 day-to-day, make-it-work responsibility for what is
12 happening to the detainees? Who had that level of
13 responsibility at Camp Stephen? If you can't remember,
14 tell me.

15 A. No, I can. It is just not a clear-cut answer.

16 DAME ANNE RAFFERTY: Give me an unclear-cut answer and we
17 will write it down.

18 A. So fundamentally that is SO101, but he can't naturally
19 be, you know, there at every second, and in camp every
20 second. He had -- other times he would have to leave
21 the camp. And in the early days he would be with me at
22 all times, so he couldn't have been in the camp at all
23 times, but somebody else would have had that delegation.
24 Who that was I can't tell you, but it might have been
25 that on a rotation it was a platoon sergeant on a daily

1 basis.

2 At a certain point it became more formalised that it
3 needed to be SO101 who was there. Now, again, was he
4 there every minute of every day? No. But he would have
5 had people underneath him that were, probably on
6 a rotational basis, as to who was guarding Camp Stephen.
7 Again we go to that pyramid of threes, and there might
8 have been one section from one platoon that was on guard
9 that day, and therefore it might be that platoon
10 sergeant and that corporal who are responsible for
11 detainees that day.

12 DAME ANNE RAFFERTY: Yes. Understood. Thank you.

13 When you explained to us processing, for example,
14 you can remember I think that all detainees came to
15 Camp Stephen for processing, but some might have been
16 taken directly to HQ, 1 Black Watch HQ. Camp Stephen,
17 as we know, was to provide a filter. You have explained
18 that very well. So it may seem a very obvious and
19 unnecessary question, but in the way you use "process"
20 there -- detainees brought directly, filter, some would
21 go directly to Brigade HQ -- was the questioning of
22 detainees at Camp Stephen part of that now processing?
23 Or does processing stop pre-questioning? Perhaps it is
24 not a pointless question.

25 A. No, it's not, and I can see we are almost describing

1 different things but with the same word.

2 I think there is a process in processing a detainee,
3 which is about understanding really who they are, what
4 is their name, and conducting a medical examination.

5 There is that part of a process. But we probably mean
6 processing in the sort of wider sense of triage.

7 DAME ANNE RAFFERTY: Yes.

8 A. So there are those two things that are going on at the
9 same time. I think it is possible that there were
10 either EPWs or detainees who were taken direct to
11 Battle Group Headquarters, I think that is possible,
12 I don't recall any that come to mind, but I am sure
13 there was probably a case where that happened. But it
14 would have been unusual, in my opinion. And the
15 majority would have come to Camp Stephen to be
16 processed.

17 Because why would you take someone, unless you
18 absolutely were clear on who they were, what they had
19 done, and why they were being -- why they were being
20 taken on to Battle Group headquarters? There would be
21 a filter.

22 DAME ANNE RAFFERTY: Understood.

23 Can you help with an overview of, in a right facing
24 world, what processes and procedures should have flowed
25 once a detainee comes into Camp Stephen from start to

1 finish? I am interested in the nuts and bolts rather
2 than the philosophy. So just to give you an example,
3 should it have started with a medical, then to the
4 paperwork, and where were they held?

5 So without me supplying any more, can you help with
6 a sort of overview checklist of what should have
7 happened. So that the detainee comes into Camp Stephen.
8 Start to finish, what happens?

9 A. I can try to help. I don't want to ... And whatever
10 I say must be taken in the vein that if I wasn't
11 intimately involved, then if I say it was X then Y, and
12 that turns out not to be the case because others know
13 better ... But my understanding would be they would be
14 brought in, they would be searched to make sure they had
15 nothing that was dangerous, and then they would be
16 taken, their name and details. And then I think put in
17 the -- I thought put in the tent, but again I may be
18 wrong, and they were put in the overspill area as
19 I would have called it, but next to the tent. Then
20 medically examined. And then after that there would be
21 some questioning, some further questioning, more than
22 just their identity, as to why -- and that would
23 obviously flow as to what they had done to then
24 determine whether they would then be processed on to
25 Battalion Headquarters.

1 So I think that is my explanation. And the only
2 other addition to that is once that questioning has
3 taken place, then they are put back in the tent and time
4 will evolve as to whether they are then released or
5 taken on further, and there would be a period of time
6 for that.

7 DAME ANNE RAFFERTY: Can you remember where physically
8 detainees were held in the camp?

9 A. I can. I have a recollection of this. And it was
10 interesting listening earlier to SO85, because he was
11 clearly on a different epoch, and therefore no wonder
12 there was some confusion about the detainee tent. But,
13 no, I have noted down --

14 DAME ANNE RAFFERTY: Forgive me for interrupting. You must
15 think it rude, but forgive me.

16 Do you want us to put up the photographs, the map
17 and the photos for you?

18 A. If it would help, {A/4/12} would be very helpful.

19 DAME ANNE RAFFERTY: Is that the one you want?

20 A. No. There was a small annotation. A similar photo but
21 it had annotated on it "EPW" with a small arrow.

22 DAME ANNE RAFFERTY: Yes.

23 MS JACKSON: It's {A/4/13}, if Opus can bring that up.

24 DAME ANNE RAFFERTY: Yes. That is the one, isn't it? There
25 is the arrow.

1 A. Yes. If it helps, I can describe --

2 DAME ANNE RAFFERTY: Please do.

3 A. You are looking at about half the camp, and this is
4 taken from the back of the camp looking towards the
5 front gate. You can an armoured vehicle with the
6 wheels. Just behind that armoured vehicle should be the
7 front gate of the camp, and you can see a road with
8 street lights that comes to the right-hand side of the
9 picture. The accommodation blocks are going to be
10 somewhere down there. You can't quite see it, but just
11 to the right-hand side of that armoured vehicle will be
12 the first building which had the sentry tower on it, and
13 we could come to that, and reference it, that will be
14 page {A/4/5}, which had the tower in it. But come to
15 page 5 in a second.

16 My recollection is -- you see the toilets? Can you
17 see the small portaloos, they're grey with a white roof,
18 just to the right side of where it says "EPW"?

19 DAME ANNE RAFFERTY: Yes, I have them.

20 A. Those are portaloos. If we go to page 5 in a second, we
21 will reference back to those portaloos. There you go.

22 {A/4/5} Can you see the portaloos on the left-hand side?

23 DAME ANNE RAFFERTY: Yes.

24 A. That is looking at those portaloos. What you can't
25 quite see, because it is just off the picture on the

1 left, is the EPW -- it is termed the EPW cage but the
2 EPW tent.

3 DAME ANNE RAFFERTY: It's the 9 by 9 tent?

4 A. That is right. It is not very distinct in that previous
5 image because it is covered in a camouflage net, so
6 hence that is the point of the camouflage net to some
7 degree. But in this case, that is not the point of the
8 camouflage net, it was to keep the sun off it.

9 Then what you are looking at there in this current
10 picture is you are looking at the top of the first
11 building, which is on the right-hand side of that road,
12 which in the previous picture was out of sight, and that
13 is where the Recce Platoon was. And you are looking --
14 centre of the picture is the sentry tower that would
15 look out, and you can see there are windows in that
16 sentry tower. And that sentry tower had a view over the
17 main road, pretty much in all directions.

18 What you are also looking at -- if you look to
19 the -- there was a lot of discussion about a ditch. If
20 you look just to the right of the sentry tower you can
21 see a ladder, the foot of a ladder.

22 DAME ANNE RAFFERTY: Yes, going up under the -- what looks
23 like a haywain without a bottom to it.

24 A. Yes. That is a camouflage net.

25 DAME ANNE RAFFERTY: Thank you. Yes.

1 A. If you look straight through that ladder, the foot of
2 that ladder, you can see what is the top of a couple of
3 armoured vehicles, three armoured vehicles.

4 DAME ANNE RAFFERTY: Yes.

5 A. Then you can see a wall behind it.

6 DAME ANNE RAFFERTY: Yes.

7 A. Between those armoured vehicles and the wall is the
8 ditch. And if you therefore look to the left-hand side
9 of the sentry tower, look to the left of it, you can
10 still see that ditch running away to the left which SO85
11 talked about walking across.

12 DAME ANNE RAFFERTY: Yes.

13 A. Go back to the portaloos. Just to the left of the
14 portaloos, so on the right-hand side of the portaloos,
15 just below the roof which you cannot see, is the entry
16 point of the gate. There is a gate, and there will be
17 a soldier standing at that gate, and then on the
18 left-hand side of those portaloos should be the tent.

19 DAME ANNE RAFFERTY: The 9 by 9.

20 A. Yes.

21 DAME ANNE RAFFERTY: Really, really helpful, SO88.

22 Thank you.

23 Good. Back into what is happening when someone has
24 arrived in Camp Stephen. So you have gone through your
25 preliminary arrangements: search, name and details, put

1 in the tent, medical check, etc. Any feel for who
2 should have been notified, if anybody, of someone being
3 detained?

4 A. So from the ground, again by radio, insecure radio, the
5 call sign would -- or the patrol, sorry, it has
6 a call sign, would radio back that they were going to be
7 bringing in a detainee, and they may or may not give
8 a reason. That would then alert the Company
9 Headquarters to alert somebody -- now, either that is
10 SO101 or somebody else who has been designated that day
11 that they are responsible -- to go to the front gate and
12 therefore be prepared to receive them from that patrol,
13 and the medic and other people that would be involved in
14 that, and that would be the process for preparing for
15 it.

16 Without that radio communication, then clearly
17 a patrol might arrive, but you don't want to bring the
18 detainee straight in because you don't really know the
19 nature of the detainee, what level of threat they pose
20 or what the circumstances were, and therefore you would
21 hold them outside the front gate until you were ready to
22 bring them in. But you want it to be a swift process,
23 not least because probably the soldiers want to finish
24 their patrol rather than hanging around outside the
25 gate.

1 DAME ANNE RAFFERTY: So the individual has come in. They
2 are in, been received. When and how would they be
3 questioned, in the sense of is it instant? Are they
4 taken straight to where they need to be?

5 A. I think the process should be very swift. They would be
6 taken -- if there was a problem with whoever might be
7 ready or on site to do that, then they would be taken to
8 the tent, I think the tent, or it could have been, if
9 there were multiple people, to that area that was
10 described by I think one of the witnesses, which was
11 some pickets and a piece of barbed wire that was outside
12 the tent. That I would describe as the overspill area.
13 I'm not sure -- there may be different views.

14 And I know there are slightly different views.
15 I think SO98 viewed they would be put in that overspill
16 area first and then taken to the tent for questioning,
17 and that may well be absolutely correct. So they would
18 be put in that place, and then the medical examination
19 would presumably take place, and then they would be got
20 ready for questioning. Because clearly whoever has just
21 received them needs to find out from the patrol why you
22 have detained this person, get the details before you,
23 then question them.

24 DAME ANNE RAFFERTY: At some point there has to be
25 a decision. You either continue the detention or you

1 send them away or you hand them over, you move them on.

2 Whose decision is that?

3 A. I think that is -- it depends on the circumstances of
4 the detainee, but I think ultimately it will be
5 somewhere up the chain of command, and at the very far
6 end of it, it could have been me. And I think certainly
7 when we are talking about Radhi Nama, Allah Yerhamo,
8 I think we need to -- it was probably resting with me as
9 to the decision, and I think that is -- to some degree
10 I think that is evidenced in some of the statements.

11 DAME ANNE RAFFERTY: Thank you. You have already helped in
12 the Baha Mousa evidence with how the Company
13 Sergeant Major or a nominated Sergeant would ask basic
14 questions of a detainee once in Camp Stephen and often
15 at the table, so we have done that and you have helped
16 us with that. So there is fairly basic questioning
17 perhaps. Would those doing it be trained in it, SO88?

18 A. I don't think we can say that everybody would be trained
19 in it or had specific training. I don't think that is
20 possible for me to say. I think there may be some
21 people who had better training than others.
22 For example, SO101 I think would have probably had more
23 training than some of the others further down the line.
24 But as I said earlier, I think there would be some
25 understanding at platoon sergeant level, because they

1 have done the platoon sergeants battle course, and
2 therefore they would probably -- but again, I think they
3 will know better than I.

4 DAME ANNE RAFFERTY: Thank you. If those basic questions at
5 a level were exceeded, so the questioning went beyond
6 that, would that have concerned you?

7 A. It would concern me to some degree, but I also think
8 there is a ... So obviously, yes, and the nature of it
9 would concern me. But if for example you shout at
10 somebody and say "no, give me your name", okay? I have
11 shouted at my children, I am not proud about it, but
12 I have done that. So does that constitute torture or
13 an unnecessary use of force to shout at someone? In my
14 opinion not. Okay? I am perfectly okay with that. Is
15 it excessive, continuous shouting? No, I am not okay
16 with that. It's totally unacceptable. There is no good
17 reason for that.

18 DAME ANNE RAFFERTY: That's helpful. Thank you.

19 Let me see if you can confirm something. Were SO101
20 and SO98 in charge of practical implementation of the
21 processes in the sense of they were the directing mind
22 at a practical level?

23 A. To the best of my recollection, yes. That is the sort
24 of chain of command, so I think so.

25 DAME ANNE RAFFERTY: Thank you very much. What members of

1 C Company should have been aware of the procedures we
2 have been discussing, and were they, insofar as you can
3 help us now, aware of the processes and the procedures
4 that had been put in place?

5 A. That is an interesting question. I hope, I would like
6 to think, that everybody was aware of it, and as you get
7 through your witnesses it will be, you know, what they
8 say. But there is -- some soldiers will have better
9 attention. We recruit who we recruit into our military,
10 and we then choose those who are going to be corporals
11 and NCOs based upon their capability. So, yes, as you
12 get lower down there is going to be less -- less ability
13 to retain all that information. So, yes, at the end of
14 the day everyone in the Company should have known what
15 the process was.

16 DAME ANNE RAFFERTY: One of the reasons I asked you, and
17 thank you for the reply, was that SO90 says in one of
18 his statements that he wasn't aware of a process or
19 a procedure for processing detainees. What do you make
20 of that?

21 A. I think I would first ask when he gave that statement,
22 because over time clearly you will remember less. So
23 that may well be his recollection, and it depends when
24 you are saying he recalled that.

25 DAME ANNE RAFFERTY: And his evidence on paperwork is in

1 similar vein. He says he wasn't aware of any paperwork
2 that needed completion when detainees came into
3 Camp Stephen.

4 A. I would answer similarly. I had forgotten that there
5 was anything called Ops Slammer. I had no idea there
6 was a Slammer form until I had seen it in other people's
7 statements. It doesn't mean there wasn't a form to be
8 filled in, just that I don't recall it.

9 DAME ANNE RAFFERTY: Your stance, as I understand it, is to
10 give a view on what you make of SO90's comments you
11 would need to know the time at which he made it because
12 that would tell you about recollection gap. Is that it?

13 A. I think so. I would like to think that everybody knew
14 that there was a process. If he somehow had missed
15 that, that is a possibility. It could also be he didn't
16 recall it.

17 DAME ANNE RAFFERTY: Thank you. I am going to go on now to
18 Basra post-war. We have read what you have to say about
19 that. If anybody wants to look at it, it's paragraph 16
20 in your primary witness statement to us. So the
21 situation in Basra, you have described it as difficult
22 to set out the complete breakdown in law and order that
23 you met initially: mayhem, chaos, theft, looting
24 affected the population and the mission, the British
25 military mission. For example, the generator goes from

1 the hospital, patients die, which is exactly what you
2 explained to us earlier in the day. Ditto the high
3 voltage power cables for the copper, so power was lost.

4 Is that as colourful as it is going to come from
5 you, or do you want to add any more colour or flesh that
6 out anymore? Please don't assume that you are required
7 to do so. I merely, having read 16, merely want you to
8 have the opportunity to add anything you want to.

9 MS JACKSON: I wonder if briefly we can ask Opus to pull up
10 {A/74/3} at paragraph 16. Thank you.

11 A. I would add I think it will depend on who you ask, and
12 I think there may be many people who thought this was
13 a period where this was a freedom that -- you know,
14 Saddam Hussain and his authoritarian regime was
15 no longer, and there was immense joy and freedom,
16 I imagine, in some areas. Whether and how quickly that
17 turned to despondency at the lack of law and order and
18 the lack of authorities to help and the fact that there
19 wasn't electricity and food and water even at times, and
20 then other people will say, no, no, there was plenty of
21 food and water in my area.

22 So I think it is context-dependent, and all I can
23 say is that I was responsible for areas of [REDACTED]
24 and [REDACTED] and in those areas there were many
25 wonderful people going about their daily basis and

1 trying to get their schools and things working. And
2 then there was also a lot of looting going on at the
3 same time. I know the metal factory has come in for
4 particular sort of notability, and, you know, the
5 context of that in my mind was that this huge facility
6 of circa -- in my mind it remains, and I have
7 Google Earthed it to check on it, but I think now
8 Southern Basra has changed so much it is difficult. But
9 some years ago when I looked on Google Earth for the
10 Baha Mousa Inquiry, it is some 800 metres long by
11 several hundred metres wide, and with all the
12 reinforcing bar that the whole country needed for
13 building concrete buildings that have rebar inside them,
14 and it was being systematically looted.

15 I understand why people were looting it. This
16 was -- this was either gangs and, you know, a wonderful
17 opportunity. But in my mind, to think about the
18 rebuilding of Iraq, this needed to be protected.

19 DAME ANNE RAFFERTY: Stay with your page, just in case you
20 need it, you might not. I am going to ask you a little
21 bit about your comment within paragraph 17 there.
22 Initially 1BW units didn't act against looters because
23 there were just so many competing demands. That really
24 is where you set out the competing demands. But
25 I wonder if you can tell us when did that change,

1 particularly did it change before Mr Radhi Nama's and
2 Mr Mousa Ali's detention?

3 A. Yes, in my view it changed roughly within around three
4 days, but again I cannot put a precise time on it. The
5 first three days or so were --

6 DAME ANNE RAFFERTY: First three days of what?

7 A. Of the Battle Group moving into Basra city.

8 DAME ANNE RAFFERTY: Okay.

9 A. So if you imagine we were on the outskirts of Basra city
10 along the bridges for a number of days, and then the
11 order was then given to move into Basra city, and one --
12 I imagine the reason why the Brigade took a number of
13 days for that to happen was because there was a judgment
14 about how much fighting there would be in Basra city, so
15 only at the point where I think it was deemed possible
16 to move in without huge amounts of fighting. And so
17 then units moved into Basra city and C Company was
18 quickly reformed. We moved into a temporary place which
19 was actually a school. Schools are clearly not a good
20 place to put military forces because it is going to
21 preclude what their use is. And we then found another
22 place to be which was where Camp Stephen was placed. It
23 was the house of Ali Hassan al-Majid. And that is where
24 we decided was a good place to go, even though it wasn't
25 necessarily geographically the best place close to the

1 areas I was then assigned. But the fact is that it was
2 not a place that was needed for civilian use. So we
3 continued to stay there.

4 So in those first few days I don't think we had
5 authority to deal with looters, and I think at some
6 point, and I hope that will become clearer with SO91,
7 that there was recognition that we were the interim
8 authority because everything else had gone, and then we
9 were to -- as best as possible to stop looting.

10 DAME ANNE RAFFERTY: I would like you to help us a little
11 bit more with your approach to how the men -- your men
12 should deal with lootings. It flows conveniently.
13 Initially widespread -- and if you want it, it's
14 paragraph 51 of your witness statement -- widespread
15 initially. Shall I pause while that comes up, just in
16 case.

17 MS JACKSON: If Opus missed that, it's page 9. {A/74/9}.
18 (Pause). Can we bring up page 9, please.

19 DAME ANNE RAFFERTY: It's paragraph 51, if you need it,
20 SO88. So we can see initially widespread, and you
21 directed your men not to turn a blind eye, even though
22 they couldn't hope to detain everyone. I just wonder
23 how we could phrase it; was it not possible to provide
24 soldiers with direction in those circumstances? It must
25 have been frustrating to let looters go at the roadside.

1 Let's start with was it not possible to give soldiers
2 direction in those circumstances?

3 A. No, I think it is always possible to give direction.

4 The question is how people interpret that direction. So
5 if you are driving along a street, and I do have a vague
6 recollection of one particular incident and seeing
7 several hundred people run out of a food storage complex
8 carrying, you know, sacks of grain or equipment, and you
9 have twelve people or maybe five people. Without, you
10 know, making light of the situation, what on earth are
11 you going to do? What you do is you detain a few people
12 as a deterrent and you tell them to put that stuff down,
13 and then you decide whether you are going to detain them
14 and you may take them back to Camp Stephen as having
15 looted equipment. But you have to make a judgment as to
16 how worthwhile that is.

17 On the other hand, if it is at -- and there was
18 a large food storage complex, huge warehouses, several
19 of them in a line with food in them, and I am sure they
20 were systematically looted over a period of time, and
21 that didn't bother me too much. The metal factory and
22 the oil installation, I can't tell you if it was
23 a refinery but I know it had huge oil storage tanks,
24 destruction of those could have been catastrophic on
25 an environmental scale, for the oil refinery, not the

1 metal factory. So, yes, it would be important to stop
2 those being damaged or looted.

3 So I think there has to be some interpretation of
4 it. That is always going to be difficult for soldiers
5 because they won't have necessarily, each person as
6 an individual, an ability to do that. And yes, there is
7 obviously a very -- a likelihood that some soldiers will
8 be frustrated and will do things that they shouldn't do.

9 DAME ANNE RAFFERTY: Can you remember any examples for us?

10 A. No, I absolutely do not remember any examples of that.

11 Had I seen a minor excess of force, then clearly I would
12 have told that soldier "Stop that, that is unnecessary,
13 stop it". And then, you know, I dare say the company
14 sergeant major would have done an awful lot more than
15 that and they would have been punished with some sort of
16 extra duties or whatever.

17 DAME ANNE RAFFERTY: One might, without too much difficulty,
18 envision a Company Sergeant Major dealing with that,
19 might one not?

20 A. He was very good at that. Does that mean I should have
21 charged that person with a criminal act contrary to the
22 Law on Armed Conflict? No, not in that circumstance.
23 Had I seen someone punching someone? Absolutely,
24 absolutely, they will be charged with that. That is
25 unacceptable.

1 So there is no rule for everything. You have to do
2 your best and manage them in certain circumstances.

3 DAME ANNE RAFFERTY: Did part of the management that you do
4 your best include -- you had almost a natural tool at
5 your disposal, because once they had been stopped, they
6 could at least be made to walk home.

7 A. I'm afraid that was absolutely a part of it, yes. You
8 could bring someone to Camp Stephen and then they simply
9 have had their time wasted, and that disrupts their day.
10 And they have kids to pick up or kids to take to -- I am
11 not saying to take to school. Families are worried
12 about them. So, yes, of course that in and of itself is
13 a punishment.

14 Should one take that to an extreme and say that is
15 what you are going to do every time, just to punish
16 them? I am not sure that is legal, but it is certainly,
17 I am sure, something that was very useful as
18 a deterrent. Really was it an effective deterrent?
19 I have no idea. You would have to speak to the
20 individuals.

21 DAME ANNE RAFFERTY: If it had been the position that whilst
22 in Camp Stephen they had become wet and were then told
23 to go off and go home, would you expect that added
24 element of discomfort to have contributed to the spirit
25 of deterrence?

1 A. I don't like the possibility that soldiers would do
2 that. That is not okay. So in my area of what is okay,
3 that is not. This term of wetting, as I have said, and
4 I am sure will you come to it, I had never heard of.
5 And were people put in that ditch on the other side of
6 Camp Stephen, that would be unacceptable, because that
7 is not okay. So, no, I don't -- I think walking home is
8 absolutely fine.

9 DAME ANNE RAFFERTY: Understood. Just a couple more
10 questions from me before I hand you over to Mr Judd.
11 Just be careful on this, SO88, because it might
12 be -- you might unwarily use a name. One particular
13 colour sergeant, it would appear, sometimes tried to
14 challenge one particular NCO. Does this ring a bell?
15 Look at your paragraph 42. All I am asking you is,
16 without mentioning a name, is the colour sergeant,
17 insofar as you know, a witness to these investigations?
18 Please don't give me a name. I just want a: yes he is,
19 no he isn't, I don't know.

20 A. No. He is dead.

21 DAME ANNE RAFFERTY: Thank you. Do you think that
22 particular WO2 had, as we all know, a very firm hand?
23 That is not said pejoratively at all. Do you think that
24 that generated resentment and might have given rise,
25 doing your best, to a member of C Company making untrue

1 allegations about how the WO2 treated Iraqi civilians?

2 A. Sorry, Dame Anne, could you repeat the question.

3 DAME ANNE RAFFERTY: Yes. The firm hand with which the WO2
4 ran -- managed the camp, do you think that that might
5 have engendered in a member of the Company temptation to
6 make, and perhaps to make, untrue allegations about that
7 man's treatment of Iraqi civilians? Or is that
8 something too far for you to comment on?

9 A. I think everyone has different opinions and they are
10 entitled to those opinions. At some point the chain of
11 command has to say I have listened to your opinion, and
12 they should, they should listen to your opinion, and
13 then say but my decision is X, Y or Z. And I think that
14 was very much the case with some things about looting.
15 I know there were people in the Company who disagreed
16 that we should do anything about it. Their view was it
17 was nothing to do with us. And I said, well, actually
18 we have been directed to stop it, for starters, and my
19 interpretation of that direction is that we will not
20 turn a blind eye, and how we implement that is then how
21 I would have discussed it around that table.

22 Because of those senior people within my Company,
23 because as I say they were captains as platoon
24 commanders, not second lieutenants, they should have
25 I hope had a voice to come back to me and challenge me.

1 And I am sure the same was true for the company
2 sergeant major. He had senior individuals, senior NCOs,
3 experienced senior NCOs, and they would have naturally
4 challenged him, and I am sure that caused friction. It
5 would be foolish to -- naive to say that it didn't. But
6 as I think, and I hope several witnesses will have
7 said -- and there was a strong element of your
8 questioning which I hope I have answered about the
9 culture within C Company, and I would like to think that
10 there was -- of course I would say this, I was in charge
11 of it.

12 But in reflection, when I look back -- I have been
13 in a lot of other places where there have been some
14 difficult relationships, and when I look back at my time
15 in C Company, I don't feel that there was that bad
16 relationship amongst lots of people. There were one or
17 two, yes. There were one or two individuals who didn't
18 agree with SO101. And then as things -- there were
19 a couple of other things that happened that I am sure
20 made it difficult and there were arguments between them.
21 But generally I think I have answered the questions
22 about the culture.

23 DAME ANNE RAFFERTY: Thank you, I am very grateful. We all
24 are.

25 Before Mr Judd takes over, I have found myself a bit

1 muddled, so I need you to try and help me if you can.
2 It might be helpful if you have paragraph 46 of your
3 witness statement on the screen. Natasha will ask for
4 the page. {A/74/8}

5 So we can see there, SO88, that you have dealt with
6 the culture:

7 "... worth mentioning that in C Coy ... the
8 second-in-command was a capable and intelligent person
9 though the most junior captain of the four, and the CQMS
10 who was one of the most capable I have ever known. At
11 some point ... to strengthen the experience in [the
12 Company], I swapped the junior captain to take charge of
13 one of the platoons putting a more experienced captain
14 to ... HQ and therefore the running of the [ops] and all
15 the minute-by-minute decisions needed."

16 Can you, using your ciphers, confirm who is the
17 really outstandingly able junior captain?

18 A. Yes, that is SO95.

19 DAME ANNE RAFFERTY: Thank you very much.

20 A. He was only marginally junior to one of the others, but
21 I wanted to swap them over because the other captain was
22 a little bit more senior, and therefore, if I am out of
23 camp all the time, it would naturally make sense. But
24 it also, to be fair, gave SO95 a chance to go back to
25 being a platoon commander, which would be good for him.

1 DAME ANNE RAFFERTY: Understood.

2 A. So it's in no way -- there was no criticism of anybody
3 involved. I wish just to make that absolutely clear.

4 DAME ANNE RAFFERTY: I have got it. Thank you, that is
5 a great help.

6 At the time of the deaths of Mr Radhi Nama and
7 Mr Mousa Ali, who was the company commander -- captain?
8 Who was the captain at the time?

9 A. I don't know.

10 DAME ANNE RAFFERTY: Okay. Do you think that was SO95? Or
11 you just don't know?

12 A. I just don't know.

13 DAME ANNE RAFFERTY: Okay. That is kind of you, thank you.
14 Much better to have it clear even if clarity includes
15 "I don't know".

16 Can you bear with me for a moment, SO88, while
17 I just check my notes, please.

18 A. Absolutely. Of course, Dame Anne.

19 DAME ANNE RAFFERTY: I think I am going to thank you and
20 hand over to Mr Judd, and I will come back and thank you
21 at the end. If I forget, somebody needs to deal with
22 the fact that I am not entirely sure what fire support
23 is. So at some stage if it is convenient could we have
24 an explanation of that, but not necessarily now.

25 Over to Mr Judd.

1 Questions from MR JUDD

2 MR JUDD: Thank you, Dame Anne.

3 SO88, you have already very helpfully taken us to
4 those photos which show the ditch outside Camp Stephen
5 from the perspective of the watch tower. I just wonder
6 if we can go back to those very briefly. I think they
7 are on {A/4/4}, please. If we can bring that up. No,
8 that is me being ambitious with the page references.
9 Apologies. Bear with me. (Pause).

10 A. Page 5?

11 Q. No, it's ... (Pause). Sorry, my computer is not being
12 particularly quick. {A/4/5}, thank you. Perfect,
13 thank you.

14 You have already helpfully described the ditch as
15 the one that was identified outside Camp Stephen as
16 running across the top of the photo here from the left
17 and then behind the watch tower, and then it runs
18 between those armoured vehicles on the right-hand side
19 and the wall. Can you help us with a description of
20 that ditch? I know you have set it out in broad terms,
21 but it would be helpful to know what it was like in
22 terms of its depth, and the type of water that was in it
23 and so on. You will have heard SO85 giving his
24 recollection in this respect, but any information you
25 can recall would be very helpful.

1 A. I can't, Mr Judd. I don't recall having ever having
2 gone to that ditch, and so I can't recall the size,
3 depth, flow, et cetera.

4 Q. Thank you. I appreciate that. If we are again focusing
5 on this watch tower, could you estimate roughly how much
6 of that ditch would have been visible, perhaps in
7 metres? Because again I appreciate this photo might
8 only show us a snapshot of area outside Camp Stephen.
9 But if you could estimate roughly what sort of distance
10 of that ditch would be visible from the watch tower,
11 that would be very helpful.

12 A. Standing where that photo is taken, if you move to the
13 front of the parapet of the roof, you can see that you
14 can see probably just into the ditch. If you were
15 elevated at the top of that sentry tower, I would judge,
16 and it is an assessment, a judgment, that you would
17 probably see a little bit further into that ditch. You
18 will also have clearer view of the area from the front
19 gate. And clearly if what is suggested is that this
20 ditch has some relevance to Radhi Nama and Mousa Ali,
21 which I presume is the reason and the line of your
22 questioning, then clearly people in that sentry tower,
23 also the person who was manning the gate and opening the
24 gate, must also have had some collusion to people being
25 taken across to that ditch, unless they were put in that

1 ditch, which I presume is the line of questioning,
2 before they were brought into the camp. In which case,
3 the sentry tower would still presumably have had sight
4 of it.

5 Q. Thank you, that is very, very helpful.

6 You have addressed this in your witness statement
7 but there are accounts of detainees being driven to
8 Camp Stephen and placed in that stream and then made to
9 walk home. Perhaps we will revisit one of those
10 accounts now. If we can bring up {A/66/18}, please.
11 This is an account of SO84.

12 It may be over the page, please, on paragraph 133
13 {A/66/19}. Thank you.

14 Just to summarise that paragraph there at 133, the
15 account there is that detainees were placed into bodies
16 of water, including the stream outside Camp Stephen, and
17 detainees, the witness there understands, had been
18 picked up for looting, or taken out of the vehicles and
19 taken to the stream.

20 Could you just clarify for us whether or not, had
21 an incident like this occurred, it is something you
22 would have expected to have been aware of?

23 A. I am just reading it. Hold on.

24 (Pause). I haven't seen this statement before.

25 I noted very briefly on paragraph 127:

1 "In my view, Iraqi civilians were treated fairly and
2 with respect at Camp Stephen."

3 Which conflicts with paragraph 133. I clearly
4 dismayed at what is written in paragraph 133. I am
5 trying to see if he is talking about a different stream
6 or body of water. Because the sort of talk about
7 a river and swimming to the other side seems -- seems
8 not to match my recollection of the size of the stream.
9 I would call it a ditch, not a stream, for starters, but
10 there we are. That is my recollection.

11 Q. Okay. It is your recollection then no detainees were,
12 to your knowledge, ever placed in that stream?

13 A. Yes, that is correct.

14 Q. Again you have helpfully touched upon this when
15 discussing exactly how much oversight it was possible
16 for someone of your rank to have of -- we will call it
17 the mechanics at Camp Stephen in relation to detainees.
18 I just wondered if you could comment upon the
19 possibility that things like this were happening but,
20 because of the degree of oversight which was it was
21 possible for you to have, whether it was something which
22 could have happened without your knowledge? I don't
23 know if you can comment upon that at all.

24 A. Mr Judd, it is very possible. I am a company commander
25 in charge of circa 200 people. There will be

1 individuals in any group of individuals who don't adhere
2 to everything that is told to them, and naturally there
3 may even be some bad apples.

4 I think we need to be absolutely clear, if that had
5 relevance to the death of Radhi Nama and Mr Mousa Ali,
6 Allah Yerhamo, because that is clearly what we are
7 trying to determine here. So what happened in any other
8 case that is not relevant to their death, then I just
9 ask you to be specific and clear about that, because
10 I am not entirely sure that paragraph 133 is specific.

11 Q. No, I appreciate that. It is just to ascertain whether
12 or not detainees in general were ever taken out of
13 Camp Stephen and placed in that ditch. But your answer
14 would suggest you are not aware of any specific examples
15 of that happening.

16 A. No, I wasn't.

17 Q. Thank you. There is also a suggestion, again bearing in
18 mind the context in which those detainees came under
19 your Company's control, that the problem of looters and
20 detainees generally was discussed at group meetings.
21 You have already helpfully set out the details of some
22 of those meetings, but if I can just take you to one
23 particular account as to what was discussed in those
24 meetings. It is at {A/84/4-5}. We might have to go
25 over both pages. It's paragraphs 24 to 26 when we get

1 there.

2 Whilst we do, SO88, in summary, there are accounts
3 that senior commanders were aware or made aware at those
4 meetings of detainees being put in water as a deterrent
5 mechanism to stop them looting. At paragraph -- so here
6 we have it at paragraphs 24 and 26 --

7 A. Which witness are we talking about here, please?

8 Q. This is SO99. So it may repay just having a quick
9 read --

10 A. I don't know who -- I am not clear who SO99 is.

11 DAME ANNE RAFFERTY: Is he not on your ciphers list?

12 A. He is, but that doesn't help me know who he is.

13 DAME ANNE RAFFERTY: Oh, I see. So you can see the name but
14 you don't know who the man is.

15 A. No.

16 MR CHERRY: If it would assist, Dame Anne, he was company
17 commander of one company of Irish Guards.

18 A. I don't see the relevance of that to me at all. It's a
19 completely different area, nothing to do with me. But
20 go ahead and ask your question.

21 MR JUDD: I see. Perhaps I will just clarify something
22 first. SO99 there describes attending the O group
23 meetings, and I may have it wrong, but are those
24 meetings that you also attended?

25 A. Yes, he certainly wouldn't have been attending my

1 meetings, so I think it was the Battle Group meetings,
2 yes.

3 Q. Just to clarify, those were meetings that you would
4 attend on a regular basis?

5 A. Yes.

6 Q. Because it is those meetings there that SO99 describes
7 at paragraphs 24 and 26. At those meetings the problem
8 of looters being placed in water was discussed. It
9 may -- as I say, just have a quick read of paragraphs 24
10 and 26, and then any comments you may have on that
11 account would be very helpful.

12 A. Sure. Please give me one moment.

13 Q. Of course. I appreciate this is something which has
14 just been put in front of you.

15 DAME ANNE RAFFERTY: Take your time, SO88. (Pause).

16 A. I have only really got to the bottom of paragraph 26.
17 I guess paragraph 27 is relevant. I don't think any
18 orders to prohibit the use of water was necessary. It
19 is self-evident.

20 Q. Can we just clarify this. Practices which are described
21 as being discussed at paragraph 24 and 26 there, are
22 they familiar to you at all, or not?

23 A. I don't recall them, and I am sure we probably did have
24 discussions about this, but I certainly don't ever
25 recall anything about water. You know, you can tell by

1 my reaction I find it very odd indeed. I can't recall
2 having detailed discussions about looters. I am sure we
3 did have discussions, I am sure we did, but I can't
4 actually recall them. But I don't -- I don't recall the
5 detail in paragraph 26 being sort of described or, you
6 know, in any way created as policy.

7 I would be interested to know if anybody within my
8 chain of command, you know, as I say, seems to follow on
9 from that, although as you have just shown there is
10 clearly something in the statement from SO84 that causes
11 me some concern.

12 Q. Thank you. That is incredibly helpful.

13 I will just move on now, if I may, to again
14 something which you have addressed in your witness
15 statement but I would just like to clarify. There are
16 suggestion than you had to, if I can put it this way,
17 give a stern word to those at Camp Stephen to stop using
18 certain measures on detainees. Amongst those was
19 placing those detainees into the stream outside
20 Camp Stephen. If it helps in that respect, the
21 reference from SO81, for example, is at {A/133/5}, if we
22 can just bring that up briefly. It's the second
23 paragraph there. If you wouldn't mind just having
24 a read of that very briefly.

25 DAME ANNE RAFFERTY: Does it begin with the words "My

1 impression ..."

2 MR JUDD: It does, then it is redacted, and it's
3 a four and a half line paragraph.

4 A. Yes, so:

5 "He had a well-established ... career ... so I do
6 not believe he would act in any way that would put his
7 career on the line. For example, my understanding is
8 that when he was made aware of Iraqis being thrown into
9 a stream near Camp Stephen as alleged by [X] he [would]
10 put a stop to such practices."

11 DAME ANNE RAFFERTY: It says "he put a stop", not "he would
12 put a stop".

13 A. Sorry. Yes, he put a stop to such practices.

14 I clearly don't recall that now, and in none of my
15 previous statements have I made mention of it. So
16 I can't say more than that. As I say, I am dismayed to
17 hear that there is an allegation that this is even
18 possible, but I am glad to see that he thinks that I did
19 put a stop to it. But as I say, I am -- I am -- I can't
20 add further to say whether this is accurate or not.

21 MR JUDD: Okay. That's very helpful given how long ago all
22 of this was. But I would just like to clarify that
23 final line just so we can put it into context.

24 It is there described as "he put a stop to such
25 practices". Again I don't want to wander into

1 hypotheticals, but is it possible that you gave such
2 an order upon becoming aware of detainees being placed
3 in that stream?

4 A. I don't want to answer that.

5 Q. Might I ask why?

6 A. Because it is hypothetical, and I don't -- I think it is
7 self-evident what I would have wanted to have done. So
8 is it possible? Well, yes, it is possible. So do
9 I think it is likely? No, I don't think it is likely.

10 Q. Okay. Thank you, I do appreciate that. That is very
11 helpful.

12 MS JACKSON: Sorry to interrupt. I understand that
13 the interpretation has stopped in the Basra end.

14 I wonder if we can pause for one second.

15 DAME ANNE RAFFERTY: Let's just pause.

16 MS AL QURNAWI: We are now back.

17 DAME ANNE RAFFERTY: Thank you.

18 MR JUDD: Thank you very much.

19 SO88, just one more reference from me. If we can
20 turn up {A/66/19}. Again, this is in reference to
21 directions provided to halt certain practices being used
22 on detainees in that early period.

23 DAME ANNE RAFFERTY: Do we have the right page there?

24 MR JUDD: Yes. It's paragraph 143. I am not sure whether
25 that is the bottom of this page or on the next. There

1 we are, thank you.

2 So SO88, if you wouldn't mind having a read of that
3 paragraph there. It does continue over the page.

4 There we are, perfect.

5 A. Sorry, yes. Which is the witness, please?

6 Q. This is SO84.

7 A. I just don't think 84 would have had the access to this.

8 I don't recall 84 coming to the O groups on a nightly
9 basis, so whatever he is ... whatever he is saying is
10 clearly at least second-hand.

11 DAME ANNE RAFFERTY: Can I intrude a comment, which invites
12 a comment from you, SO88, if you want to make one.

13 Do you mind, Mr Judd?

14 MR JUDD: No, of course.

15 DAME ANNE RAFFERTY: Just look at that last sentence in 143.
16 Actually what SO48 says is:

17 "I can't recall if the CO ordered a stop to the
18 practice of wetting at the same time."

19 Sorry, penultimate sentence.

20 "I do recall it stopped."

21 But what he doesn't recall is whether the CO ordered
22 it to stop, as I read it. Do you see what I mean, SO88?

23 A. Well, I contend it never happened in the first place, so

24 ...

25 DAME ANNE RAFFERTY: I understand that. I am just asking --

1 I understand that entirely. I am just asking you to
2 help me with what you make of those last two sentences.
3 Because one reading is the author saying: actually,
4 I can't remember whether the CO ordered a stop to the
5 practice of wetting at the same time. I do recall it
6 stopped in late May/early June. And I wondered if you
7 also thought that that was worth thinking about.

8 A. I imagine -- I know that after the two deaths we were --
9 there were investigations that took place. We were
10 clearly concerned about people dying in our custody.
11 This was incredibly serious. Albeit that we, and
12 I certainly, didn't know that there was anything
13 untoward from the SIB investigations that were taking
14 place at the time. And for everything that
15 I understood, this was just a tragedy of two people
16 within a close succession having suffered a death of
17 natural causes. And as tragic as that is, and as
18 a coincidence, extreme coincidence as that is, it is
19 also possible that that is what happened. And that is
20 what I believed happened, and that is what I still
21 believe now happened, despite some evidence that there
22 is -- there were some practices that I don't like.

23 I would be incredibly interested to find if you find
24 anything that is particular to Radhi Nama and Mousa Ali
25 that evidences that because, as I understood it, they

1 had died of natural causes, as tragic as that was.

2 So, yes, would the commanding officer have visited?

3 I don't recall it happening, I don't think in my
4 statements I recall it happening. I certainly don't
5 recall it now. Would I have visited? Absolutely. And
6 would I have gone to see what was happening and got
7 a feel for the Company? Yes, I would have done that.
8 And when I then commanded later on, of course that
9 is something you would do.

10 So I have no doubt that he did visit and I am sure
11 he was concerned. But did he say that the general
12 aggressiveness towards the local population had to be
13 softened down? Is that a conflation of something that
14 actually occurred with one of the other witnesses, which
15 is SO102, who we all know struggled a little bit over
16 how he dealt with people after the circumstances he had
17 been in. Would we now term that something like PTSD
18 potentially?

19 But was that dealt with? Yes. So is this
20 a conflation of different things, and are they saying
21 that, yes, I took a zero tolerant policy towards
22 looting, but as we all know, we couldn't possibly
23 process all of them. Did that mean, however, that
24 people took the law into their own hands? That is
25 a leap, and I think it needs clear evidence that that

1 was the case. And was it relevant to Radhi Nama and
2 Mousa Ali? I think that needs a great deal more
3 evidence.

4 Q. Thank you, SO88, that is very helpful.

5 I just have one last question on this paragraph, and
6 again I appreciate there aren't specifics at
7 paragraph 143. But the indication there is that enough
8 is enough, was the direction given in respect of general
9 aggressiveness towards the local population. I just
10 wondered if you could help us on what those practices
11 might have been where the witness is there discussing
12 general aggressiveness, which practice there may have
13 been in respect of looters that it was felt had to be
14 met with the direction that enough is enough.

15 A. No, I can't. Everybody's interpretation of how you
16 arrest or detain someone will be different, but the
17 minimum force required to detain someone is what you
18 should consistently try to chief. And there may well be
19 cases where the minimum force required is quite
20 forceful.

21 So the question is what was the commanding
22 officer -- if this is true from a corporal, forgive my
23 pejorative tone on it, but he wasn't clearly within the
24 chain of command that would know some of these things.
25 What is reasonable or minimum force required, reasonable

1 or minimum force required to detain someone, and that
2 will depend on the context and the circumstance. At
3 night in a metal factory, that force might be quite
4 heavy, and you might have to tackle someone to the
5 ground and get very physical with them to detain them.

6 Is that within the law? I think it is, Mr Judd.

7 I would contend that it is within the law.

8 MR JUDD: Thank you. That is incredibly helpful.

9 Dame Anne, I don't have any more questions from
10 a wetting perspective, but I wonder if a short break
11 might be required now for the transcribers and the
12 interpreters.

13 DAME ANNE RAFFERTY: Good thinking. Yes, good thinking,
14 Mr Judd. I will be guided by those who know better. Is
15 ten minutes enough? Quarter of an hour? What do we
16 think?

17 MR JUDD: I think ten minutes might be sufficient.

18 DAME ANNE RAFFERTY: SO88, how are you doing? Quite happy
19 with a ten-minute break?

20 A. Yes, thank you.

21 DAME ANNE RAFFERTY: I thought you might be.

22 We will break for ten minutes then and come back.

23 (3.27 pm BST)

24 (A short break)

25 (3.37 pm BST)

1 Questions from MS JACKSON

2 MS JACKSON: Thank you very much.

3 We would like to ask you some questions now about
4 the specific deaths of Radhi Nama and Mousa Ali. I will
5 start with Radhi Nama.

6 Can we bring up {A/74/10}, please. This is your
7 witness statement and I'm looking at paragraph 54.

8 I just wanted to clarify, while that is brought up, is
9 it your evidence that you were not present on the search
10 operation during which Radhi Nama was detained?

11 A. That is correct.

12 Q. Thank you. At paragraph 54 it says there in the first
13 sentence:

14 "I do not recall when I was told that the father of
15 the target of the operation had been detained, but in
16 any case the evidence found at the house provided
17 adequate reason to detain him."

18 I was just hoping you could explain or clarify what
19 the evidence found at the house was that you are
20 referring to.

21 A. Yes. I believe there was a chest rig and some magazines
22 and some weapon ancillaries. I don't recall an actual
23 weapon being found. I can't remember if there was
24 a pistol. I am sure it will be evidenced somewhere else
25 in the evidence as to what was there.

1 Q. Thank you.

2 Opus, can you turn to internal page 11 of the
3 statement. Paragraph 60. {A/74/11} I am looking now
4 at what happened at Camp Stephen, so after Radhi Nama
5 had been taken back to Camp Stephen. Again,
6 I understand it is your evidence that you didn't see
7 Radhi Nama at all while he was at Camp Stephen, is that
8 correct?

9 A. That is certainly my recollection now, and I don't think
10 in any of my previous statements I have mentioned that
11 I was there, so I don't believe I was there. I was in
12 Camp Stephen, I think, but I don't think I saw him.

13 Q. Thank you. That is helpful. At paragraph 60, and in
14 general, we don't really need to look at this paragraph
15 for this, but you say in paragraph 60:

16 "Nothing was brought to my attention which suggested
17 anything untoward had occurred."

18 Would you have expected someone to inform you of the
19 death of a civilian straightaway?

20 A. Yes, I would. Whether I was on the ground or not
21 I would have expected that, and I would have expected
22 that whether it was one of my own soldiers or
23 a civilian. So, yes, I would. Whether I had given
24 direction that people should tell me immediately,
25 I don't know. But I think that would be -- to some

1 degree it will be interesting to see what SO95 says
2 about that. But I would have imagined he would want to
3 inform me straightaway. It depends. If it was on
4 an insecure radio, they might not. But yes, if I was in
5 the camp I would expect to know about it straightaway,
6 but that doesn't mean that they would think that they
7 should.

8 And no -- you said nothing untoward, no, I had no
9 knowledge that -- I still have no knowledge that there
10 was necessarily anything untoward. There are some bits
11 of evidence you have produced or some statements that
12 you have produced which concern me. But again how
13 directly related they are to the death of Radhi Nama is
14 something that will be absolutely key.

15 Q. Thank you.

16 This isn't meant to sound like an impertinent
17 question, but did the fact that a civilian had died
18 during or shortly after being detained at Camp Stephen
19 give rise to any concern to you in and of itself?

20 A. Under the circumstance as I understood it at the time,
21 no. It is a tragic fact, and the family clearly were
22 going to be devastated by this. And I think the fact
23 that I wrote something to some degree must evidence that
24 I recognised the distress that it would cause them. So,
25 yes, of course that is a concern. I have been in and

1 around long enough to be concerned as to what this
2 meant, but there was nothing that I found or heard that
3 was untoward.

4 Q. Thank you, SO88.

5 You just mentioned writing something. Opus,
6 can I get you to turn up {A/29/1}.

7 What we are about to see is some writing in Arabic.
8 If we turn down to page {A/29/3} of that document, we
9 should have that translated.

10 Is that what you are referring to when you said that
11 you wrote something?

12 A. Yes, that is.

13 Q. Thank you.

14 A. My interpreter wrote it, obviously, to be clear.

15 Q. Thank you, that is helpful. Obviously your signature is
16 redacted there. I understand you have seen an
17 unredacted copy and, to your recollection, was it you
18 who signed the unredacted copy?

19 A. Yes, that is correct.

20 Q. I am just going to read this out because it is only
21 short, and hopefully it should frame the questions that
22 I have got that follow from it:

23 "This letter is to let you know Radhi Nama was
24 brought by the British Forces on the eighth of this
25 month for questioning. The questions were related to

1 his son Mohammed Radhi Nama whom they believe has done
2 illegality activities [illegible phrase].
3 Unfortunately, Mr Radhi Nama suffered a heart shock. He
4 was immediately transferred to the old Military
5 Hospital. For more information and to find out about
6 his health condition you need to contact the Military
7 Hospital. The questioning was stopped when
8 Mr Radhi Nama suffered this sudden heart shock. The
9 British Forces have treated him in a good way according
10 to the British Rules for Treatment of Detainees. For
11 more information about the way he was treated by the
12 British Forces you need to contact the British Military
13 Police located at the end of the road where the 'Radio
14 and TV' building is, in Al Ashar."

15 So we have seen the evidence you have given us in
16 your statement and also the previous accounts that you
17 have given in relation to this letter. I don't intend
18 to go over territory you have covered before in any
19 great detail.

20 My first question is that in your witness statement
21 to us, which I can bring up if it would be helpful, but
22 I think it might be easier to keep the letter here for
23 now, but at paragraph 61 of that statement, you state
24 there were no protocols for when next of kin needed to
25 be informed following a death. {A/74/11}

1 Sorry, Opus, are you able to keep the letter we just
2 had on the screen there. {A/29/3} Thank you.

3 Are you aware if that is still the case now, that
4 there are no protocols for next of kin being informed of
5 death?

6 A. Relating to what the British military policy and
7 procedure is now, I have no idea. I am still serving
8 but I have nothing to do with operations any longer, so
9 I can't tell you if that is relevant to now.

10 If you are saying is there anything that has changed
11 that I have now subsequently found out that pertained to
12 2003, then, no, I don't believe there is any change to
13 that, and, you know, what I have said in my statement
14 I think is still correct policy.

15 Q. Thank you. Again I won't take you there unless it is
16 helpful, but at paragraph 65 of the statement to us,
17 "us" being the Iraq Fatality Investigations, you state
18 you were aware Radhi Nama was dead when the letter was
19 written. Again, I appreciate that you have given
20 evidence about this before, but I suggest there is some
21 ambiguity in the letter we have just read out as to
22 whether or not Mr Radhi Nama was in fact dead.

23 Are you able to explain in your own words at this
24 hearing what your thinking was behind the ambiguity?

25 A. Yes, I am happy to explain that, and I don't think

1 I will -- everyone's moral compass is different. I felt
2 it would be callous and wrong to state that Radhi Nama
3 was dead. I didn't feel that was the right way for the
4 family to find out. Should I have gone to his house and
5 explained to the family with my condolences? Absolutely
6 that would be the right thing to do. Were there things
7 that precluded me from doing that, either because I am
8 such a callous individual that I didn't care to do so or
9 because I was busy or whatever it was that precluded me
10 from doing that? I am sorry that I did not do that now.

11 But this was different, and I wish I had the
12 foresight to have seen that then and to have done that
13 personally, or sent someone else to have done that
14 personally. But I'm afraid I can only apologise for
15 that and wish that I had dealt with it better. Writing
16 a letter was at least something I felt that -- it didn't
17 atone, but it explained that I recognised that they
18 needed to be informed.

19 Q. Thank you. Just one more question on the letter, and it
20 may be that you don't know the answer to this, but are
21 you aware of how that letter was delivered to
22 Radhi Nama's family?

23 A. I believe I gave it to one of the patrols to deliver to
24 the house.

25 Q. Thank you. But you are not able to specify, by

1 reference to the cipher list if necessary, who it was
2 that you gave it to?

3 A. I'm afraid I can't.

4 Q. Thank you. That is very helpful.

5 As I said, I am not proposing to go over the extent
6 of your evidence regarding the Radhi Nama investigation
7 in minute detail in this hearing. We do have that
8 evidence and it is for the most part clear. So I am
9 thankful to you for answering necessary to questions.

10 Can I ask you some questions now about Mousa Ali, if
11 that is okay?

12 A. Of course.

13 Q. Again if we go back to your statement. Opus, can
14 we look at {A/74/4}, please. Thank you.

15 The paragraphs that we are going to have look at
16 now, SO88, if that is okay, are 19 and 20. And the
17 first comment that I have is that those are obviously
18 heavily redacted paragraphs. Because these paragraphs
19 have been redacted, it means we are not going to ask you
20 certain questions now that we might, if that is okay,
21 put to you in writing via your representative after
22 these hearings. But you obviously do have a copy of the
23 unredacted statement, so you will be aware of what
24 material it is that we are not going to be discussing in
25 terms. I wonder if it might be worth giving you

1 a moment just to have a cross-reference there so that we
2 are on the same page.

3 A. Okay, yes. Hold on. (Pause). Sorry, can you point me
4 to which statement this is that I gave.

5 Q. This is your statement to the Iraq Fatality
6 Investigations.

7 A. I see. Right.

8 Q. At paragraphs 19 and 20.

9 A. Okay, yes, I have it.

10 Q. Thank you. What I think we are able to ask you is that
11 we have the impression from your evidence that Mousa Ali
12 was -- sorry, the search operation involving Mousa Ali
13 was -- had as a target a particularly significant
14 target, and so my question to you first is whether the
15 significance of the target had an effect on how the
16 operation was conducted from a tactical perspective?

17 A. Yes --

18 Q. If you have concerns about whether you are able to give
19 responses to this question, I would invite you to err on
20 the side of caution and we can pick it up afterwards,
21 but my expectation is you might be able to answer it?

22 A. Yes, I think -- it absolutely has a bearing. I have
23 been involved in numerous operations over long period of
24 time, and what the intelligence is that surrounds that
25 operation has an enormous bearing. And I still feel

1 aggrieved that on one operation, in a very different
2 context in a different theatre at a different time,
3 I was denied from going into a building [REDACTED]
4 [REDACTED]
5 [REDACTED] and then had a firefight with ten people to the
6 death because of that. That is not a situation I would
7 have liked to have been in, and I suggest that had we
8 known the intelligence, we would have gone in in
9 a different way [REDACTED]

10 But this was a soft knock. And whilst that does
11 mean that there was a threat, and it did mean that there
12 was an expectation that people, you know, were armed, my
13 soldiers weren't doing that. It was a different unit
14 that was conducting that particular piece of it.

15 So was I fairly sanguine to some degree? Yes. Was
16 I ready to respond? Yes. But how they dealt with that
17 entry would be up to them.

18 Q. Thank you. Can you recall whether the soldiers from
19 C Company who were part of the search operation knew
20 about the significance of one of the targets of that
21 search operation when it was being conducted?

22 A. Yes, I think they must have known to some degree, but
23 I am not sure I would have been allowed to tell them
24 everything. But I cannot remember that detail,
25 I'm afraid, so please take that with some -- but I think

1 they would have understood there was a higher threat
2 involved here, but I am certainly sure I wouldn't have
3 been allowed to disclose every detail.

4 Q. Thank you, that is helpful. This might be asking you to
5 stray further into the realms of speculation than you
6 are willing to do so, but if you are correct in that
7 supposed recollection, and the soldiers from C Company
8 did have at least some sense of the potential
9 significance of the target, might this have had
10 an effect on the approach or attitude of those who were
11 conducting the operation, in your view?

12 A. From C Company people?

13 Q. From C Company, yes.

14 A. Yes, I think they would naturally have been, and they
15 should have been, more concerned about this turning into
16 a firefight at the scene of the search. I think there
17 were a couple of searches going on, including a search
18 conducted by one of my call signs, although I think that
19 was -- the expectation of anything at that search site
20 was very, very limited. I think it was -- it was not
21 expected that there was going to be anything at that
22 search site. So, yes, people should have been naturally
23 more -- more prepared for something that went wrong.

24 Does that change how they would have dealt with the
25 detainees? I suppose to some degree they would be more

1 careful and cautious. And I think when there was
2 a difficulty about establishing their identity, then,
3 yes, they would have continued to demand an identity
4 because they were unclear that they were being given the
5 right name. I think there was some confusion about
6 identities. That is to the best of my recollection,
7 that there was some confusion.

8 Q. Thank you. I am going to ask Opus now if you could
9 please pull up the document at {A/34/4}. While that is
10 happening, SO88, just for context, this is a document
11 that we as an Inquiry have only quite recently received
12 because of the redaction process. That means that we
13 haven't had much chance to try and understand it with
14 the help of others, and I know that I am showing it to
15 you blind. So I wonder if first you would just be able
16 to take an opportunity to have a look at it before I ask
17 you any questions about what it might mean.

18 A. You very generously did send this through to me, so
19 I have had a chance to see this previously, just before
20 the weekend.

21 Q. Excellent. In that case, firstly, is this a document
22 that you have seen before?

23 A. No, it's not.

24 Q. Is it a document that in your experience -- given your
25 experience, you are able to explain or contextualise for

1 us at all?

2 A. Yes, absolutely. So this is -- at the top it is going
3 from the Battle Group Headquarters, and therefore it is
4 going from the Battle Group Headquarters, although it
5 doesn't say who it is going to, it should be going to
6 Brigade Headquarters. It is in written form, which for
7 starters shows that it is probably from Battle Group
8 Headquarters, because we didn't have the ability to
9 transmit data. And it is an intelligence summary,
10 summary number 33, and it is written the day -- on
11 14 May, at 7 o'clock in the morning, and it's covering
12 the period from the 13th to the 14th, in other words
13 covering the operational time that this operation was
14 conducted. It says that C Company conducted
15 an operation to arrest based on information from Brigade
16 TCC, and I can't tell you what that stands for, tactical
17 control centre or something.

18 "... pertained to a BP cell [Ba'th Party cell] of 4
19 people arriving in [Basra] from the north to assist
20 a loyalist in attacking [coalition forces]. Two targets
21 [at grid, this particular location] were identified and
22 one at [X and Y]. The operation commenced at 1730 [so
23 5.30]. Nothing found at [target] one. 3 pax [people]
24 arrested, 2 x AK47, 16 magazines, 1 x 9mm pistol and 15
25 rds (and cleaning kit)."

1 It goes on, Russian fuse and grenade, a knife,
2 leather ammo pouch, chest rig.

3 And then at target two, two knives, an AK47, five
4 mags, five combat jackets, military clothing, a bag of
5 50,000 dinar. No people were -- it says "lifted", it
6 means arrested at, target 3.

7 Q. Thank you. Then we have people arrested, and we can see
8 there number (ii), that would be Mousa Ali I expect, and
9 person (iii), it says Beshar Abid Al Jabbar, which is
10 likely to be Bashar Ali, Mousa Ali's son, would you
11 agree?

12 A. Yes.

13 Q. Thank you. Then if we can just look at the next section
14 as well. Again, I can read this out, because I think
15 hopefully I can translate this a bit more easily:

16 "Following tactical questioning a further search
17 [operation] was launched at [that would be 7.30 pm on
18 the 13th] to the same GR ..."

19 Can you help with GR?

20 A. Grid reference.

21 Q. Thank you. Sorry, you have given us that already.

22 "... in order to search a further five houses. A
23 suitcase full of money, a locked box and a pistol were
24 found. At [7pm] [redacted] arrived at C Coy [location]
25 (he was an initial [target] and had turned himself in

1 for questioning). He was detained with the 3 initial
2 prisoners."

3 We're not specifically concerned with that for the
4 purposes of these investigations.

5 "COMMENT: A full report will be written by C Coy."

6 Just pause there. Are you aware of a full report
7 being written by C Company?

8 A. I am not, but I could quite understand that one was.

9 Q. Are you able to help us with who would be responsible
10 for writing one if that was the case?

11 A. Probably the ops officer at the time, so in Company
12 Headquarters.

13 Q. That may or may not be SO95 from your recollection.

14 A. It may or may not be, depending on who was the ops
15 officer, yes, correct. And I imagine he would have had
16 to write it by hand on a piece of paper. As I say, we
17 didn't have laptops or anything like that.

18 Q. Thank you. That is helpful.

19 Then it continues:

20 "The detainees will all go to UK JFIT."

21 Are you able to help me with that?

22 A. Joint force interrogation ... I don't know.

23 Q. That is fine.

24 MR CHERRY: It's the Joint --

25 DAME ANNE RAFFERTY: Mr Cherry, can I just get you to pull

1 back a little bit, and if you could help us, which
2 I would very much appreciate, jot it down and tell us at
3 the end, if you would. Don't lose your train of
4 thought, I really want you to jot it down.

5 MS JACKSON: Thank you, Dame Anne. And thank you,
6 Mr Cherry, you will get the opportunity. So we will
7 park that for now, hopefully with Mr Cherry's clarity at
8 some point.

9 That is all fine.

10 "However, it is unclear who is unaccounted for from
11 the initial [target] list."

12 And then it carries on:

13 "The initial list was ..."

14 All redacted. But then we have Abdul Jabbar, who
15 again we are expecting to be the same Mousa Ali who we
16 are investigating the death of, and it says there:

17 "Could well be dead prisoner."

18 Firstly, do you accept my translation of that?

19 A. Yes. Yes, I do.

20 Q. Thank you. So what I am curious about here is it
21 suggests then that Mousa Ali was on the initial list of
22 targets for the search operation. Is that something you
23 are able to comment on at this point in time?

24 A. No, I don't think he was. But as I say, that is not
25 fair, because I don't know that and I can't recall it.

1 Q. That is quite all right. I am not trying to trip you
2 up, quite the contrary, because it was also our
3 impression, prior to receiving this document, that he
4 had not been on the initial target list. If it is the
5 case, and again this is speculative, if it is the case
6 that he was not in fact on the initial target list, are
7 you able to explain why he might be referenced here as
8 part of the initial list in this INTSUM report?

9 A. No, I can't, I'm afraid. I think it is probably ... you
10 are talking about not only were the people -- this was
11 I think an intelligent-led operation, so where that
12 information was held. I can understand there's
13 therefore several steps involved. You have the
14 specialist military unit, you then have C Company, and
15 then this is written by Brigade Headquarters the next
16 day. So maybe there is some inaccuracy involved in it.
17 I can't explain it.

18 Q. Thank you, that is helpful. A degree of Chinese
19 whispers perhaps.

20 I will just move back to your statement for a moment
21 then. If we can go back to {A/74/12}, please, Opus.

22 This follows on directly from what you were just
23 referring to I think, SO88, in that, at paragraph 68?

24 DAME ANNE RAFFERTY: 68 to 70.

25 MS JACKSON: Thank you, Dame Anne.

1 You describe -- I know it is redacted, but
2 I understand we can use the gisted language here. You
3 explain how you believed that the operation was led by
4 specialist military units. Firstly, is that still your
5 understanding given what we have just seen on the
6 INTSUM? And I won't ask Opus to bring it back on the
7 screen but I can do if that would be helpful. What
8 we've just seen in the INTSUM report is it's saying
9 C Company launched a cordon search and arrest operation
10 on info from ... and then I think it was BDE TCC which
11 we weren't quite able to define.

12 In light of that description of this a being
13 C Company launched cordon search and arrest operation,
14 is it still your evidence it was a specialist military
15 unit led operation?

16 A. Yes, they were -- to my knowledge, they were the only
17 people at the target location we were providing the
18 cordon. So, yes, we can -- I can see the point of your
19 questioning, but again I guess there is just some
20 ambiguity in translation in how you interpret what was
21 written in that INTSUM. But don't forget the INTSUM was
22 written by 1BW, so they are going to say it was
23 a C Company operation. Maybe there were reasons why
24 they couldn't say anything on that. I don't know the
25 classification of that INTSUM.

1 Q. Thank you. And you just referenced a cordon there.

2 I think we, as an Inquiry, have a working understanding
3 of what that means, but it would be helpful to have that
4 in evidence. Are you able to explain what cordon means?

5 A. I will try and put it into as my mind's eye remembers
6 it, which is not really very accurate. But essentially
7 it's cutting off the ends of the street or some part of
8 the street so that the area is secure. Obviously people
9 could go through the back doors or over fences or exit
10 some other way from the house, but we would have had
11 other call signs presumably placed in other locations
12 around the rear so that, if they did run, we would be
13 able to stop them, and also stop other people going into
14 that area. So, yes, it's cutting off the street. It
15 may have been more than one street.

16 Q. Thank you. Opus, if I could get you to turn to page
17 {A/74/13}, paragraph 74 of the document that we are in.

18 Still on the same line, at paragraph 74 you are
19 referring to the detainee I think being left with
20 C Company, and you say there:

21 "I think I recall being surprised that [redacted]
22 then handed their detainees to us, as I had understood
23 or presumed that they would wish to take [redacted] to
24 a different location for questioning by those who were
25 specialist interrogators or TQ qualified."

1 The first redacted we are able to suggest is the
2 specialist military units.

3 It may be you can't go any further than what you
4 have said, but if this was a special military unit led
5 operation, are you able to explain why the detainee was
6 taken to Camp Stephen at all?

7 A. No, I can't now recall why that would have been. Maybe
8 it was that we had determined that was going to happen
9 at the operation, and I think it would be a sensible
10 thing to have done anyway, because you may have arrested
11 more people, and you would want to identify them. And
12 as was identified, I think, after some difficulty, the
13 subject of the operation wasn't there. So in hindsight,
14 I think it probably made sense to go back to
15 Camp Stephen to then ascertain their -- to ascertain
16 their identity.

17 Q. Thank you. It might be actually that I can anticipate
18 the answer to this, because I think you have just used
19 the turn of phrase "mental image" in another context.
20 But at paragraph 75 -- allow me to find it for one
21 second. Yes, the first sentence you say:

22 "Which the searches had concluded I can recall ...
23 three detainees being brought to the cordon, although
24 I did not witness them emerge from a house, but the
25 mental image is of them being brought towards our

1 vehicles by [redacted]."

2 You told us earlier in your evidence, SO88, that you
3 weren't present on the search operation, so far as you
4 could recall. The description of a mental image of the
5 detainees being brought back to the cordon seems to be
6 one that would be describing -- be described by someone
7 who was present at the time. I just wondered if you
8 could clarify what you mean by this sentence and what
9 the mental image you refer to is?

10 A. Yes, I was definitely present on this operation. I was
11 not present on the operation to -- at Radhi Nama's
12 house, but --

13 Q. Apologies. Apologies. That was me getting my
14 investigations muddled. Fast forwarding from that then,
15 could you please just describe what that mental image
16 was that you saw, in a bit more detail?

17 A. 20 years, it is impossible to -- but yes, I have
18 an image of being sort of in a street, vehicles blocked
19 off, and the house being some distance away, and then
20 Mousa Ali was brought by -- by those people, by those
21 soldiers to a vehicle. And I just remember him being
22 put inside the vehicle, being placed inside the vehicle,
23 and sort of I think ... So I can't be precise about
24 those details, and I don't know, but I am sure he was
25 handcuffed with Plasticuffs, and therefore laid down,

1 placed down, inside the -- whatever you call it --
2 the back of the vehicle. That is my mental image and
3 recollection. And I don't know if it was Mousa Ali, it
4 could have been any one of those three people.

5 Q. Thank you, SO88. Just one more question on this
6 particular collection of questions. In your evidence
7 from 2003 -- I don't think I need to take you to it, but
8 it is at page 9 of your disclosure bundle if you did
9 want to turn it up -- you refer to there being no search
10 report forms completed in respect of this particular
11 search operation because they hadn't yet been issued.

12 I was just wondering, firstly, because that isn't
13 mentioned in your evidence to our investigation, whether
14 that is still your evidence, and, if so, are you just
15 able to explain to us a bit more about what those search
16 report forms that had not yet been issued were, and what
17 information they included?

18 A. Yes. And I think it is helpful to reference back to
19 Northern Ireland, and that, you know, conducting
20 searches in Northern Ireland were very, very [REDACTED]

21 [REDACTED]
22 In fact, each battalion would have what is called
23 a search team, and then you had Royal Engineer search
24 teams which were specialists that were brought in. And
25 you had actually pre-printed forms that I think were

1 sort of two or three carbon -- in the old days of carbon
2 copy, that were conducted in every house, and they had
3 to be specific people. So they were incredibly well
4 documented for Northern Ireland, and that wasn't the
5 case here.

6 Q. Thank you. Are you aware of that type of search form
7 being introduced at a later date in Iraq?

8 A. No, I don't recall that.

9 Q. Thank you. I would now just like to ask you some
10 questions about what happened to the detainees when they
11 arrived at Camp Stephen, if that is okay.

12 Opus, could I ask you to bring up {A/76/9}.

13 SO88, what I am taking you to is the witness
14 a statement of SO90. I am looking at paragraph 70. If
15 you can go higher, please, Opus. Have I given you the
16 wrong page reference? {A/76/9} As I said, this is the
17 witness statement of SO90, and what we have in
18 paragraph 70, which I can give you a moment to read in
19 full, but given the redactions, and given that we are
20 able to gist a bit more than is redacted, I can, at
21 a high level, say it's SO90's evidence describing
22 a specialist military unit member informing you that one
23 of the detainees may have knowledge of the whereabouts
24 of weapons and explosives. So I will just give you
25 a moment to read that paragraph. (Pause)

1 A. Yes, okay.

2 Q. Thank you. Again, my question is just a simple one of
3 your recollection. Do you recall that taking place?

4 A. I don't recall that, but I have no reason to question
5 its accuracy.

6 Q. Thank you. In more general terms, do you recall there
7 being specialist military units at Camp Stephen at the
8 time, prior to ...

9 A. I don't recall that. I have no recollection,
10 I'm afraid, of what happened to the SMU after they
11 handed -- as far as I recall it, they handed the
12 detainees and put them into the vehicle. I don't
13 recall. It would make sense that they came back to the
14 camp but I don't recall it.

15 Q. Thank you. Again, a speculative question, but if SO90
16 is correct about this, do you think that members of
17 C Company would have continued to question this
18 detainee?

19 A. I think that is possible. The issues are who is
20 qualified to conduct that. I can see what you are
21 getting at, which is that under -- EPWs are only allowed
22 to be questioned to a certain degree. Detainees
23 actually can be questioned to a wider degree, which
24 I think is what you are getting at, because EPWs are
25 accorded certain restrictions on what you are allowed to

1 ask, and actually detainees could be asked a wider set
2 of questions because it is more ambiguous about what you
3 are allowed to ask a detainee about, about impeding the
4 mission. So it is possible that they were asked further
5 questions about the whereabouts of weapons and
6 explosives. That is possible.

7 Q. Thank you, SO88, that is incredibly helpful. Just one
8 more little collection of questions on this particular
9 topic. Opus, could I ask you to go back to {A/34/4},
10 please, back to the INTSUM document.

11 Again, it might be, SO88, that you are not actually
12 able to help me on this particular question. But back
13 to that second paragraph:

14 "Following technical questioning a further search
15 [operation] was launched [at 9.30 on the 13th] to the
16 same [grid reference] ..."

17 My reading of that, "following tactical
18 questioning", and I think it is probably the only
19 reasonable reading of that, is that tactical questioning
20 of somebody took place as a result of the search
21 operation of the previous day, or, sorry, of earlier
22 that day. Would you agree with that?

23 A. Yes, I absolutely agree with you. The whole -- the
24 issue is of timings, and it clearly says it was launched
25 at 19.30, which clearly must have been after we got back

1 to the camp. But I also think that that is after
2 Mousa Ali had had a fit, and it is very possible that
3 either the SMU conducted tactical questioning which they
4 may have been qualified to conduct, or that this INTSUM
5 simply says "tactical questioning", and our inference of
6 tactical questioning is that it was qualified tactical
7 questioning. Do you follow what I am trying to say?

8 Q. I do. That is helpful. And again, I am conscious you
9 are only going to be able to speak so far to the meaning
10 of this sentence. But that is incredibly helpful.

11 Thank you.

12 Presumably, but I will ask it anyway,
13 nothing -- I'll ask it more openly. Does anything in
14 that sentence lead you to change the evidence you gave
15 earlier, that you were not aware of tactical questioning
16 being something that anyone in C Company was trained to
17 conduct?

18 A. No, it doesn't change it. I don't think anyone in
19 C Company was trained to do tactical questioning. And
20 as I say, one really needs to find out from the author
21 of this document as to who did it and what they mean by
22 it. And it may simply be that, as I say, from
23 questioning, information was then launched. Maybe the
24 tactical questioning -- and I am supposing here, I fully
25 understand I am speculating -- where the tactical

1 questioning was done, so was it done by the SMU on the
2 first search operation? That is not something that we
3 can dismiss, and that they may well have been qualified
4 to do so.

5 Q. Thank you, SO88.

6 I will leave that line of questioning, and I would
7 just like to ask you really one question concerning the
8 collapse of Mousa Ali, because I understand your
9 evidence is that you weren't present at the time. Have
10 I got that right?

11 A. That is correct, yes, I have no recollection of being
12 present at the time. In fact, I have a recollection of
13 being sat in the Company Headquarters table when someone
14 came in to say that.

15 Q. Thank you. That is helpful. What I would like to do is
16 just show you -- and Opus, could you please bring up
17 {A/75/7}. I would like to show you the account of SO90.
18 I think I have the wrong cipher there, one second. Yes,
19 sorry, SO89.

20 A. I can't recall who SO89 was, actually.

21 Q. Okay, I think I can introduce this without that. Do you
22 have the cipher list to hand?

23 A. Yes, I do, I just don't -- I see the name, but I don't
24 know who he was.

25 Q. That is okay. Sorry, Opus, {A/75/7}. Thank you. If we

1 look at paragraph 25 there.

2 So SO89 -- I am determined to get this right.

3 Apologies, I am just checking the cipher. Can someone
4 in the team correct me if I have got the wrong cipher
5 for this witness.

6 DAME ANNE RAFFERTY: You haven't.

7 MS JACKSON: It is SO89, thank you.

8 SO89 was one of the two guards guarding Mousa Ali at
9 the time that he collapsed and at the time that the
10 medic was called. Paragraph 25 of his statement, and
11 I will just give you a minute to read that, but in this
12 paragraph SO89 describes giving the detainee exercises
13 to perform while he was being guarded. I will just
14 allow you a moment to read that. (Pause)

15 A. Yes, I have read that.

16 Q. Can we turn to page 11, please, and go to paragraph 49.3
17 {A/75/11}.

18 Again, I will give you a moment to read that as
19 well. It is more on the same theme. (Pause)

20 A. This is the same witness?

21 Q. The same witness, from the same statement. (Pause)

22 A. I don't know what to say about that.

23 Q. Rather than asking you to comment generally, though if
24 you have any general comments we would invite them, my
25 two questions to you, the first one is were you aware of

1 this at the time?

2 A. I certainly wasn't aware of that. I was certainly not
3 aware of paragraph 25 or all of 49.

4 Q. Thank you. I have three questions, actually. Were you
5 aware of anything of this variety happening at
6 Camp Stephen at the time, ie members of C Company
7 requiring detainees to perform exercises or use the
8 stress position?

9 A. No. No, I had no idea of this. This is the first time
10 I have ever seen evidence or mention that someone --
11 in fact, I have seen mention it before, because it was
12 the IHAT Inquiry in one of their questions asked me
13 about jerry cans, and I had never heard of this.

14 Q. That is very helpful. Thank you, SO88.

15 My third question was to ask what your view would be
16 if you were aware that this was happening at
17 Camp Stephen at the time?

18 A. I would have stopped it. That is not acceptable.
19 That ... that wasn't acceptable to do that to Mousa Ali.
20 He was questioned, he was in detention, and he shouldn't
21 have been -- he shouldn't have been essentially punished
22 by that soldier.

23 Q. Thank you, SO88. That is very helpful.

24 Just a couple of questions, most of which I think
25 you have touched on before, but I will ask them squarely

1 for the sake of completion about what happened after
2 Mousa Ali had collapsed and passed away concerning the
3 reporting of the incident.

4 Firstly, and again, as I say, you have given some
5 comments in response to this in any event, but did you
6 instruct or were you made aware of any attempts to take
7 statements from those who had been present at the time
8 of the death in the aftermath?

9 A. No, that would be the responsibility of the police, and
10 the police were informed. The police for Radhi Nama's
11 death arrived the following morning, literally whatever
12 period that is, but the next morning. And it would have
13 been advantageous for that to have happened on this
14 occasion.

15 I have no doubt this was fully reported up the
16 chain. My understanding at the time, as I think I have
17 said in my statement, was the police didn't turn up for
18 a period of time because there were other investigations
19 I think they were doing. It clearly took some time for
20 them to come and take statements, but I'm afraid that
21 has, as far as I am concerned, nothing to do with
22 C Company, and I also don't think anything to do with
23 1BW, because as you saw from that INTSUM which was
24 reported the next day, it was already being reported
25 that a detainee had died. So I can only go with what

1 I was told at the time, and have said in my statements,
2 that the police weren't able to attend because of other
3 investigations.

4 Does that answer your question?

5 Q. It does answer my question, and it leads directly into
6 my next one, because you may be aware already, but there
7 is some question over the amount of time it took in
8 relation to the death of Mousa Ali for an investigation
9 to start -- sorry, apologies, into the death of -- an
10 investigation into the death of Radhi Nama, and I was
11 wondering if your thoughts on the timing of reporting
12 the death to the Military Police can be backed up by any
13 sort of documents. Are there -- would there be reports
14 of reporting the death to the Royal Military Police that
15 we could seek to obtain?

16 A. My understanding of the evidence which I have seen was
17 that the RMP Headquarters weren't aware of this, and it
18 was I think three days later or so when somebody went to
19 the RMP Headquarters to enquire about Mousa Ali. My
20 judgment of that was that the RMP Headquarters was at
21 a high level and probably a sub-unit of the RMP who had
22 probably been informed by the Black Watch Headquarters,
23 if you see what I mean? I hope that makes sense.

24 Q. That is fine.

25 A. Because I fail to understand why the RMP would not know

1 about this. I fail to understand why the RMP didn't
2 know about this if I think I had been told that the RMP
3 had been informed and were going to be conducting
4 an investigation but that they were not able to attend
5 immediately. I was told that, and I think I said that
6 in a statement. So I don't understand how I would know
7 that if the RMP hadn't been informed. But there is
8 a difference between which RMP. A sub-unit, a company,
9 might have been responsible for, let's say, the Basra
10 area, and another company might have been for, you know,
11 Al Amarah, and then the RMP Headquarters might not have
12 had the right documentation.

13 That is my only understanding, because I don't
14 understand that, it seems very odd, and as you have seen
15 from the INTSUM, as I say. What I am trying to say
16 there is no sort of collusion about covering this up.
17 There was no necessity for it, there was no expectation
18 of that. It was reported.

19 Q. Thank you, SO88. That evidence is clear.

20 So just to finish, and I am sure the whole team are
21 very grateful for the time you have given us this
22 afternoon, just some general questions, and again these
23 aren't intended to be impertinent, but I would like to
24 know your views.

25 There were two deaths of detainees at Camp Stephen

1 within about a week of each other. Did this give you
2 any cause for concern at the time?

3 A. It caused me concern. It didn't give me, you know,
4 cause for concern, if you see what I mean. So, no.
5 These things are tragic, and for the families of those
6 involved it is unbelievably tragic. But could this have
7 occurred? Yes, it is possible, and that is what I have
8 understood right up until IHAT interviewed me and
9 mentioned something about jerry cans, but I had no
10 understanding it was relative to Mousa Ali. Until you
11 have given me some evidence today, I had no
12 understanding that there would be anything untoward, and
13 my understanding was that they were tragic but natural
14 causes, and that Radhi Nama had, you know, incredibly
15 sadly died of a heart attack, and there was something
16 more like a fit which Mousa Ali had had. That was my
17 understanding of it.

18 Q. Thank you. Did you on a more informal level, if not on
19 a formal level, conduct any investigations at the time,
20 ask any questions to those who had been involved, in
21 order to try and build an understanding of what might
22 have happened?

23 A. I honestly can't say now that I did. I think I would
24 have been well aware that this is a very serious police
25 matter. So, no. I think there has been some sort of

1 mention about people being told not to write statements,
2 or why would I not have given direction to write
3 statements, well, because it is a police matter and they
4 should investigate. But I am very clear that everyone
5 around that table would have been concerned about what
6 had happened, but that doesn't mean that I should have
7 started an investigation on my own.

8 Q. Thank you. The final question, which I think again you
9 have answered in part, but just to make sure that we
10 have your evidence on this, were you personally asked
11 for any information or reports from further up the chain
12 of command in relation to these incidents?

13 A. No, I simply can't remember. Clearly you have my
14 witness statements from the day after Radhi Nama died
15 and when the RMP attended after Mousa Ali died, and
16 I think I was asked for some things but I can't tell you
17 what they were. I think I was asked for evidence of
18 FRAGOs or something.

19 Q. Thank you, SO88. That is incredibly helpful.

20 Just before I go back to Dame Anne, there are just
21 two mop-up questions from your evidence earlier if you
22 don't mind indulging me for a second.

23 Opus, could I ask you to take up {A/74/2}, please,
24 paragraph 10. This should be back to your statement,
25 SO88.

1 Earlier, SO88, in your evidence you explained your
2 role in the decision to require medical evidence on --
3 sorry, medical examination on arrival. And I think when
4 you were explaining your evidence to Dame Anne, you put
5 it in terms that you supposed you probably would have
6 been the person who designed the need to have a medical
7 examination. Again, I am not trying to trip you up at
8 all, I would just like to clarify what your evidence is,
9 because at paragraph 10, about halfway through, you say
10 there:

11 "... that I recall, it was my decision when we were
12 in Camp Stephen, that detainees would undergo a medical
13 examination on arrival, and that the detention tent was
14 placed near the front gate and in clear sight of the
15 sentry tower at the front gate - providing ... security
16 and oversight."

17 Then you say:

18 "I made this decision in the light of previous
19 operational experience."

20 And obviously you did discuss that with Dame Anne.

21 I just wanted to confirm, is it your evidence that
22 you did make those decisions, or is it your evidence
23 that you expect you probably made those decisions?

24 A. I think it is my evidence that I expect that I made
25 those decisions, because I don't think it is accurate to

1 say that I absolutely recall, you know, precisely what
2 I demanded as a process. But given there was clearly
3 a process, and as you know, I have said that I had
4 completely forgotten about an Ops Slammer form. Now,
5 was that directed by Brigade or Battalion, or was it
6 a C Company initiative? I don't know. I had forgotten
7 about it entirely. And I think it is good to hear from
8 others' evidence that there was this form that was
9 filled in, it is good to hear there was a medical
10 examination, and I'd like to think that I was part of
11 that process in instigating that.

12 So you will have to forgive me if I have been
13 slightly over-exact in saying I made this decision.

14 I think I would have made a decision about a process and
15 then probably left others to carry that out.

16 Q. Thank you for clarifying that, SO88. Very helpful.

17 My final question, and I am just going to ask Opus
18 to put up {A/81/1} for reference but I don't think we
19 need it, because it arises from a description given by
20 SO95 of his role, and he says in paragraph 3:

21 "I was appointed second-in-command and operations
22 officer of Fire Support Company in about February 2003."

23 The question to you is as simple as: what was Fire
24 Support Company, because we haven't heard about it yet.

25 A. Yes, it is simply a different terminology. I wouldn't

1 read too much into it. C Company is another way of
2 describing it, but the role that C Company provided was
3 to provide fire support, so sometimes it is referred to
4 as Fire Support Company, and hence why it has the
5 mortars and the MILAN which are weapon systems.

6 Q. Thank you very much, that helps us immensely.

7 I don't have any further questions I wanted to ask you.

8 Perhaps if I pass back to Dame Anne. Do you have
9 any questions?

10 DAME ANNE RAFFERTY: I have no follow-up, now that you have
11 asked my fire support question.

12 MS JACKSON: Can I then check with firstly the team. Phil,
13 Richard, Katharine, any questions?

14 MR BOTTOMLEY: Nothing from me.

15 MS BAILEY: Nothing from me either.

16 MS JACKSON: Thank you. We're towards the end of the first
17 day and we are clearly all on a first name term basis
18 already, so drop the Mr Judds, et cetera.

19 MR BERLOW: Hello, can you hear me?

20 MS JACKSON: Yes, thank you, sir.

21 MR BERLOW: I have actually replaced Mr Hamilton. I've been
22 here for some time. I just didn't want to interrupt.

23 MS JACKSON: Thank you for letting me know. And because
24 your name actually now corresponds to your actual name,
25 I was continuing to call you Mr Berlow throughout

1 anyway. But thank you, Mr Berlow.

2 MR BERLOW: Thank you.

3 MS JACKSON: So going to the representatives in turn.

4 Ms Al Qurnawi, can I go to you first. Are there any
5 questions that you have for SO88 that you would like the
6 Inspector to put?

7 MS AL QURNAWI: Yes, we have just a couple of questions.

8 Firstly, you appreciate we are only seeing the statement
9 of SO88 just last Thursday. Two questions. The first
10 question, Natasha, you already raised it, but we are
11 just seeking a bit more details. The first question is:
12 if SO88 knew of any procedures for dealing with
13 detainees who was at Camp Stephen who fell ill or even
14 died, for example, were taken to Army hospital or local
15 hospital, contacting next of kin, any record kept in
16 this respect? That is the first question.

17 DAME ANNE RAFFERTY: Let's do it question by question.

18 Natasha will ask that one.

19 MS JACKSON: Thank you. Can I clarify with you,
20 Ms Al Qurnawi. I make that almost a two-part question.
21 Firstly, if there were any procedures at Camp Stephen
22 regarding detainees taking ill or dying, and then any
23 records. SO88, I wonder if you could answer those in
24 turn.

25 A. Yes. I would like pass my condolences to the family,

1 I know it is a long time ago, but I know the pain hasn't
2 receded.

3 The processes for their medical attention. Within
4 the resources of C Company we had a medic, and that
5 medic would attend to anybody, whether it was one of my
6 soldiers or a detainee who was injured or suffered
7 an injury. That would have been provided. And then
8 outside of that, I think the natural resource would have
9 been to go -- or process would have been to go to
10 Battalion Headquarters, that is always -- there is
11 a doctor at Battalion Headquarters, so it would be to
12 seek help from Battalion Headquarters.

13 And I think it is right in saying that with
14 Radhi Nama, that was precisely the intent, was to go to
15 Battalion Headquarters, but that en route there was
16 a message directed that instead they should go to the
17 Czech Hospital, because I think the doctor at Battalion
18 Headquarters was not there.

19 In the case of Mousa Ali, I only subsequently found
20 out from reading statements that he was taken to
21 Battalion Headquarters and the doctor did examine him at
22 Battalion Headquarters before he was then returned back
23 to C Company headquarters. I hope that -- that I hope
24 explains the first part of probably what you are trying
25 to understand.

1 DAME ANNE RAFFERTY: And the records question? If you can
2 help.

3 A. In terms of records, again there would only be -- the
4 only records there would be is the Ops Slammer form from
5 their initial in-processing. And then in the Company
6 log, there might be something transcribed in the Company
7 log that was from either the medic that was picked up on
8 the radio. But as I say, in the -- I think it was in
9 that INTSUM, it described a full report being written.
10 But without evidence of that report, I can't say what
11 follow up procedure medically was noted.

12 Is that clear? I'm afraid I don't think I feel
13 I have been clear.

14 DAME ANNE RAFFERTY: It has helped. Thank you.

15 I think from Basra, our colleagues had a second
16 question that they would like us to think about.

17 MS AL QURNAWI: Yes. The second question: is SO88 saying
18 that Radhi Nama left Camp Stephen and went to the local
19 hospital alive or dead?

20 DAME ANNE RAFFERTY: Would you like to deal with that, SO88,
21 if you can.

22 A. Yes. My understanding was that Radhi Nama suffered
23 something, and the medic was called, and my
24 understanding was that he was placed in the ambulance
25 and then taken to Battalion Headquarters where

1 a qualified doctor was under -- in our view, would be at
2 this location. The medic was in the ambulance with
3 Radhi Nama, and then en route the ambulance was diverted
4 to go straight to the Czech Hospital. So my
5 understanding was that he was alive or he was still
6 being resuscitated in the ambulance when he left the
7 Charlie Company location.

8 DAME ANNE RAFFERTY: Thank you. Thank you, SO88, and
9 thank you from Basra.

10 Over you to, Natasha, if anyone else wants to ask
11 anything.

12 MS JACKSON: I will check next with Mr Foley from GLD. Do
13 you have any questions for SO88?

14 MR FOLEY: No, thank you.

15 MS JACKSON: Ms Moss?

16 MR FOLEY: I think perhaps Ms Moss has dialled off because
17 her client had been attended to.

18 MS JACKSON: That is absolutely fine. Thank you.

19 Mr Berlow, are there any questions from you?

20 MR BERLOW: I have no questions.

21 MS JACKSON: Thank you very much. Mr Cherry, did you have
22 anything you wanted to put?

23 MR CHERRY: If it may just assist. When Dame Anne was
24 questioning SO88 about rules of engagement cards, and
25 she asked a question about formalities for arresting, he

1 mentioned in Northern Ireland there was a yellow card
2 for rules of engagement which wasn't here.

3 It might assist that there was a card called
4 a Blue card, which was the arrest card for
5 Northern Ireland, but these weren't established
6 principles at this early stage in the post-war-fighting
7 phase, and that might trigger his memory on that.

8 Then after that, the question arose in the INTSUM.

9 You will see it says "Comment" --

10 MS JACKSON: Mr Cherry, can I pause you there. We can take
11 these one by one, if that is okay.

12 Dame Anne, are you happy for a question to be asked
13 in relation to SO88's recollection of the Blue card
14 system?

15 DAME ANNE RAFFERTY: Yes, and I will ask it.

16 SO88, you heard what Mr Cherry said. You, in fact,
17 were the one who told us about the Yellow cards in
18 Northern Ireland. Does a Blue card mean anything to
19 you?

20 A. Yes, it does, and I do recall exactly that. Blue cards
21 were issued to soldiers which gave them directions and
22 instructions on when they could conduct a search and how
23 to conduct a search.

24 DAME ANNE RAFFERTY: Thank you.

25 Mr Cherry, you have another suggested question for

1 us to think about.

2 MR CHERRY: Yes. At the bottom of the INTSUM, it says all
3 were to taken to the JFIT. And the question was what
4 would that mean. And you if you look at the previous
5 INTSUM, the page before, it also makes a similar
6 reference. That is the Joint Forward Interrogation
7 Team. They were located in a little compound beside the
8 divisional -- the temporary detention facility at
9 Al-Faw. They were the specialist interrogation teams
10 that had been mentioned when we talk about specialist
11 interrogators, and a decision to take people from
12 Battle Group Headquarters to that facility would be done
13 by Battle Group Headquarters in co-ordination with the
14 Brigade Headquarters 7th Armoured Brigade, because this
15 was at divisional level, the next level of facility, and
16 that is who they were, if that assists.

17 DAME ANNE RAFFERTY: Thank you, Mr Cherry. Pause there.

18 Don't leave me, Mr Cherry, keep your train of thought.

19 SO88, again you have heard Mr Cherry's comments.

20 Does that ring a bell with you? Because we are
21 interested in your evidence.

22 A. Yes, that to my mind is correct. At each of these
23 levels there is, I guess -- not a guess, I think there
24 was a decision to be made as to whether the detainee
25 would continue up the process.

1 DAME ANNE RAFFERTY: Good. Thank you, SO88.

2 While I've got you, Mr Cherry, thank you again.

3 MR CHERRY: I have a couple of others to assist.

4 DAME ANNE RAFFERTY: Have you? I am so sorry.

5 MR CHERRY: Again, just to give you the background to where

6 it's going. When the Black Watch were doing their

7 training in Germany before they deployed, there was a

8 question you asked about the training for handling and

9 capturing prisoners of war. SO88 touched upon the

10 fact that platoon sergeants do some prisoner handling in

11 their platoon sergeants course. But in the war training

12 and phases that the Battalion went through, the

13 regimental sergeant major is the sort of head of the

14 triangle for collecting prisoners of war, and he

15 instructed all of the company sergeant majors bringing

16 them -- because they worked to him for prisoners coming

17 back.

18 So the CQMS takes, for instance, ammunition and

19 rations forward, and the sergeant majors are responsible

20 for bringing prisoners of war backwards toward the RSM.

21 SO88 might recollect that when they reached Germany,

22 there was a centralised training by the RSM on this

23 specialist area of handling for all of the sergeant

24 majors of the Black Watch.

25 DAME ANNE RAFFERTY: Let's pause there. Again, thank you,

1 Mr Cherry.

2 SO88, does that ring any bells with you?

3 A. Yes, it does.

4 DAME ANNE RAFFERTY: Is it accurate again?

5 A. Yes.

6 DAME ANNE RAFFERTY: Do you adopt it?

7 A. Yes, I would absolutely adopt that. I see that the
8 regimental sergeant major's name is not down here on the
9 cipher list, but I can almost recall that, yes, he was
10 the pinnacle of -- there happened to then be an officer
11 who was placed in charge of that, he was known as the
12 BGIRO, but that happened at a slightly later stage.

13 DAME ANNE RAFFERTY: Thank you.

14 Mr Cherry, I think you had a final question you
15 would like to us ask?

16 MR CHERRY: I have, Dame Anne. It probably is that SO88
17 won't know, but it will assist you when you are
18 questioning further.

19 The Company medic will have filled in a form called
20 an FMed 4 which is like a little 5 by 4 cardboard
21 report, and that is where they write in when they
22 examine a detainee, and those cards then go with the
23 detainee when they are moved on to the next phase.

24 Other detainees had similar cards for them in other
25 cases that then followed on, and that would be -- that

1 is exactly how SO84 would have recorded any injury on
2 any soldier in C Company or any detainee. If that
3 assists.

4 DAME ANNE RAFFERTY: Safely stored, Mr Cherry. Thank you.

5 I am not sure we need to ask SO88 about it, but I have
6 stored it. Thank you.

7 MR CHERRY: Those are the all the questions I had,
8 Dame Anne. Thank you.

9 DAME ANNE RAFFERTY: Much obliged, thank you.

10 SO88, we have kept you a long time today, and you
11 have done an awful lot to help us, and I would like to
12 repeat our thanks to you for the help you so willingly
13 and comprehensively have given. Thank you.

14 A. Thank you.

15 MS AL QURNAWI: Sorry, if we may, Mrs Afaf has two more
16 questions, if we may.

17 DAME ANNE RAFFERTY: SO88, can you stay with us for
18 a minute, please?

19 A. Of course.

20 DAME ANNE RAFFERTY: I'm afraid I didn't understand
21 I thought you said you had two questions.

22 MS AL QURNAWI: First, if we can return to the document, the
23 letter which was written by SO88 to the family, the one
24 dated 10 May 2003.

25 DAME ANNE RAFFERTY: We have it.

1 MS AL QURNAWI: Not this one.

2 MS JACKSON: {A/29/3}.

3 MS AL QURNAWI: Mrs Afaf is asking: SO88 just mentioned, in
4 answering my earlier question, that her father suffered
5 a heart attack and then he was transferred to the local
6 hospital, and whilst he is in the ambulance it seems he
7 died. So he said -- if that is correct, why this
8 letter. If you read it, it says:

9 "For more information and to find out about his
10 health condition ..."

11 So he said the impression you get from using the
12 word "health conditions" here in the letter, that he was
13 alive, and that contradicts with what he just said,
14 SO88.

15 DAME ANNE RAFFERTY: Can I take view on that, grateful as we
16 are. I think SO88 has already dealt with that, because
17 his evidence is that he was deliberately ambiguous out
18 of compassion and a desire to palliate, so I don't think
19 we are going to get much further than that.

20 MS AL QURNAWI: Okay.

21 If I may, the second question from Mrs Afaf is about
22 the earlier comments was made, that they will take --
23 normally the procedures which are followed, to take all
24 the details, the name, everything for the detainees.
25 Her question is then why, when her father was taken to

1 the hospital, nothing was -- they filed him under
2 "unknown person", and none of his details or his name
3 was passed by the British military forces to the
4 hospital. Therefore, it took them a long time to
5 identify his body in the hospital.

6 That is the second question from Mrs Afaf.

7 DAME ANNE RAFFERTY: Thank you very much. Let's just see if
8 SO88 can answer that. If he can, fine. He may not be
9 able to.

10 SO88, can you help us with that?

11 A. I can't give a precise answer, I'm afraid. And as
12 distressing as that is to the family, I don't
13 necessarily understand why the details weren't passed,
14 because clearly the medic was with Mr Radhi Nama when
15 they arrived at the Czech Hospital. So unless we are
16 talking about -- and these are doctors at the
17 Czech Hospital, one presumes, so clearly their command
18 of English and talking to my soldiers should not have
19 been a problem, so I cannot explain it, I'm afraid.

20 DAME ANNE RAFFERTY: Thank you for the help.

21 Thank you again to our friends and colleagues in
22 Basra.

23 Right, thank you very much, SO88. Off you go.

24 MS JACKSON: Dame Anne, if I might interject for a moment.

25 We have one witness left to give evidence today who

1 I understand does have to give evidence today.

2 DAME ANNE RAFFERTY: I think we must crack on.

3 MS JACKSON: We will crack on, but if you are okay taking
4 just a five-minute break for the transcribers and
5 interpreters.

6 DAME ANNE RAFFERTY: Yes. I am sorry we can only have that
7 long, but we have no option; (a) we have to take the
8 witness today, and (b) we have time constraints on the
9 use of the facilities. So five minutes.

10 (4.54 pm BST)

11 (A short break)

12 (5.00 pm BST)

13 SO91 (called)

14 Introduction by MR JUDD

15 MR JUDD: Can I check whether SO91 is on the call and can
16 see and hear me, please?

17 A. Yes, I can see and hear you.

18 Q. Thank you very much. May I just confirm whether you
19 have the list of ciphers in front of you?

20 A. No, I don't.

21 Q. Have you had a chance to look at that list of ciphers?

22 A. I haven't looked at it, no.

23 Q. We can perhaps find a way to get those to you, because

24 I will be making reference to them. Before we do that

25 would you mind just confirming that you are in fact

1 SO91?

2 A. That is correct.

3 Q. You will have, I hope, been sent a disclosure bundle
4 including seven previous statements you gave?

5 A. I have a list.

6 Q. Thank you very much. One of those statements, if I may
7 just take you to it, if you have access to the Opus
8 platform, is at {A/77/1}. If you wouldn't mind just
9 turning that up very briefly. On the first page there,
10 could you just confirm whether that is the statement you
11 gave in these investigations, please?

12 A. Yes, it looks like it.

13 Q. Thank you. One final question on this. If we scroll
14 down, please, to {A/77/8} we see a statement of truth
15 there with a date on it. Again, this is the last page
16 of that statement you made in these investigations,
17 isn't it?

18 A. Yes.

19 MR JUDD: Thank you. It may be worth keeping that statement
20 open because we will be asking some questions on it.

21 I will now hand you back to Dame Anne.

22 DAME ANNE RAFFERTY: Thank you very much.

23 Questions from DAME ANNE RAFFERTY

24 DAME ANNE RAFFERTY: Good afternoon, SO91. Thank you for
25 coming and thank you for being prepared to help us.

1 I know we have kept you waiting a while today. I'm
2 afraid there was no option, but here we are at last.
3 Quite a lot of this I can take fairly expeditiously.
4 I am going to ask you some preliminary questions and
5 then Mr Judd is going to take over on some topics and
6 then Ms Jackson.

7 I am sure that in 2003 you were Commander Legal at
8 HQ 1st Armoured, is that right?

9 A. That is correct.

10 DAME ANNE RAFFERTY: I think your legal qualification was as
11 solicitor and it went on from there, is that right?

12 A. Yes, that is correct.

13 DAME ANNE RAFFERTY: Right. Will you have a think for me
14 about training and instruction out there at
15 Camp Stephen. I can tell from what you have written in
16 your statement that we have just had a look at that you
17 have a view on the maintenance of law and order and the
18 various FRAGOs and the planning, or absence thereof, for
19 the occupation phase. Can you, without going into
20 enormous detail, flesh that out for us a little? Can
21 you put some colour into the palette? What is your
22 view?

23 A. Sorry, what is my ...?

24 DAME ANNE RAFFERTY: View of any failure to plan for the
25 occupation phase, of any breakdown in law and order, of

1 the various FRAGOs to meet the situation.

2 A. I have tried to address the issue of failure to plan for
3 the occupation generally. This is a huge (inaudible)
4 that the British Army were deployed to Iraq very late in
5 the day in terms of military planning. So it has been
6 my first encounter with the operations in November, and
7 then we had -- first of all, the plan was that the
8 British Army or the 1st Armoured Division would actually
9 go to southern Turkey and fix the northern Iraqi
10 divisions and just sit on the border, so we wouldn't
11 occupy anything at all.

12 That plan was then ripped up just before Christmas.
13 We were told to go away and our leave had been
14 cancelled, it would have been a combat in theatre. So
15 we came back in January and about ten days later we were
16 in Kuwait manning an invasion from the south. So the
17 time span is very short indeed. (Inaudible) even plan
18 for the (inaudible) fighting, never mind the occupation.
19 In fact (inaudible) didn't give the occupation any
20 thought at all.

21 DAME ANNE RAFFERTY: Can I take you to your views on
22 breakdown in law and order and particularly looting,
23 which I think I am right you described both those things
24 as "entirely unprecedented", and the phrase you have
25 used is things were addressed "as and when" and,

1 therefore, the troops had to deal with an evolutionary
2 process rather than something planned. Does that remain
3 your view?

4 A. Yes, it does and --

5 MR JUDD: Dame Anne, I apologise for cutting across, but
6 I notice the interpreter has a virtual hand raised.

7 DAME ANNE RAFFERTY: Thank you. Right.

8 THE INTERPRETER: Unfortunately the voice of SO91 is
9 totally -- I cannot understand a word. It is muffled.

10 MR JUDD: Sorry to cut across this time the interpreter, but
11 SO91's line, certainly for me, is quite fuzzy.

12 DAME ANNE RAFFERTY: It is for me too. I can cope, but it
13 certainly is not good.

14 THE INTERPRETER: I cannot understand a word.

15 DAME ANNE RAFFERTY: Perhaps we can find out from the
16 interpreter whether that is in fact what is concerning
17 her.

18 VIRTUAL HEARING MANAGER: Could I perhaps interject here?

19 DAME ANNE RAFFERTY: Please do.

20 VIRTUAL HEARING MANAGER: This is an issue that was known to
21 me in testing. Unfortunately SO91 said to me that he
22 was unable to obtain a headset or any kind of microphone
23 to plug in. The sound was actually a little bit better
24 in the test.

25 (Pause to address sound quality issues)

1 DAME ANNE RAFFERTY: Thank you. Thank you again, Mr Cherry,
2 and thank you SO91.

3 Is it still your evidence SO91 that there was
4 a complete breakdown and matters were unprecedented and
5 the process was evolutionary? I think you had said
6 "yes", but let's just double-check.

7 A. Dame Anne, that is correct. The meeting was almost
8 (inaudible) in that the regime targets had just been
9 police stations, ports, civic buildings and general
10 meeting was just academic throughout Basra and
11 throughout the whole area of operations.

12 DAME ANNE RAFFERTY: Let's stay with endemic looting then,
13 since you take us to it. To control that, can you put
14 your finger on who ended up being responsible for
15 developing law and order approaches to it?

16 A. Yes, that is a really difficult question. Let me just
17 take you left of that first of all. Because as soon as
18 we invaded Iraq we had a question raised by a Brigade
19 Commander saying, "What can I do? Can I shoot looters?"
20 So that came up to divisional headquarters and that was
21 knocked back very fast indeed. We didn't want people
22 being shot for just looting, obviously. So as soon as
23 that request came into a divisional headquarters,
24 a guide to looting was issued that same day telling them
25 what use of force you could use against looters.

1 DAME ANNE RAFFERTY: And is that an example that you have
2 chosen, SO91, to show us the depth of the problem? Or
3 is that essentially the problem?

4 A. Obviously we couldn't use that level of force, which is
5 unlawful both under the laws of war and under our own
6 domestic legislation. But it shows you just how the
7 problem emerged almost immediately and we had to find
8 a way of dealing with it as best we could.

9 DAME ANNE RAFFERTY: Thank you. That being so, who ended up
10 responsible for developing law and order? At what level
11 of what was the control or --

12 A. The guidance obviously in this sort of formation was
13 given by a division. The divisional headquarters issued
14 instructions on law and order, and we have seen the
15 FRAGOs on law and order, and also there is a separate
16 FRAGO on looting and what Commanders' powers were.

17 DAME ANNE RAFFERTY: Thank you very much. In your view was
18 it possible to have oversight of troops on the ground?

19 A. It is impossible. If I can give you a sense of numbers,
20 a division is roughly 25,000 foot soldiers. So there is
21 a divisional headquarters. It is composed of three
22 brigades. Those brigades are broken down into smaller
23 formations, battle groups, then battalions, then
24 companies, then platoons and so on and so forth. If you
25 imagine a headmaster and mistress of a large school of

1 2,000 people. Can you know what every pupil is doing?

2 It is nigh on impossible.

3 DAME ANNE RAFFERTY: I understand.

4 A. It is impossible.

5 DAME ANNE RAFFERTY: Understood. Thank you. Once the
6 complete breakdown was evident to rather more than just
7 you, was there any further training put in place?

8 A. I think at that point it would have been nigh on
9 impossible, to be honest.

10 DAME ANNE RAFFERTY: Impossible? Impossible to pull back?

11 A. I think, if we think of -- the way a war unfolds is in
12 the least (inaudible) way. Day one, some territory
13 falls to coalition forces. The divisional headquarters
14 is still sitting on the Kuwait border. We then move
15 forward about ten days later, but we are basically in
16 a tomato field somewhere in southern Iraq. I wasn't
17 even sure where we were. Then we arrive in Basra air
18 force headquarters. But let me put it like this:
19 imagine yourself arriving in Luton airport as an Iraqi
20 and finding yourself responsible for controlling
21 everything from Durham to Dover. It's an enormous task
22 just getting your head round it.

23 DAME ANNE RAFFERTY: Yes. A metaphor easily understood.

24 Thank you. Towards the end of the war phase, so still
25 in the war phase but towards its end, how did Rules of

1 Engagement change? Can you help us with that?

2 A. The Rules of Engagement didn't change throughout the
3 whole of TELIC.

4 DAME ANNE RAFFERTY: Okay. Didn't change at all?

5 A. The Rules of Engagement were issued at the very outset.

6 There were different phases of combat operation. You
7 will see references to 3B and 4. We never got beyond
8 phase 3B. We did request a change of (inaudible)
9 profile more appropriate for peace-keeping operations,
10 but they weren't issued. Just to give you some clarity
11 on that, of course the laws of armed conflict continue
12 even though active hostilities have finished, because
13 you can still find pockets of resistance, you still
14 might need to use the laws of war to mop up those
15 pockets of resistance or deal with an attack.

16 DAME ANNE RAFFERTY: Can I take you now to a particular
17 FRAGO. Start with 91. We will put it on the screen for
18 you if you want it.

19 A. Yes, please.

20 DAME ANNE RAFFERTY: Essentially looters should be handed to
21 the RMP, Royal Military Police, where they are
22 temporarily detained. You will be familiar with -- we
23 have certainly looked at it a lot -- FRAGO 152 and
24 FRAGO 163, which seem to have arisen out of an
25 increasing concern about treatment of detainees. So,

1 for example, 163 predicates detainees delivered within
2 an hour, and within one to two hours of temporary
3 detention where possible.

4 Was there any oversight by you, your staff or
5 anybody else over whether these fine aims were
6 achievable or achieved in practice?

7 MR JUDD: Sorry to cut across Dame Anne, before SO91 answers
8 that question I wonder if Opus could bring up the FRAGO
9 in question, which is at {A/15/1} please.

10 DAME ANNE RAFFERTY: FRAGO 091.

11 A. Thank you.

12 DAME ANNE RAFFERTY: Not at all. So the question was: was
13 there for you any oversight into whether these desirable
14 objectives were achievable or achieved in practice? You
15 might not know the answer but, if you do, what is it?

16 A. I don't know the answer to that. We obviously issued
17 guidance as to how Commanders were supposed to approach
18 the question of looting. I wasn't aware that that
19 wasn't being delivered.

20 DAME ANNE RAFFERTY: Okay.

21 A. The way it works is that, in a divisional headquarters,
22 obviously we issue instructions to the Brigades, the
23 Brigades then cascade them down to Battle Groups, down
24 to Battalions, down to Companies and so on and so forth.
25 We weren't aware that looting was causing this level of

1 problem.

2 DAME ANNE RAFFERTY: Understood. So for these purposes in
3 2003 you are Commander Legal.

4 A. Yes.

5 DAME ANNE RAFFERTY: And he sets out the legal advice. But
6 implementing it lies as a responsibility with the
7 Brigades and the sub-units, correct?

8 A. There is another part to it, and that is the police.

9 The Military Police are the interface between the
10 various military formations and the incident. So the
11 person will be temporarily detained, the Military Police
12 would be called, they would be taken to the Military
13 Police and I would have expected it to filter back
14 through them.

15 DAME ANNE RAFFERTY: Filter back through them where? Which
16 way?

17 A. There is a Provost Marshal, of course. So, as well as
18 Commander Legal, there is a Provost Marshal, who is head
19 of the police in the division.

20 DAME ANNE RAFFERTY: Thank you. Your legal advice, who was
21 it for? Who was it directed at at Brigade HQ?

22 A. It was (inaudible) the Commanders. So that could be the
23 Commander of a Battle Group, it could be the Commander
24 of a Battalion, it could have been to a Company
25 Commander, even a Platoon Commander. It's a generic

1 term.

2 DAME ANNE RAFFERTY: Okay. Would it be right that it
3 would -- it was certainly capable of going down through
4 the levels, so go from Brigade to Company to Patrol
5 Commanders, et cetera. Is that what you have just been
6 setting out essentially?

7 A. I know from another case that the advice or the guidance
8 did cascade down as far as that.

9 DAME ANNE RAFFERTY: I missed the end of that sentence. You
10 know that the advice ...

11 A. I know that my guidance did get down to --

12 DAME ANNE RAFFERTY: It did get down, yes.

13 A. -- the lowest level.

14 DAME ANNE RAFFERTY: So you know of what you speak, SO91.

15 Thank you. Right, think for me, if you will, about
16 hooding and stress positions, and think about before --
17 pre-FRAGO 152, which is 20 May 2003. Is it right that
18 there was no direction to Companies to say: hooding is
19 not permissible.

20 A. No.

21 DAME ANNE RAFFERTY: It's not correct?

22 A. It's not correct, as far as I --

23 DAME ANNE RAFFERTY: Thank you.

24 A. I just have to caveat that. I first came across hooding
25 and stress positions in late March in the JFIT, and then

1 I launched an immediate complaint to the Doc about these
2 practices. That issue was then staffed to higher
3 headquarters who said that I had given incorrect legal
4 advice. However, the [REDACTED] had also found
5 mistreatment of prisoners and had launched a complaint
6 to the Secretary of State for Defence. That caused the
7 Secretary of State for Defence to send a one star civil
8 servant to head off the [REDACTED] in theatre. It was
9 an awful position for me to be in because I said it was
10 unlawful. That was then contradicted. I don't have the
11 exact date, but an instruction was given by the
12 divisional headquarters that hooding was prohibited.

13 DAME ANNE RAFFERTY: Thank you. And stress position? Use
14 of the stress position? Any instruction, any training,
15 any prohibition?

16 A. It wouldn't be permitted. It would simply amount to
17 violence against the prisoner.

18 DAME ANNE RAFFERTY: Thank you. Coming back to what you
19 would perhaps describe as the complete lack of planning
20 for the occupation which, if you want to have a look at
21 it, is at {A/77/6}. In your witness statement, it is
22 paragraphs 28 to 34. You were ready I think for
23 belligerent occupation, so you briefed beforehand,
24 before deployment, the division about the rights and
25 responsibilities of an occupying power. Have I got that

1 right?

2 A. That is correct.

3 DAME ANNE RAFFERTY: So given the complete lack of planning,
4 despite your pre-deployment briefing, did the absence of
5 planning contribute to the problem and scale of the
6 looting?

7 A. In my view it did, because we deployed with 25,000
8 soldiers and then, as soon as the active hostilities
9 were finished, we then cut down the force profile. So
10 our troop numbers were reduced massively.

11 DAME ANNE RAFFERTY: Do you remember roughly to how much?
12 You might not.

13 A. My recollection is -- and it's difficult to be precise,
14 but I think we got down to about 8,000.

15 DAME ANNE RAFFERTY: From about 25,000?

16 A. Yes, there was a massive force reduction. Remember that
17 forces have to regenerate for subsequent deployments.
18 So instead of an increase in numbers, we had a huge
19 decrease in numbers (inaudible) the task of occupying
20 the territory. Remember that Basra province is the same
21 size as Wales. And we didn't just have Basra province,
22 we had Maysan as well, which is almost the size of
23 Wales. It is vast.

24 DAME ANNE RAFFERTY: So was the outflow from this informal
25 arrangements for troop command until the day that FRAGOs

1 came out? What was the outflow of all this?

2 A. Sorry, what do you mean by "outflow"?

3 DAME ANNE RAFFERTY: There was a problem about scale. The
4 looting was very considerable. The troop numbers had
5 gone down. The consequentials of all that result in
6 informal arrangements for troop command until the FRAGOs
7 started to bite on the situation?

8 A. I couldn't -- the ways that were sought to solve this,
9 because the Hague Rules say that your responsibility is
10 to ensure public order and safety, our approach to
11 solving this is to bring back the Basra police force and
12 to bring back the court system as quickly as we possibly
13 could, and we achieved it in six weeks, which is
14 a phenomenal achievement. But we worked flat-out. We
15 had no courthouses, we had no judges, we had no juvenile
16 court system, we had no remand system. We had to piece
17 it all back together again with just a handful of us
18 working flat-out to do so, because we realised we
19 couldn't achieve it by ourselves.

20 DAME ANNE RAFFERTY: Yes. Thank you. I am going to hand
21 over, SO91, to Mr Judd who is going to ask you some
22 questions about wetting.

23 Questions from MR JUDD

24 MR JUDD: Thank you, SO91. I will address a couple of these
25 in broad terms first. You have helpfully told us in

1 your witness statement that you were unaware of wetting
2 whilst you were in theatre, and the reference for that
3 is {A/77/7}. Opus, could we put up {A/77/7} please?
4 Thank you very much.

5 You address it there at paragraph 39. You helpfully
6 set out that it would be something which would violate
7 international law and:

8 "... would have been stamped on as fast as hooding
9 and stress positions had it come to the attention of
10 Divisional Headquarters."

11 If you could just keep that in mind, I am going to
12 run through some specific instances which we have
13 already discussed with other witnesses today and invite
14 any comments you may have on them or any information you
15 think would be helpful.

16 The first of those is at document {A/84/4}, which is
17 the evidence of SO99. If we can bring that up, please.
18 Thank you. It might be helpful to have the two pages,
19 this page and the next page, on the same screen for SO91
20 to see them. Thank you.

21 If I could summarise, SO91, and it may be worth
22 having a quick read of --

23 A. Which paragraphs would you like me to read?

24 Q. Paragraphs 24 to 26 if you could, please.

25 A. Okay. I have read that.

1 Q. Thank you. I have the helpful comments you have already
2 made on the oversight that was possible, given the scale
3 that the group was facing at this point, but I just
4 first want to ask whether incidents of this nature are
5 something you ever had any recollection of from your
6 time in 2003.

7 A. No, I have no knowledge of this. The only time I came
8 across any reference was when I got an interim police
9 report. If there was a fatality, we would get
10 an interim report from the SIB, the Special
11 Investigation Branch, and I do remember that someone had
12 drowned and I simply gave the instructions to the SIB
13 that this needs full investigation, and that is the only
14 time I have come across anything like this. Obviously
15 none of this would ever have been permitted and, had it
16 been known to us, we would have jumped on it, as I said
17 before, as quickly as stress positions and hooding.

18 Q. Thank you. That is helpful. But if we take this
19 account at paragraphs 24 to 26 and assume for a moment
20 that the practice was being discussed at O group
21 meetings, would it have been something which you would
22 have expected to have made its way to you, had it been
23 discussed in those circumstances?

24 A. An O group meeting at Company level is a very, very long
25 way down the food chain. That is not to be disparaging

1 about it, but it would have gone up to Battle Group
2 Headquarters, then Brigade Headquarters. Then Brigade
3 would have taken it up with Division if that had been
4 considered a serious issue. So each evening we had
5 a divisional calling, so the Brigade Headquarters
6 calling of division. It is run by the Chief of Staff
7 and they could bring their concerns to the divisional
8 headquarters.

9 Q. Yes. I suppose there is a second part to this question,
10 which is how far down that chain could you -- or were
11 you engaged with this information? Or was it the case
12 that you were at the mercy of what came to your desk
13 through that chain of command?

14 A. The divisional headquarters is the very apex of the
15 military formation. So it's the nose cone. So it
16 simply wouldn't get down -- very rarely would it get
17 down to Brigade level. It certainly wouldn't get down
18 to Battle Group level. It certainly wouldn't get down
19 to Battalion level. Put it this way: it is highly
20 unlikely that it -- I don't use the words "food chain"
21 disparagingly, but you get my meaning. It's a --

22 Q. Yes.

23 A. -- long way down the chain of command.

24 Q. Yes. I think again it would be helpful to know how you
25 would characterise this, and my question is: would you

1 describe it as "haphazard" or "fairly formalised", the
2 way in which incidents like this made their way up to
3 you? Or was it a case of whatever somebody chose to
4 report up the chain of command are the things which came
5 across your desk?

6 A. Yes, it would have been staffed upwards from the
7 Commanding Officer of the Battalion or the Battle Group,
8 up to the day it would have been staffed from the date
9 up to divisional headquarters.

10 Q. Okay. Thank you. That is helpful. We will just go to
11 the second account I would like to take you to, which is
12 the evidence of SO84. If Opus could helpfully pull up
13 {A/66/18}, please. That would be fantastic. We have
14 the paragraph there at the bottom, SO91, which is
15 paragraph 133. Again, it runs on to the following page.

16 A. Yes.

17 Q. Again I appreciate these are accounts which are being
18 given by a level in the chain of command some way below
19 where you might have day-to-day experience, but if you
20 wouldn't mind just reading paragraph 133 and any
21 comments you might have that would help us put it in
22 context would be helpful.

23 A. It is horrifying. It is clearly -- they have taken
24 matters into their own hands and carried out actions
25 towards the looters which would not have been permitted

1 in any circumstances and contrary to the instructions or
2 the orders that were disseminated down the chain of
3 command. One witness -- I think it was the witness
4 I just heard -- said there was nothing about prohibiting
5 water. But, as he said, that didn't mean you could do
6 it. And he is quite right. You can't envisage a whole
7 panoply of possible problems because you are not looking
8 into a crystal ball; you don't know what is going to
9 manifest itself. The paragraphs in this evidence are
10 horrific and would have been dealt with very, very
11 severely had we got wind of it.

12 Q. Yes. Again that is very, very helpful. Just
13 a follow-up question from that. Would it be fair to say
14 that at the position of Commander Legal that there was
15 an understanding that soldiers were taking these matters
16 into their own hands? Or is it something which has only
17 come to light to you in these investigations?

18 A. No, I think, as you can see probably from the FRAGOs
19 that were issued, I was beginning to feel uneasy about
20 some of the information coming across my desk. So what
21 was happening of course, if there was a death in
22 custody, I would at some point shortly afterwards
23 receive an interim report. So the SIB, the police,
24 would send me as Commander Legal an interim report which
25 would say "Death of ..." whoever it was, and then set

1 out probably the location, the unit and so on and so
2 forth. The concluding paragraph would be "Investigation
3 continuing". So I don't know at that point what is
4 going on. To get one is -- yes, I would expect that, in
5 all probability. Two, possibly. By the time I was
6 conscious of more coming across my desk, then I wrote
7 FRAGO 152. Of course, the SIB came into divisional
8 headquarters that night and I was totally (inaudible).
9 They gravitate towards me anyway because of the legal
10 nexus, which is why I issued FRAGO 152 just to say:
11 look, if you haven't got this, now is the time to switch
12 on.

13 Q. Yes. Thank you very much for that. It may seem like
14 a dim question but, in light of those FRAGOs 91, 152 and
15 163, the incidents which I have just taken you to, would
16 it be fair to say they would be in breach of those
17 FRAGOs?

18 A. Yes, of course.

19 Q. I think you may have answered this already, but just to
20 clarify: how credible is it to you that there was
21 an intelligence gap or a gap of knowledge between what
22 was being discussed at those O group meetings and the
23 level of Command Legal?

24 A. We could only deal with what is staffed up to us at
25 divisional headquarters. It is impossible to have

1 visibility across an entire force of operations.

2 Q. Yes.

3 A. It would be like saying to you; do you know what is
4 going on now in Essex? In Chichester? That level of
5 visibility is very hard to achieve in those
6 circumstances.

7 Q. Yes, I appreciate that. If we could just move on to
8 a specific incident, which again you have been asked
9 about in your witness statement, which it would be
10 helpful to get some clarification on. Opus, could we
11 pull up document {A/77/8}. SO91, this your witness
12 statement you have already prepared in these
13 investigations, and I am looking at paragraph 40. We
14 need to go back a page to {A/77/7}. Thank you.

15 SO91, this is an incident that was, I think, relayed
16 second-hand to you in which you became aware of
17 prisoners being thrown off a bridge into the
18 Shatt Al-Arab in the city. It was first brought to your
19 attention in 2005 as a result of a conversation with
20 another legal officer. I was going to ask a few
21 questions on this, the first of which is: can you recall
22 who actually reported this story to you?

23 A. I can, yes.

24 Q. I wouldn't want you to give a name, but is it a name you
25 could recall now?

1 A. Yes, of course.

2 Q. Thank you. Can you give us some context perhaps as to
3 why you think this story was reported to you?

4 A. It is a bit like being in the law, I suppose; you meet
5 in court formally but you meet informally as well. So
6 you meet over dinner and stories are relayed.

7 Subsequently, I was Commander Legal in Cyprus at HQ BFC.
8 The individual concerned was a young officer who came
9 into my office and we started chatting about Iraq, and
10 I was then told this story.

11 Q. Thank you. Again, it is something which happened
12 a while ago and it was a second-hand conversation, but
13 it would be helpful to know whether this was reported to
14 you as something which was commonplace or an exception
15 or otherwise noteworthy and required reporting to
16 someone of your seniority?

17 A. It wasn't reported to me as someone of my seniority.
18 This is a conversation about a PACE call on which this
19 individual had been called out to in theatre in 2003.
20 So obviously people were being interviewed under caution
21 for alleged defences in the same way they would be in
22 any other walk of life where they are entitled to legal
23 advice, and a legal officer would be sent out to assist
24 them in the PACE interview, and this incident was
25 apparently in the bundle of evidence that the defence

1 lawyer read as part of prior disclosure to interview,
2 and the story goes that, when he came back, the evidence
3 had gone.

4 Q. Thank you. If we can just go over the page, please, to
5 paragraph 42. Page {A/77/8}. You set out here, SO91,
6 at the final sentence there that there may have been
7 a fear of reporting these matters because they would
8 have a detrimental effect on military careers. Is that
9 a comment that you might apply to the other incidents
10 that I have just taken you to? So the evidence
11 for example of SO99 and it being well understood that
12 looters were being taken and thrown into bodies of
13 water. Might it be the case that the fear of having
14 a detrimental effect on one's military career might be
15 a reason why those weren't reported further up the chain
16 of command?

17 A. Yes, possibly. There are all sorts of things that play
18 on the dynamics of military life. One is this
19 conflicted loyalty to your fellow members of your
20 Regiment or Battalion. Conflicted loyalties to your
21 friends. The moral component; that you are taught to
22 stick together and become a unit, and, on the other
23 hand, you are taught that the moral component is all
24 important at any level of junior command upwards, and
25 that is very difficult for people to grapple with.

1 A number of officers have said to me that they feared
2 reporting things because they felt that might have
3 an impact on their career. It is very hard to put your
4 finding on but it happens in all walks of life.

5 Q. Yes. Thank you. That has been incredibly helpful.

6 I don't have any more questions or things to explore
7 from a wetting perspective, so I will hand back to
8 Dame Anne. Thank you, SO91. That has been incredibly
9 helpful.

10 A. Thank you very much.

11 DAME ANNE RAFFERTY: Thank you again, SO91. That has been
12 very helpful and beautifully organised, if I may say so.
13 There are a couple of questions, only a couple, left for
14 you and they are going to be posed by Natasha Jackson.

15 Questions from MS JACKSON

16 MS JACKSON: Thank you, Dame Anne. Thank you, SO91. Just a
17 very small number of questions from me, if that is okay.

18 Firstly relating to the Radhi Nama and, Opus, can I ask
19 you to turn up {A/77/7}, please, and we are looking at
20 paragraph 36. Is that on this page? {A/77/6}.

21 Thank you. At paragraph 36 you say:

22 "I have had sight of my legal advice on this matter
23 dated 11 September 2003. The police report was sent to
24 Legal Branch HQ 1st (UK) Armoured even though no one had
25 been reported for a crime. I made a legal judgement on

1 the evidence and reached the same conclusion as the
2 Military Police. This was the same conclusion
3 subsequently reached by the SPA. The clerical error has
4 no bearing on the advice. The Geneva Conventions set
5 out the procedure for the death of civilians ... and
6 this procedure was followed."

7 Opus, could you turn to {A/44/1}. Thank you. SO91,
8 are you able to confirm for us whether this is the
9 report that you are referring to in your paragraph 36
10 there?

11 A. It's hard for me to tell. This has come from Legal
12 Branch 5 Division, and that is much later than my advice
13 which -- I think my advice was on 11 September 2003.

14 Q. Thank you --

15 A. I (inaudible) served in 5 Division at any time and by
16 this stage I don't think I was at 1st Armoured Division
17 at this stage either.

18 Q. That is very helpful. Thank you, SO91. We have your
19 evidence that you provided your legal advice on
20 Radhi Nama's death. Do you have anything else that you
21 feel able to tell the investigations about the
22 circumstances of his death? Or is there nothing that
23 goes further than that advice?

24 A. Well, no, simply that I got a case file to look at and
25 evaluate the evidence, which is routine, and I did just

1 that as Commander Legal, and I didn't take any further
2 part in it. And of course I don't know anything about
3 it at unit level, other than what I have read in the
4 evidence.

5 Q. Thank you. That is incredibly helpful. I think it is
6 going to be even shorter in relation to Mousa Ali.
7 I won't ask Opus to put it back up unless that is
8 necessary for you, but at your paragraph 37 you say you
9 have no recollection of receiving a provisional report
10 from the SIB for Mousa Ali. You described to us how you
11 might receive a provisional report from the SIB and you
12 did in relation to a death in the canal. We have your
13 evidence as it relates to Mousa Ali. I just wanted to
14 check whether there was anything else that you had that
15 you felt able to comment about the circumstance of his
16 death.

17 A. No, there is nothing further.

18 MS JACKSON: Thank you. Those are all the questions I had
19 for you. I will pass back to Dame Anne.

20 DAME ANNE RAFFERTY: Thank you very much. There is nothing
21 I want to ask as a follow-up, SO91. I am just going to
22 pause now whilst Mr Judd goes around the representatives
23 to see if there are any questions they would like to
24 apply to us to put to you, and then we will see how we
25 go. Mr Judd.

1 MR JUDD: Thank you, Dame Anne. If I could start with those
2 at the Grand Millennium Hotel. Are there any questions
3 you would like to put?

4 MS AL QURNAWI: Thank you. No questions from here.

5 DAME ANNE RAFFERTY: Thank you.

6 MR JUDD: Thank you. I understand Ms Moss may no longer be
7 on the call, is that right?

8 DAME ANNE RAFFERTY: That is right.

9 MR JUDD: Thank you. Any questions from Mr Foley? Again he
10 may no longer be on the call. Mr Berlow?

11 MR BERLOW: No questions from me.

12 MR JUDD: Mr Cherry?

13 MR CHERRY: No questions from me. Thank you.

14 DAME ANNE RAFFERTY: Right. In that case, you have all had
15 a very long day. SO91, you have had a long wait before
16 giving us your evidence, but we knew you had to be heard
17 today, and we are grateful to you for being prepared to
18 give it and for waiting so long during the day to give
19 it. And, as you will have seen, we are all more than
20 appreciative of the help you have given us. So
21 thank you.

22 DAME ANNE RAFFERTY:

23 A. Thank you.

24 DAME ANNE RAFFERTY: I think before I draw today to a close
25 can I thank everybody who has been here and still is

1 here. They are long days for all of you, and none of
2 you, particularly our friends and colleagues in Basra,
3 wants to be here. We are all acutely conscious of
4 the strain, and thank you again. We will hope to see
5 you again tomorrow morning. Anything else, Natasha,
6 that I need to do before we finish for the day?

7 MS JACKSON: No, I think not. Same time tomorrow at
8 10.00 am. I expect we don't need to join the call
9 at 9.30 am tomorrow, so I think we can ask all attendees
10 to join at 9.50 am, unless Opus tells me otherwise.

11 DAME ANNE RAFFERTY: Good. All right. Goodnight one and
12 all.

13 (5.50 pm BST)

14 (The Inquiry adjourned until 10.00 am BST on
15 Wednesday, 12 April 2023)

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