

CHAPTER 4: DETENTION AT THE DTDF COMPOUND

1. Conditions in the DTDF

- 4.416** With the exception of Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) who was transferred initially to the Field Hospital,⁴⁸⁸¹ when the other eight detainees left the Joint Forward Interrogation Team (“JFIT”) compound, they were transferred to join the main detainee population at the Divisional Temporary Detention Facility (“DTDF”).⁴⁸⁸² The layout of the DTDF is described in the Introduction to this Part of the report. As I indicated at paragraph [4.27] of the introduction, each accommodation block included a vestibule containing two sinks, a shower and a lavatory. The detainees’ access to those facilities was entirely unrestricted. Each cell block also had air-conditioning.
- 4.417** Various witness also recalled that the detainees had radios in their cells. For example, Sergeant John Johnson said in his Inquiry statement that the detainees were given radios to help them with daily prayer times. He said there were approximately two or three radios per cell. The detainees were allowed to listen to whatever they wanted on the radios, but they would often listen to the forces radio which played Western music. He said the detainees went through an enormous amount of batteries for the radios.⁴⁸⁸³
- 4.418** Sergeant Raymond Mepsted said in his written Inquiry statement that each cell was initially issued with one radio. However that caused arguments between detainees about what to play, so the cells were issued with more radios per cell.⁴⁸⁸⁴ In his oral evidence, Sergeant Mepsted said he was sure the detainees’ cells had radios in them because he was responsible for providing the radios and the batteries.⁴⁸⁸⁵
- 4.419** Sergeant Ivan Sharplin also recalled in both his written Inquiry statement⁴⁸⁸⁶ and his oral evidence⁴⁸⁸⁷ that the detainees were issued with at least one radio in every cell.
- 4.420** I am satisfied that Sergeant Johnson, Sergeant Mepsted and Sergeant Sharplin have accurately recalled that the detainees were issued with radios in their cells.
- 4.421** The detainees remained in the DTDF for a little over four months until they were transferred to the Iraqi criminal justice system. Ibrahim Al-Ismaeeli, Kadhim Abbas Lafta Al-Behadili (detainee 775), Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776), Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) and Hussein Gubari Ali Al-Lami (detainee 780) were transferred on 21 September 2004. Hamzah Joudah Faraj Almalje (detainee 772), Mahdi Jasim Abdullah Al-Behadili (detainee 773), Ahmed Jabbar Hammood Al-Furaiji (detainee 777) and Hussein Fadhil Abass Al-Behadili (detainee 778) were transferred on 23 September 2004.⁴⁸⁸⁸
- 4.422** Approximately two months after the detainees arrived at the DTDF, the operation of the facility was handed over from 1st Battalion Royal Highland Fusiliers (“1RHF”) to 40 Commando (“40 Cdo”) Royal Marines. When the detainees arrived at the DTDF, Major David Richmond of 1RHF was the Officer Commanding the DTDF. On 15 June 2004, Major Anthony De Reya

⁴⁸⁸¹ (MOD032932)

⁴⁸⁸² (MOD040119); (MOD040122)

⁴⁸⁸³ Sergeant Johnson (ASI014464) [61]

⁴⁸⁸⁴ Sergeant Mepsted (ASI011819) [43]

⁴⁸⁸⁵ Sergeant Mepsted [164/156/23]

⁴⁸⁸⁶ Sergeant Sharplin (ASI009861-62) [52]

⁴⁸⁸⁷ Sergeant Sharplin [162/143]

⁴⁸⁸⁸ (MOD044225)

of 40 Cdo was deployed to Iraq and began a two-week Reception Staging and Onward Intergration (“RSOI”) course. That course was followed by a two-week handover by Major Richmond. On 12 July 2004, Major De Reya took over from Major Richmond as the Officer Commanding the DTDF.⁴⁸⁸⁹

4.423 The Military Provost Staff (“MPS”) personnel also changed during the time the detainees were held at the DTDF. Major De Reya explained that the MPS personnel did not change at the same time as the non-specialist personnel; their handover came later. This was in order to ensure that there remained a high level of knowledge and consistency in the way the DTDF was run.⁴⁸⁹⁰

4.424 A note of the day-to-day operation of the DTDF was kept in the Daily Occurrence Book, which was kept in the administration area. The Daily Occurrence Book was reviewed every day by the Officer Commanding the DTDF and the Duty Officer.⁴⁸⁹¹

4.425 Both Major Richmond and Major De Reya told the Inquiry that while they were in post at the DTDF, they were very much aware of the recently reported scandal at the Abu Ghraib internment facility run by US Coalition Forces. Major Richmond and Major De Reya said they understood that the DTDF would be under particular scrutiny as a result of that scandal. Major Richmond said:

*“The treatment of internees by elements of the US Coalition Forces who took part in widespread abuse of Iraqi internees was a disgrace and the fallout of the debacle continued throughout my time at the DTDF. It only served to reinforce my commitment that internees would be afforded the highest possible standard of care whilst at the DTDF and I was adamant that the same mistakes and lack of leadership would not be repeated under my command”.*⁴⁸⁹²

4.426 Major De Reya said:

*“I knew there was no margin for error. I would have to be firm but fair in my treatment of the detainees and ensure that my men understood and complied with the relevant procedures. I also knew the facility was being monitored by the ICRC [International Committee of the Red Cross]”.*⁴⁸⁹³

4.427 One member of the Internal Guard Force (“IGF”), Marine Jon Hussey, said it was made very clear to those who would come into contact with the detainees that they were to be well treated:

*“I recall clearly from my training that the detainees were to be treated as nicely as possible and it was made clear that any harm that came to any detainee at the hands of a soldier could result in the end of a soldier’s career.”*⁴⁸⁹⁴

⁴⁸⁸⁹ Major De Reya (ASI018909) [4]

⁴⁸⁹⁰ Major De Reya (ASI018911-12) [11]

⁴⁸⁹¹ Major Richmond (ASI022486) [74-75]

⁴⁸⁹² Major Richmond (ASI022464) [16]

⁴⁸⁹³ Major De Reya (ASI018911) [10]

⁴⁸⁹⁴ Marine Hussey (ASI017742) [16]

Food and Water

Water

- 4.428** Major David Richmond said in his written Inquiry statement that detainees were “given bottled water which was available to them at all times in the accommodation blocks. The water came in large 1.5l bottles and there [sic] were given numerous bottles for use in the block which were replenished before they ran out.”⁴⁸⁹⁵
- 4.429** Marine Daniel Burford, a member of the Internal Guard Force (“IGF”), told the Inquiry that the detainees were provided with the same bottled water that the soldiers drank. Every morning, the guards would collect some detainees from each accommodation block to collect boxes of water and a large urn of sweet tea, known as “chai”.⁴⁸⁹⁶ Major De Reya explained the detainees were each allocated four litres of water a day but they were also provided with additional water whenever they asked for it.⁴⁸⁹⁷

Food

- 4.430** Major David Richmond said in his written Inquiry statement that “internees were provided with three meals a day and this was provided to them in the accommodation blocks. The food was cooked off-site by contractors who had been specially appointed to provide food for the internees. It was not the same food that was given to the soldiers at the DTDF and Shaibah. The internees’ food was Halal and prepared in accordance with their religious and dietary requirements. They were given chai tea at meal times.”⁴⁸⁹⁸
- 4.431** Marine Burford told the Inquiry the detainees were provided with three hot meals at regular intervals throughout the day, every day. During Ramadan, the timing of the meals was changed to suit the detainees.⁴⁸⁹⁹ Major De Reya explained that the food was prepared by a firm of independent caterers. The personnel at the DTDF ate the same food as the detainees. The food was prepared in accordance with cultural and religious practices. Major De Reya said the food was of a high standard; however when he began his tour the food consisted of a lot of curries and other spicy foods that the detainees did not like. The menu was subsequently changed to suit the palates of the detainees.⁴⁹⁰⁰ In SITREPs dated 18 and 20 August 2004, Major De Reya recorded that the detainees were very happy with the food provided.⁴⁹⁰¹
- 4.432** Corporal James Green, a member of the IGF, told the Inquiry that the meals were delivered to the DTDF in pre-packaged boxes placed inside large black bags. The guards would take the meals to the detainee accommodation area. Corporal Green said that if the detainees needed more food they could ask for it and it would be provided.⁴⁹⁰² Major De Reya said that in addition to the hot meals, the detainees were provided with bread and fruit.⁴⁹⁰³

⁴⁸⁹⁵ Major Richmond (ASI022510) [148]

⁴⁸⁹⁶ Marine Burford (ASI016835) [39]

⁴⁸⁹⁷ Major De Reya (ASI018942) [100]

⁴⁸⁹⁸ Major Richmond (ASI022510) [148]

⁴⁸⁹⁹ Marine Burford (ASI016836) [40]

⁴⁹⁰⁰ Major De Reya (ASI018941-42) [100]

⁴⁹⁰¹ Major De Reya (ASI018941-42) [100]; (MOD020635); (MOD038411)

⁴⁹⁰² Corporal Green (ASI019197) [25]

⁴⁹⁰³ Major De Reya (ASI018941) [101]

Gifts of food from visitors

4.433 The detainees were also permitted to receive gifts of food, such as homemade bread, cakes, sweets, fruit, and drinks from their visitors.⁴⁹⁰⁴ The detainees would store these items in the accommodation blocks. However, the food would spoil and attract insects inside the accommodation blocks. This meant the accommodation blocks had to be fumigated on a regular and frequent basis. For this reason, Major De Reya decided eventually that detainees would no longer be allowed to keep food in the accommodation blocks.⁴⁹⁰⁵ In his written evidence to the Inquiry, Hamzah Joudah Faraj Almalje (detainee 772) referred to the insects and the fumigation:

*"I have only minor complaints about the treatment in the main compound and those principally relate to the numerous cockroaches which were everywhere despite the use of chemical sprays."*⁴⁹⁰⁶

4.434 The gifts of food items from visitors also caused some security concerns at the DTF. Marine Hussey recalled that contraband items were smuggled into the DTF inside items such as cakes.⁴⁹⁰⁷ Therefore, food items passed to detainees by their visitors were checked to ensure they did not contain any hidden contraband items.⁴⁹⁰⁸

Hunger strike

4.435 On 16 and 17 August, some of the detainees at the DTF refused to eat the meals that were provided to them.⁴⁹⁰⁹ A SITREP records that on 16 August, Ahmed Jabbar Hammood Al-Furaiji (detainee 777) and Hussein Fadhil Abass Al-Behadili (detainee 778) refused their meals, saying they wanted to be released immediately.⁴⁹¹⁰

4.436 Major De Reya recalled that this protest also involved some detainees refusing to take their medication, and detainees wearing t-shirts with the slogan "*We Want Freedom*" written in English. The same slogan was also written on the walls inside the accommodation blocks. Major De Reya said the detainees' food was left in the accommodation areas in case the detainees changed their minds and wished to eat. Major De Reya said that, in his view, the protest arose because the detainees were frustrated and disappointed at seeing others released from the DTF while they remained in detention with uncertainty as to when it would end. The protest did not appear to be against the quality or nature of the food that was provided to detainees.⁴⁹¹¹

4.437 Major De Reya recalled that one unspecified detainee complained because he gained weight during his time at the DTF.⁴⁹¹² An inspection of the medical examination forms that were completed, both on the detainees' arrival at the DTF and again on their departure, reveals that the nine detainees each put on weight during the period of their incarceration: Hamzah Joudah Faraj Almalje (detainee 772) gained 10kg,⁴⁹¹³ Mahdi Jasim Abdullah Al-Behadili

⁴⁹⁰⁴ Marine Burford (ASI016836) [42]

⁴⁹⁰⁵ Major De Reya (ASI018940) [97]; (MOD039738)

⁴⁹⁰⁶ Hamzah Joudah Faraj Almalje (detainee 772) (PIL000699) [69]

⁴⁹⁰⁷ Marine Hussey (ASI017754) [59]

⁴⁹⁰⁸ Corporal Green (ASI019197-98) [28]

⁴⁹⁰⁹ Major De Reya (ASI018946) [112]

⁴⁹¹⁰ (MOD004061)

⁴⁹¹¹ Major De Reya (ASI018946) [112-115]

⁴⁹¹² Major De Reya (ASI018948-49) [118]

⁴⁹¹³ (MOD043359); (MOD043394)

(detainee 773) gained 9kg;⁴⁹¹⁴ Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) gained 5kg;⁴⁹¹⁵ Kadhim Abbas Lafta Al-Behadili (detainee 775) gained 14kg;⁴⁹¹⁶ Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776) gained 10kg;⁴⁹¹⁷ Ahmed Jabbar Hammood Al-Furaiji (detainee 777) gained 9kg;⁴⁹¹⁸ Hussein Fadhil Abass Al-Behadili (detainee 778) gained 13kg;⁴⁹¹⁹ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) gained 11kg;⁴⁹²⁰ and Hussein Gubari Ali Al-Lami (detainee 780) gained 9kg.⁴⁹²¹

Exercise

4.438 Every day, the detainees were offered the opportunity to exercise outdoors. Sergeant John Johnson recalled that the detainees were allowed at least one and a half hours of outdoor exercise each day, although they often received longer.⁴⁹²² Sergeant Ivan Sharplin told the Inquiry the detainees were permitted approximately one hour of exercise in the morning and one hour in the afternoon or early evening.⁴⁹²³ As they entered the summer season, the weather became very hot in the afternoon so the detainees would decide not to go outside. The DTDF staff responded by moving the exercise to the early evening, when the air outside was cooler.⁴⁹²⁴

4.439 In the exercise yard, detainees were provided with hair clippers so they could cut each other's hair. The guards handed out the clippers during the exercise period and then they counted them back in afterwards. When they were collected back, the guards checked the clippers to ensure the razor blades had not been removed.⁴⁹²⁵

4.440 The exercise area appears to have contained a volleyball court, a football pitch and an area for basketball.⁴⁹²⁶ Marine Burford said part of the exercise yard was shaded.⁴⁹²⁷ Various guards, including Marine Burford and Corporal Green, said the guards would play volleyball and football with the detainees.⁴⁹²⁸ In his written evidence, Sergeant Sharplin said:

"[...] detainees used to use the opportunity at recreation times to play football or volleyball against the IGF [Internal Guard Force]. The atmosphere was positive with a lot of camaraderie between the two factions. Often the IGF and the detainees would mix up the teams so that they were playing alongside each other."⁴⁹²⁹

4.441 Sergeant Sharplin and Sergeant Raymond Mepsted recalled that Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) particularly enjoyed playing football and he was given the nickname of "Ronaldo" after a well known Brazilian footballer.⁴⁹³⁰

⁴⁹¹⁴ (MOD043434); (MOD043472)

⁴⁹¹⁵ (MOD043506); (MOD043536)

⁴⁹¹⁶ (MOD043563); (MOD043599)

⁴⁹¹⁷ (MOD043627); (MOD043654)

⁴⁹¹⁸ (MOD043681); (MOD043714)

⁴⁹¹⁹ (MOD043961); (MOD043994)

⁴⁹²⁰ (MOD044021); (MOD044047)

⁴⁹²¹ (MOD044074); (MOD044103)

⁴⁹²² Sergeant Johnson (ASI014463) [58]

⁴⁹²³ Sergeant Sharplin (ASI009852) [27]

⁴⁹²⁴ Sergeant Sharplin (ASI009858-59) [42]

⁴⁹²⁵ Sgt Sharplin (ASI009861) [51]

⁴⁹²⁶ Major De Reya (ASI018942) [102]

⁴⁹²⁷ Marine Burford (ASI016833) [30]

⁴⁹²⁸ Marine Burford (ASI016833) [32]; Corporal Green [132/40/14]

⁴⁹²⁹ Sgt Sharplin (ASI009861) [51]

⁴⁹³⁰ Sgt Sharplin (ASI009874) [104]; Sgt Mepsted (ASI011836) [109]

4.442 In his statement to the Inquiry dated 23 November 2012, Abbas Al-Hameedawi said that one day when he wanted to get some fresh air and asked if he could be allowed to go into the courtyard to exercise, he was not given permission to do so.⁴⁹³¹ In an earlier statement, dated 25 July 2010, Abbas Al-Hameedawi said that the detainees were allowed 1 hour of exercise every day.⁴⁹³²

4.443 I am satisfied that the detainees in the main compound at the DTDF were given adequate opportunity to exercise and take in fresh air. The complaint made by Abbas Al-Hameedawi concerning one incident does not detract from the general impression of a well-run and fair regime.

Prayer

4.444 The detainees were provided with prayer mats and copies of the Koran.⁴⁹³³ In his evidence to the Inquiry, Marine Burford explained that the detainees were made aware of the direction of Mecca and they prayed inside their accommodation blocks.⁴⁹³⁴

4.445 In his statement to the Administrative Court in the Judicial Review proceedings, Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) made the following allegation regarding the treatment of the detainees in general during prayer:

*"I felt that the English soldiers at Al Shu'aibi were really insulting to us. For instance, we made one of the detainees in our cell a "muezzin" who would make the calls to prayer every day. When he would start his call the soldiers would mock and insult us and insult our God. This would happen often; it was clear that the soldiers were taking advantage of their position by acting as if they were superior to us."*⁴⁹³⁵

4.446 This allegation was consistently and credibly denied by those witnesses who worked in the DTDF.⁴⁹³⁶ I have no doubt that this evidence was both truthful and accurate. I am quite sure that there was no actual occasion when guards deliberately mocked the detainees whilst they prayed, as alleged by Atiyah Al-Baidhani. It is possible that the detainees' worship generated a degree of curiosity among the guards and I cannot rule out the possibility that, the guards' curiosity was manifested in such a way as to be misinterpreted by Atiyah Al-Baidhani as disrespect or perhaps even an insult.

2. Visits

4.447 Paragraph 19 of the DTDF Operational Directive dated 4 April 2004 sets out the policy for the detainees to receive welfare visits:

"GV IV [Geneva Convention 4] lays down the right of internees to receive regular welfare visits from family. Within the DTDF such visits take place on the morning of Thu, Fri and Sat of each week. Detailed MND (SE) policy is at Annex D. The following overarching principles apply:

a. Visits are a right and can therefore only be denied in exceptional circumstances.

⁴⁹³¹ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) (PIL000465) [64]

⁴⁹³² Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) (ASI000867) [71]

⁴⁹³³ Sgt Sharplin (ASI009862-63) [52]; M003 (ASI024605) [44]; Fusilier Davis (ASI025126) [61]; Fusilier Strathern (ASI0228590) [37]

⁴⁹³⁴ Marine Burford (ASI016837) [44]

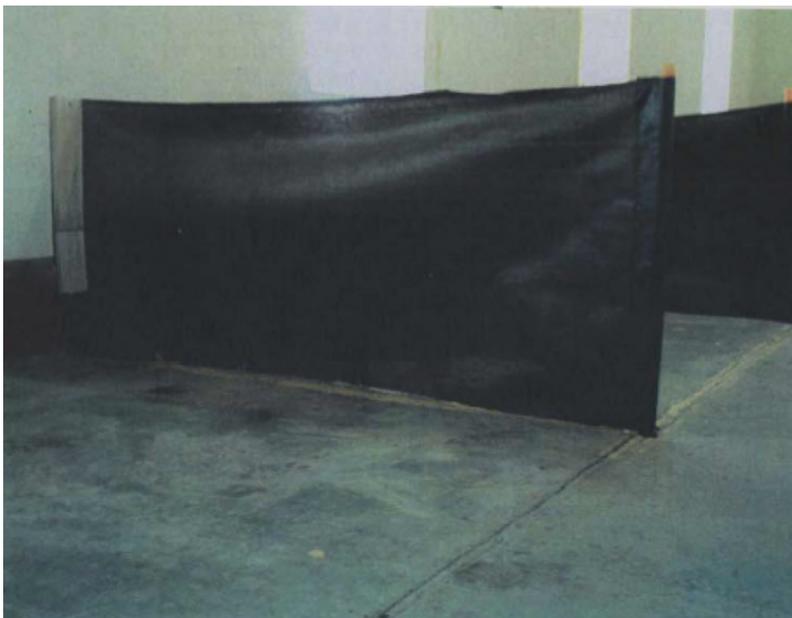
⁴⁹³⁵ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) (MOD047168) [51]

⁴⁹³⁶ See e.g. Major De Reya [160/26-27]; Sergeant Sharplin [162/142]; Sergeant Mepsted [164/160-161]

- b. *Whenever possible internees should be able to receive at least one visit per week.*
- c. *Visiting groups can consist of up to 4 adults and 4 children.*
- d. *Visits can be cancelled without notice on the grounds of security. Likewise individual visitors can be turned away should it be felt that they represent security threat.*
- e. *Upon arrival internees may be withheld visits for up to 2 weeks whilst being questioned within the JFIT. In exceptional circumstances OC JFIT may apply to COS MND (SE) for an extension to this time period.⁴⁹³⁷*

4.448 Visits took place in the air conditioned hall shown in the following photographs.⁴⁹³⁸

Figure 124: MOD046007



⁴⁹³⁷ (MOD045629)

⁴⁹³⁸ Major De Reya (ASI018931) [63]

4.449 Sergeant Sharplin explained how visits were conducted:

“Visitors would be bussed into the main gate at Shaibah, which we called the “golden arches”. There we understood that they would be checked for weapons outside of the camp around 100 meters further along the road. Once visitors had been searched, they were put back onto the bus and brought to the DTDF. The outer door to the Airlock would then be opened, and within the Airlock visitors would be searched again. Once they had been searched they were brought through the facility to the visiting hall.

Whilst the visitors were being searched, the detainees who were receiving visits were collected from their cells. We would check their ID cards to ensure that they matched with the records that we had and also check that we had the right number of detainees with us. We would take them from the cells to the visiting hall where they would be issued with orange tape. Detainees would always have to wear an orange sash during visits for the purposes of identification. Once all of the detainees were sitting down we would authorise those in the Airlock to allow the visitors through to the visiting hall.

[...] generally I cannot recall there ever being more than three or four visitors per detainee. We would allow visitors one hour and during the visiting there would be three or four members of the IGF monitoring the process. We used to keep a supply of fruit in the Ops room and this would be handed out to children to keep them happy. Visitors would usually bring small amounts of food such as melons for the detainees. Once 55 minutes had elapsed we would blow a whistle which provided the detainees with five minutes in which they could say their goodbyes.

The detainees would then be asked to stand up and taken out via the door to the Ops Room. We would count the detainees and check their ID cards. We would also check the items they had been given by visitors and also carry out a pat down search before we led them back into the compound. We would then authorise the visitors to leave and the Quick Reaction Force (“QRF”), who were based outside of the DTDF compound, would take them back to the “golden arches”.

The visiting room was then checked and usually we would ask one of the detainees who had just received a visit to make sure that it was clean.”⁴⁹³⁹

4.450 Sergeant Johnson told the Inquiry that sometimes, those who had previously been detained at the DTDF would return to visit others, but would also socialise with members of the IGF:

“I feel that it is testament to the quality of welfare that we provided that many ex-detainees used to come back on visiting days to see the staff and share a cup of Chai with us. They would attend on the pretence of visiting a current detainee and then spend the entire time chatting to the staff. This exemplifies the relationship that the staff tried to develop with the detainees.”⁴⁹⁴⁰

4.451 An entry in the Daily Occurrence Book for 7 August 2004 records that during a visit that day, Marine Paul Kavanagh observed items being passed between detainees and visitors. The detainees were subsequently searched. Ahmed Jabbar Hammood Al-Furaiji (detainee 777) was found to have money hidden inside his knee bandage and Hussein Fadhil Abass Al-

⁴⁹³⁹ Sergeant Sharplin (ASI009870) [86-90]

⁴⁹⁴⁰ Sergeant Johnson (ASI014465) [65]

Behadili (detainee 778) was found to have money inside his trouser pocket.⁴⁹⁴¹ I record that incident for the sake of completeness but make no other finding in respect of it.

3. Medical

4.452 The Regimental Medical Officer (“RMO”) oversaw the primary medical care of detainees at the DTDF. A rotation of Regimental Medical Assistants (“medics”) provided a 24-hour medical presence at the DTDF.⁴⁹⁴² Broadly speaking, a medic is a soldier who had received some medical training.⁴⁹⁴³ The medics were the first point of contact when detainees had any medical complaints in the DTDF. This included a daily sick parade for detainees, dealing with any medical emergencies and administering simple medication such as painkillers for toothaches or headaches, and tablets for diarrhoea.⁴⁹⁴⁴

4.453 If a detainee presented with a dental problem, an appointment would be made with the Dental Centre at the Field Hospital. Appointments were made on a priority basis.⁴⁹⁴⁵

4.454 Medical records were kept for each detainee, which I address individually below:

Hamzah Joudah Faraj Almalje (detainee 772)

4.455 The medical records indicate that Hamzah Joudah Faraj Almalje (detainee 772) was seen on eight occasions in the JFIT compound and on seven occasions between 4 August and 26 August 2004 in the main DTDF compound. The visits related to medical complaints including, stomach pain, vomiting, dehydration, headache, stomach and back, earache, and itchiness.⁴⁹⁴⁶

Mahdi Jasim Abdullah Al-Behadili (detainee 773)

4.456 In his written evidence to the Inquiry, Mahdi Jasim Abdullah Al-Behadili (detainee 773) claimed he was assaulted whilst being escorted to see the dentist. I address that allegation below at paragraphs 4.530 – 4.536.

4.457 The medical records indicate that on 6 June 2004, Mahdi Al-Behadili was referred to the dentist, and on 30 July he was seen regarding a complaint of abdominal pain.⁴⁹⁴⁷ The Daily Occurrence Book indicates that on 15 June 2004, Mahdi Al-Behadili was escorted to the Dental Centre.⁴⁹⁴⁸ It also records that on 31 July 2004 at 01:33 hours, Mahdi Al-Behadili felt unwell and the medics had been instructed not to provide any medication and to monitor the detainee overnight.⁴⁹⁴⁹

⁴⁹⁴¹ (MOD004033)

⁴⁹⁴² Major Winfield (ASI019049) [7]

⁴⁹⁴³ Major Winfield (ASI019050) [11]

⁴⁹⁴⁴ Major Winfield (ASI019051) [14]

⁴⁹⁴⁵ Corporal Tough (ASI021456) [51]

⁴⁹⁴⁶ (MOD043354-MOD043364)

⁴⁹⁴⁷ (MOD043429-MOD043435); Major Fielding (ASI019398) [20]-[25]

⁴⁹⁴⁸ (MOD003894)

⁴⁹⁴⁹ Surgeon Lieutenant Westerman (ASI024116) [27]; (MOD004012)

Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774)

- 4.458** On 16 May 2004, Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) was admitted to the Field Hospital in relation to a shrapnel injury to his foot and knee.⁴⁹⁵⁰ He was discharged to the DTDF on 27 May 2004 with his leg in a cast.⁴⁹⁵¹ He was provided with a crutch.⁴⁹⁵² Wing Commander Pathak, the consultant orthopaedic and trauma surgeon, said that although Ibrahim Al-Ismaeeli insisted on holding his crutch in the wrong hand, he was fit to be discharged on 27 May 2004.⁴⁹⁵³
- 4.459** On 2 June 2004, Ibrahim Al-Ismaeeli's sutures were removed and his cast was replaced with a scotch cast, which was lighter and harder wearing than his previous cast. Ibrahim Al-Ismaeeli was finally discharged from Wing Commander Gora Pathak's care on 17 June 2004. Wing Commander Pathak commented that Ibrahim Al-Ismaeeli made a very quick recovery.⁴⁹⁵⁴
- 4.460** The medical records for Ibrahim Al-Ismaeeli indicate that he was seen on 22 occasions between 6 June 2004 and 28 August 2004 for various medical complaints including, indigestion, insomnia, headache, stomach pain and throat pain.⁴⁹⁵⁵
- 4.461** On 28 June 2004, the medical records indicate that Ibrahim Al-Ismaeeli's crutches were removed because he was seen to be playing football and he was walking unaided without difficulty.⁴⁹⁵⁶
- 4.462** On 16 July 2004, Ibrahim Al-Ismaeeli reported that he was having trouble sleeping and he asked for sleeping tablets. The Medical Officer who saw him, Surgeon Lieutenant Richard Westerman, gave evidence in his written Inquiry statement, which I accept as being true, that he declined to prescribe sleeping tablets as they might have impaired Ibrahim Al-Ismaeeli's consciousness and cognition whilst detained and affected his judgment thereafter.⁴⁹⁵⁷
- 4.463** Between 30 July and 4 August 2004, Ibrahim Al-Ismaeeli had an appendectomy at the Field Hospital. Following the operation, he was prescribed paracetamol four times a day for three days.⁴⁹⁵⁸
- 4.464** Ibrahim Al-Ismaeeli also received daily dressings for the wound on his right knee.⁴⁹⁵⁹ Surgeon Lieutenant Westerman said he visited Ibrahim Al-Ismaeeli in his cell every couple of days to review and change the dressing. It became apparent that Ibrahim Al-Ismaeeli was scratching the scar, which had re-opened and caused a superficial infection. Surgeon Lieutenant Westerman saw lots of scratch marks around the scar, so he decided to use zinc oxide tape on the dressing which made it "tamper proof". The wound then began to heal properly.⁴⁹⁶⁰

⁴⁹⁵⁰ (MOD032932); Wing Commander Pathak [166/162/22]

⁴⁹⁵¹ (MOD032864); Wing Commander Pathak (ASI021435-36) [30]; (MOD016417)

⁴⁹⁵² Wing Commander Pathak (ASI021435-36) [30]; (MOD016417)

⁴⁹⁵³ Wing Commander Pathak (ASI021435-36) [30]

⁴⁹⁵⁴ Wing Commander Pathak (ASI021436) [32]

⁴⁹⁵⁵ (MOD043495)-(MOD043508)

⁴⁹⁵⁶ (MOD043507)

⁴⁹⁵⁷ Surgeon Lieutenant Westerman (ASI024116) [29]

⁴⁹⁵⁸ Surgeon Lieutenant Westerman (ASI024117) [34]; (MOD043496)

⁴⁹⁵⁹ Surgeon Lieutenant Westerman (ASI024118) [35]

⁴⁹⁶⁰ Surgeon Lieutenant Westerman (ASI024118) [35]

Kadhim Abbas Lafta Al-Behadili (detainee 775)

- 4.465** The medical records indicate that Kadhim Abbas Lafta Al-Behadili (detainee 775) was seen on six occasions between 3 July and 26 August 2004.⁴⁹⁶¹
- 4.466** On 3 July 2004, Kadhim Al-Behadili reported having a headache and chest pain, which was worse when he smoked. He was examined and given advice about giving up smoking.⁴⁹⁶²
- 4.467** On 6 August 2004, the medical records indicate Kadhim Al-Behadili was treated for a wart on his foot.⁴⁹⁶³
- 4.468** On 13 August 2004, Kadhim Al-Behadili was seen twice because he reported having stomach pain and vomiting. He was seen again later the same day and said the pain had disappeared. On 14 August 2004, he was seen again and he confirmed that the pain had not returned.⁴⁹⁶⁴
- 4.469** On 26 August 2004, a medic applied cream to the wart on Kadhim Al-Behadili's foot.⁴⁹⁶⁵
- 4.470** In his evidence to the Inquiry, Kadhim Al-Behadili disputed the accuracy of parts of the medical records. In particular, he said he had not been advised to stop smoking and he had to remove the wart himself, using a piece of plastic. I am satisfied that the medical records are accurate: it is inherently unlikely that matters such as those to which I have just referred would be deliberately recorded inaccurately. To the extent that he suggested otherwise, Kadhim Al-Behadili is wrong, perhaps as a result of the passage of time.

Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776)

- 4.471** The medical records indicate that Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776) was seen on ten occasions between 24 May and 19 August 2004. The visits related to various medical complaints including, toothache, back pain, and headache.⁴⁹⁶⁶
- 4.472** The records also indicate that Abbas Al-Hameedawi was treated for a wart on his toe,⁴⁹⁶⁷ which was noted again on his release medical examination.⁴⁹⁶⁸ In his written evidence, Abbas Al-Hameedawi said the records are incorrect as he never complained about having such a problem and was never treated for a wart. He further denied that he received a medical examination on release.⁴⁹⁶⁹
- 4.473** I am satisfied that Abbas Al-Hameedawi did receive a medical examination shortly before he was transferred out of the DTDF⁴⁹⁷⁰ and that he was treated for a wart. The detainee is mistaken in his recollection, but he is not deliberately lying.

⁴⁹⁶¹ (MOD043559)-(MOD043564)

⁴⁹⁶² (MOD043564)

⁴⁹⁶³ (MOD043558)

⁴⁹⁶⁴ (MOD043558)-(MOD043559)

⁴⁹⁶⁵ (MOD043559)

⁴⁹⁶⁶ (MOD043621)-(MOD043628)

⁴⁹⁶⁷ (MOD043621)-(MOD043628)

⁴⁹⁶⁸ (MOD043655)

⁴⁹⁶⁹ Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776) (PIL000453) [25-27]

⁴⁹⁷⁰ (MOD043654)

Ahmed Jabbar Hammood Al-Furaiji (detainee 777)

4.474 In his written evidence, Ahmed Jabbar Hammood Al-Furaiji (detainee 777) said a guard refused to grant him access to a doctor on one occasion.⁴⁹⁷¹ I address that allegation below, at paragraphs 4.520 – 4.530.

4.475 The medical records indicate that Ahmed Al-Furaiji was seen on ten separate occasions between 23 June and 14 July 2004 in relation to various medical complaints including toothache, back pain, knee pain, headache, cough, and pain around his eye.⁴⁹⁷²

Hussein Fadhil Abass Al-Behadili (detainee 778)

4.476 The medical records indicate that Hussein Fadhil Abass Al-Behadili (detainee 778) was seen on fourteen occasions between 16 July and 22 August 2004 in relation to various medical complaints including, an upset stomach, itchiness, a graze to his left knee sustained whilst playing volleyball, back pain, pain in his abdomen, a rash, toothache, insect bite and a wart.⁴⁹⁷³

4.477 In his written Inquiry statement, Hussein Al-Behadili recalled that he sustained an injury whilst playing volleyball.⁴⁹⁷⁴

Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779)

4.478 The medical records indicate that Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) was seen on six occasions between 26 June and 28 August 2004 in relation to various medical complaints including headache, leg pain, dry skin, a bruised leg sustained having tripped in the shower and jaw pain.⁴⁹⁷⁵

Hussein Gubari Ali Al-Lami (detainee 780)

4.479 The medical records indicate that Hussein Gubari Ali Al-Lami (detainee 780) was seen on one occasion in the JFIT compound and on eight occasions between 31 May 2004 and 17 September 2004 in the DTDF. The visits were for various medical complaints including, general aches and pains, insect bite, pain in the abdomen, cough, toothache and dry skin.⁴⁹⁷⁶

4. Divisional Internment Review Committee

4.480 In his written evidence, Major David Richmond said that the detainees were aware that their cases would be reviewed by the Divisional Internment Review Committee (“DIRC”).⁴⁹⁷⁷

4.481 DIRC meetings took place on a weekly basis at Divisional Headquarters in Basra. The DIRC met to discuss whether detainees should remain in detention or be released. The Officer Commanding the DTDF was required to attend those meetings, although only so that he could assist by reporting on how the detainees were behaving in the DTDF and what contact they were having with other detainees and visitors. The Officer Commanding the DTDF was

⁴⁹⁷¹ Ahmed Jabbar Hammood Al-Furaiji (detainee 777) (ASI000885) [68]; (PIL000324-25) [97-98]

⁴⁹⁷² (MOD043676)-(MOD043682)

⁴⁹⁷³ (MOD043956)-(MOD043965)

⁴⁹⁷⁴ Hussein Fadhil Abass Al-Behadili (detainee 778) (PIL000384) [109]

⁴⁹⁷⁵ (MOD044016)-(MOD044022)

⁴⁹⁷⁶ (MOD044069)-(MOD044075)

⁴⁹⁷⁷ Major Richmond (ASI022514) [157]

not part of the decision making procedure.⁴⁹⁷⁸ At the end of the meeting, recommendations in respect of each detainee discussed would be put forward, via the committee chairperson, to the General Officer Commanding (“GOC”).⁴⁹⁷⁹ Those recommendations would be either to release the detainee, or to transfer him to the Iraqi justice system, or continue detention.⁴⁹⁸⁰

4.482 The DIRC met on 17 May 2004, two days after the detainees arrived at the DTDF. The DIRC first reviewed their internment at that meeting.⁴⁹⁸¹ The nine detainees were reviewed again at DIRC meetings on 8 June 2004,⁴⁹⁸² 22 June 2004,⁴⁹⁸³ 6 July 2004,⁴⁹⁸⁴ 27 July 2004,⁴⁹⁸⁵ 10 August 2004,⁴⁹⁸⁶ 31 August 2004,⁴⁹⁸⁷ and 13 September 2004.⁴⁹⁸⁸

4.483 After each meeting, the relevant detainees would be informed verbally of the recommendation following the review.⁴⁹⁸⁹ Major Anthony De Reya said that after the detainees had been informed verbally, they were later provided with a Notice of Internment (“NIR”), which set out the decision and some reasons. If detention was to be maintained, the detainee would also be provided with a document titled “*Authorisation of Continued Internment*”.⁴⁹⁹⁰

4.484 On 7 September 2004, authorisation was granted to transfer the nine detainees from the DTDF to the Iraqi criminal justice system.⁴⁹⁹¹ The operation to transfer the detainees was then planned, and the transfers took place on 21 and 23 September 2004.⁴⁹⁹²

5. Complaints procedure

4.485 Both Major David Richmond and Major Anthony De Reya would undertake a daily walk-round of the DTDF during their tenures as Officer Commanding the DTDF. Major Richmond explained how he would conduct the walk-round:

“I did this without a guard escort and was usually only accompanied by an interpreter. Sometimes I took WO2 Parrott with me. I wanted the internees to have direct access to me and to be able to feel that they could speak to me about what was concerning or troubling them. I was aware that Iraqi society was rigidly hierarchical and Iraqis generally (and the internees were no different in this respect) held their elders in great respect as they did anyone who was in a position of authority (and this respect was afforded whether the individual concerned merited it or not). With this in mind, I thought they would speak to me about issues which they would not necessarily speak to the guards about. I wanted internees to see me as a person they could approach, who would listen to them, and who, most importantly, would attempt to deal with

⁴⁹⁷⁸ Major Richmond (ASI022546) [251]

⁴⁹⁷⁹ Major De Reya (ASI018951) [127]; (ASI018914) [16]

⁴⁹⁸⁰ Major De Reya (ASI018951) [127]

⁴⁹⁸¹ (MOD020771); Major Richmond (ASI022546) [253]

⁴⁹⁸² (MOD039725)

⁴⁹⁸³ (MOD041629)

⁴⁹⁸⁴ (MOD041635)

⁴⁹⁸⁵ (MOD041640)

⁴⁹⁸⁶ (MOD039731)

⁴⁹⁸⁷ (MOD018345)

⁴⁹⁸⁸ (MOD018349)

⁴⁹⁸⁹ Major Richmond (ASI022548) [259]

⁴⁹⁹⁰ Major De Reya (ASI018952) [130]

⁴⁹⁹¹ Major De Reya (ASI018966) [172]; (MOD020774)

⁴⁹⁹² (MOD044225); Major De Reya (ASI018966-70) [173]–[187]

*their concerns. I was acutely aware that an unhappy internee population was a lot harder to manage and control than one that was content.*⁴⁹⁹³

4.486 Major De Reya also explained how he would conduct the walk-rounds:

*"I would conduct "walk-arounds" of the DTDF a few times per day in order to observe the behaviour of the military personnel and detainees. [...] During the walk-arounds detainees could talk to me (via an interpreter) to inform me of any concerns or problems. I would check the logs maintained at the DTDF to see what events had been recorded. I would also rely upon the MPS and guard commanders to update me verbally."*⁴⁹⁹⁴

4.487 Major Richmond said that during his walk-round, he would have informal conversations with the detainees to help him gauge their mood and to deal with any welfare issues.⁴⁹⁹⁵ An example of a walk-round recorded in the Daily Occurrence Book on 23 April is as follows:

"Commandant's Daily Walkround

685 requested paper & a pen and to speak to an interpreter

[According to the "Action Taken" column, Major Richmond referred this issue to the duty MPS Senior NCO]

707 complained of a headache

689 complained of a sore knee

479 asked to see the medic

[According to the "Action Taken" column, Major Richmond referred the above issues to a medic]

692 asked for paper and a pen to write to his college to ask for his study book to be brought to the DTDF

*[According to the "Action Taken" column, Major Richmond referred this to the duty MPS Senior NCO]*⁴⁹⁹⁶

4.488 In his written evidence to the Inquiry, Hussein Gubari Ali Al-Lami (detainee 780) gave an example of an occasion when he made a complaint during the walk-round:

*"The reason I was moved into the same room as Hamza was that I had complained to the Major in charge of prison that we wanted to have the smokers in one room and non smokers in another."*⁴⁹⁹⁷

4.489 Major Richmond and Major De Reya also held a less frequent "Commandant's Audience", which was a more formal meeting with an elder nominated from each accommodation block.

⁴⁹⁹³ (MOD003727)

⁴⁹⁹⁴ Major De Reya (ASI018916-17) [22]

⁴⁹⁹⁵ Major Richmond (ASI022482-83) [64]

⁴⁹⁹⁶ (MOD003742)

⁴⁹⁹⁷ Hussein Gubari Ali Al-Lami (detainee 780) (ASI004825) [124]

The meetings would take place in the visits room.⁴⁹⁹⁸ Major Richmond explained the purpose of the Commandant's Audience as follows:

"[T]his was an opportunity for the cell representatives to air any grievances with me eg their treatment by the staff, the quality of the food, etc and for me to discuss issues of detainee behaviour or potential changes to DTDF routine. This way I remained aware of running issues in the DTDF and I always felt that the detainees were frank and felt able to discuss their issues freely with me. A summary of the discussions at these meetings was always entered into the Daily Occurrence Book and was also sent separately to the S01 Legal [Lt Col Wakefield] at Division HQ".⁴⁹⁹⁹

4.490 Major De Reya also described how he conducted the Commandant's Audience:

"I met with small groups of detainees in an informal meeting which I referred to as the "Commandant's Audience". These were an opportunity for detainees to speak to me (via an interpreter) away from the other detainees, in a neutral setting (I used the visitors' area). The detainees could and did raise any issues that they wanted. Normally there would be two or three detainees attending. There was no regular pattern for holding an audience; usually the detainees would request it and I would set aside some time to meet with them. I would have expected, given the openness of the detainees generally, that they would highlight any issues they were having with any of the guards or with each other, during this time. [...] However, there were occasions in the audiences (and during walk-arounds) when the detainees used them to raise matters that were out of my hands, such as the decision to continue to intern them [...] Having looked through all of the Sitreps disclosed to me, I note that I mention these audiences less frequently after July 2004, this was not a conscious decision and should not be taken to suggest that such discussions had stopped. If anything, it suggests that they were so commonplace that I no longer considered it to be noteworthy. These audiences were ongoing."⁵⁰⁰⁰

4.491 Notes were taken at the Commandant's Audience, and afterwards the meeting was written up in the Daily Occurrence Book. The notes for 13 June 2004 record that at the meeting that day, detainees Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776) and Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) asked about their review. Major Richmond made a note of the action taken: "776 + 779 = 25 Jun. The remainder are to be told that we await the outcome of their reviews. Duty MPS SNCO to inform the internees tonight."⁵⁰⁰¹

4.492 In the SITREP dated 22 May 2004,⁵⁰⁰² there is a record of complaints made by Hamzah Joudah Faraj Almalje (detainee 772) and Kadhim Abbas Lafta Al-Behadili (detainee 775) regarding their treatment on arrest. This was the day they were transferred from the JFIT compounds to the main DTDF compound. The complaint is also recorded in the Daily Occurrence Book on 22 May 2004, timed at 18:15 hours. The entry reads: "772 complained of feeling unwell. 772 also complained of being beaten by his arresting unit but said that he did not wish to make a complaint". The report records that Major Richmond advised Hamzah Almalje to commit his complaint to writing and it would be followed up appropriately. Kadhim Al-Behadili's complaint is recorded in the same entry: "775 claims to have been beaten by the arresting

⁴⁹⁹⁸ Major Richmond (ASI022485) [70]

⁴⁹⁹⁹ Major Richmond (ASI022485) [70]

⁵⁰⁰⁰ Major De Reya (ASI018917) [23]

⁵⁰⁰¹ (MOD003890)

⁵⁰⁰² (MOD040900)

unit". The action taken is recorded as follows: "Advised to commit this complaint to paper and it would then be fully investigated."⁵⁰⁰³

4.493 Major Richmond said that detainees were provided with papers and pencils to record their complaints. Illiterate detainees were able to dictate their complaints to an interpreter or a fellow detainee.⁵⁰⁰⁴

4.494 In his written evidence to the Inquiry, Hamzah Almalje said he did not put his complaint into writing as Major Richmond had asked him to. He said he could not do this and he was discouraged.⁵⁰⁰⁵

4.495 Kadhim Al-Behadili did put his complaint in writing.⁵⁰⁰⁶ In his written evidence, Kadhim Al-Behadili explained how he had come to make the written complaint:

"When I was moved to the bigger cell in the general compound other people detained there saw me and said that I should not be afraid and that I should make a complaint about the way the British soldiers had treated me. [...] Those who suggested I should complain had been in Al-Shaibah for a longer period than I. [...] My writing is not neat so I asked someone if they could write the letter for me on my behalf. I told them what to write in the letter. The letter was not written by any of the other detainees I had been taken prisoner with on 14 May 2004 but by another person detained in Al-Shaibah."⁵⁰⁰⁷

4.496 The written complaint Kadhim Al-Behadili submitted on 22 May 2004 reads as follows:

"To the British Commandant,

I'm No.775 Kaadum Abaas Lafta, they arrested me in 14/5/2004 in Maisaan on the main road of Al-'Amaara to Basrah and I am shepherd, at that time there is a clash happened between the British forces and other people I don't know them, and they saw me, took me torture me and beated me. They are three soldiers hit me on my head so, I want to see a doctor to check me and I know you will not accept what the British soldiers did with me

With thanks

775 Kaadum Abaas Lafta

22/5/2004."⁵⁰⁰⁸

4.497 In his written evidence, Kadhim Al-Behadili said the Arabic original also stated "I mentioned nonsense and I do not remember anything" and "I want to see a doctor to check on my legs. I am asking you hereby for justice to be done as Britain is a great country" but that did not appear in the English translation.⁵⁰⁰⁹

4.498 On 23 May 2004, Major Richmond referred the complaint to the Provost Marshal, Lieutenant Colonel Sally Purnell, and copied it to SO3 ("Staff Officer Three") Legal.⁵⁰¹⁰ The Royal Military

⁵⁰⁰³ (MOD003833)

⁵⁰⁰⁴ Major Richmond (ASI022535) [221]

⁵⁰⁰⁵ Hamzah Joudah Faraj Almalje (detainee 772) (PIL000698) [68]

⁵⁰⁰⁶ (MOD016404)

⁵⁰⁰⁷ Kadhim Abbas Lafta Al-Behadili (detainee 775) (PIL000749) [123]

⁵⁰⁰⁸ (MOD016404)

⁵⁰⁰⁹ Kadhim Abbas Lafta Al-Behadili (detainee 775) (PIL000748) [122]

⁵⁰¹⁰ Major Richmond (ASI022536-37) [224]

Police (“RMP”) then commenced an investigation into the complaint. The following day, on 24 May 2004, the RMP interviewed Kadhim Al-Behadili.⁵⁰¹¹

4.499 On 26 July 2004,⁵⁰¹² the RMP interviewed detainees Hamzah Almalje (detainee 772),⁵⁰¹³ Mahdi Jasim Abdullah Al-Behadili (detainee 773),⁵⁰¹⁴ Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774),⁵⁰¹⁵ Kadhim Al-Behadili (detainee 775)⁵⁰¹⁶ and Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776)⁵⁰¹⁷ in connection with the ‘*shooting incident*’ investigation. On 27 July 2004,⁵⁰¹⁸ the RMP interviewed detainees Ahmed Jabbar Hammood Al-Furaiji (detainee 777),⁵⁰¹⁹ Hussein Fadhil Abass Al-Behadili (detainee 778),⁵⁰²⁰ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779)⁵⁰²¹ and Hussein Gubari Ali Al-Lami (detainee 780) in connection with the ‘*shooting incident*’ investigation.⁵⁰²²

6. Allegations

4.500 In their evidence, the detainees made a number of allegations about the treatment they received at the DTF. I deal with the most significant incidents below.

The Litter Incident (Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774))

4.501 Four detainees, namely Hamzah Almalje, Ibrahim Al-Ismaeeli, Kadhim Al-Behadili and Atiyah Al-Baidhani have described an incident involving Ibrahim Al-Ismaeeli. Broadly speaking, they claimed that Ibrahim Al-Ismaeeli was asked to pick up some litter and he refused. Ibrahim Al-Ismaeeli and Atiyah Al-Baidhani alleged that the guard then assaulted Ibrahim Al-Ismaeeli. I set out their individual accounts below:

4.502 Ibrahim Al-Ismaeeli said in his written evidence:

“In Shaibah I was treated really badly by one guard, I was still sick at the time and using two walking sticks. Sometimes when we were allowed out in the fresh air he made me collect garbage, once I refused, we quarrelled, he abused me and he hit me. I hit him with my walking stick, I recall he had an iron stick on his waist, he was about to hit me with it but I pulled my head back, at this time the inmates grabbed him and put him against the wire fencing, I was dragged into a cell. I can only describe the guard who hit me as short, a bit fat, he had tattoos on one arm and a Jewish star tattooed on his other arm.”⁵⁰²³

4.503 Kadhim Al-Behadili described this incident in his written evidence:

“I had no reason to make any complaint about any soldier during my time in the general compound. However, I recall that a soldier asked one of the detainees I was taken prisoner with, Ibrahim Gattan Hassan, to do some cleaning. Ibrahim had a very

⁵⁰¹¹ (MOD032727)

⁵⁰¹² (MOD003998)

⁵⁰¹³ (MOD002898)

⁵⁰¹⁴ (MOD002923)

⁵⁰¹⁵ (MOD002943)

⁵⁰¹⁶ (MOD002978)

⁵⁰¹⁷ (MOD032572)

⁵⁰¹⁸ (MOD004002)

⁵⁰¹⁹ (MOD030771)

⁵⁰²⁰ (MOD003019)

⁵⁰²¹ (MOD003041)

⁵⁰²² (MOD003062)

⁵⁰²³ Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) (ASI001076) [73]

*severe leg injury and could not walk very well. The soldier insisted that he had to clean. However, we said that we would do the cleaning. I cannot recall when this was and I cannot describe the soldier who was demanding that Ibrahim should clean.*⁵⁰²⁴

4.504 Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) also described the incident in his written evidence as follows:

*“There was litter on the ground and someone I now know to be Ibrahim Kattan Hassan was told to pick it up. He said he would not do so as this was not his responsibility. The soldier that was dealing with him started to kick and punch him. The soldier that was responsible for doing this was the one I mentioned in my previous statement as having a ‘Star of David’ tattoo on one of his upper arms on the outside of the bicep. It was blue in colour.”*⁵⁰²⁵

4.505 Hamzah Joudah Faraj Almalje (detainee 772) said in his written evidence that he heard about this incident from somebody else:

*“I remember being told about one incident when Ibrahim had returned from hospital and was asked by a guard to sweep up some cigarette ends and refused. There was evidently some sort of disagreement and I think Ahmed Jabbar [Detainee 777] and Ibrhin [sic] Gattan [Detainee 774] were transferred to solitary confinement as a result. I did not see the incident however which occurred when I was asleep.”*⁵⁰²⁶

4.506 It seems to be likely that this incident is recorded in the Daily Occurrence Book on 8 August 2004 at 8:15 hours. The entry was made by Corporal Green and reads as follows:

*“IGF entered the compound so that the internees could clean the cells and areas. 774 refused to sweep and tried to return to his cell. The IGF blocked his way and 774 then started getting irate and pushing the IGF, whereupon he was pushed back and told to sweep. 634 then came out to calm 774 and swept up.”*⁵⁰²⁷

4.507 I have no doubt that Ibrahim Al-Ismaeeli was not subjected to any form of serious and violent assault by the guard during the course of this incident. In particular, I am sure that he was not kicked or punched as Atiyah Al-Baidhani alleged. In making that allegation, Atiyah Al-Baidhani deliberately lied in order to lend substance to his allegations that detainees were ill-treated by the British military.

4.508 Ibrahim Al-Ismaeeli’s medical records indicate that his crutches were taken away from him on 28 June 2004 when he was seen to be playing football, some six weeks prior to this incident:

*“crutches removed after detainee caught playing football: pt [patient] walking fine without crutches, however not happy.”*⁵⁰²⁸

4.509 On 25 July 2004, Ibrahim Al-Ismaeeli and Ahmed Jabbar Hammood Al-Furaiji (detainee 777) spent one night in solitary confinement at the JFIT compound. The incident is recorded in the Daily Occurrence Book. It is relates to a separate incident involving a fight between the two detainees. Sergeant John Johnson’s entry reads as follows:

⁵⁰²⁴ Kadhim Abbas Lafta Al-Behadili (detainee 775) (PIL000753) [135]

⁵⁰²⁵ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) (ASI000957) [63]

⁵⁰²⁶ Hamzah Joudah Faraj Almalje (detainee 772) (PIL000699) [69]

⁵⁰²⁷ (MOD004036)

⁵⁰²⁸ (MOD043507)

“I was informed by Tower 3 that a fight had broken out in cell B2. When I arrived at cell B2, there was a lot of pushing and shouting going on. I quickly found out who was involved and separated them from the other internee and each other! On questioning 777 + 774 they both said the fight was over lighters. I decided that I could not trust them not to fight again and that they may disrupt the rest of cell B2 once more. I then placed both 777 + 774 in single cells in JFIT.”⁵⁰²⁹

- 4.510** The medical records indicate that on 1 August 2004, Ibrahim Al-Ismaeeli was admitted to the Field Hospital where he had an appendectomy. On 4 August 2004, he returned to the DTDF compound. On 5, 6 and 7 August 2004, he was prescribed paracetamol because he reported having pain around the wound.⁵⁰³⁰
- 4.511** In his written evidence, Major De Reya said the Internal Guard Force were not armed whilst carrying out their duties. Only the Military Provost Staff (“MPS”) carried batons inside the DTDF.⁵⁰³¹ Sergeant Ivan Sharplin said he carried an extendable baton whilst on duty inside the DTDF, however this would be hidden in his pocket rather than on display.⁵⁰³² In his oral evidence, Sergeant Sharplin said the MPS were not issued with the pouches that would allow them to carry the batons on their belts.⁵⁰³³
- 4.512** The Daily Occurrence Book records that the staff on duty at the time of the incident were: MPS Sergeant Sharplin; Corporal James Green; Marine Jonathan Hussey; Marine Paul Kavanagh; and Marine Daniel Burford.⁵⁰³⁴
- 4.513** In his oral evidence, Sergeant Sharplin said he did not recall the incident on 8 August 2004. He said did not think that he witnessed the incident as he would remember it if he had seen it, and he would have made the entry in the Daily Occurrence Book himself.⁵⁰³⁵
- 4.514** In his written Inquiry statement, Corporal Green said he recalled this incident, but not the name of the guard involved. He said it was a very short incident.⁵⁰³⁶ In his oral evidence Corporal Green said he had a vague recollection of the incident, but he could not recall who the guard was. He said it was unlikely that Sergeant Sharplin was present when the incident occurred. He described the incident as a *“flash in the pan”*.⁵⁰³⁷ He recalled that the detainee had pushed the guard in the chest repeatedly whilst walking forward. In response, the guard pushed the detainee once in the chest. Corporal Green said he thought the guard’s response was proportionate; he did not think it would have been appropriate for the guard not to react in any way to being pushed in the chest by Ibrahim Al-Ismaeeli. Corporal Green recalled that one of the other detainees came out to calm Ibrahim Al-Ismaeeli. The other detainee picked up the brush himself and began sweeping.⁵⁰³⁸
- 4.515** Marine Hussey did not refer to this incident in his written Inquiry Statement and did not give oral evidence to the Inquiry.⁵⁰³⁹

⁵⁰²⁹ (MOD003997)

⁵⁰³⁰ (MOD043496)-(MOD043497)

⁵⁰³¹ Major De Reya (ASI018935) [77]

⁵⁰³² Sergeant Sharplin (ASI009860-61) [49]

⁵⁰³³ Sergeant Sharplin [162/133/15]

⁵⁰³⁴ (MOD004036)

⁵⁰³⁵ Sergeant Sharplin [162/146-148]

⁵⁰³⁶ Corporal Green (ASI019202-03) [46]

⁵⁰³⁷ Corporal Green [132/60/15]

⁵⁰³⁸ Corporal Green [132/55-62]

⁵⁰³⁹ Marine Hussey (ASI017737)

- 4.516** Marine Kavanagh said in his oral evidence that he did not remember the incident, which made him think he was not involved. He said that in August 2004, he was probably shorter than his fellow IGF guards but he certainly could not have been described as fat.⁵⁰⁴⁰
- 4.517** Marine Burford also said in his oral evidence that he had no recollection of the incident.⁵⁰⁴¹
- 4.518** In their evidence, Sergeant Sharplin,⁵⁰⁴² Corporal Green,⁵⁰⁴³ Marine Hussey,⁵⁰⁴⁴ Marine Kavanagh,⁵⁰⁴⁵ and Marine Burford⁵⁰⁴⁶ all denied having a Star of David tattoo on their arms. They all also said they did not recall any other IGF guard having such a tattoo.
- 4.519** I am satisfied that Ibrahim Al-Ismaeeli no longer had crutches when this incident took place on 8 August 2004; however he may still have been experiencing some pain or discomfort following his appendectomy. I am also satisfied that Ibrahim Al-Ismaeeli refused the request to sweep the floor and he pushed a member of the IGF in the area of his chest and that the guard reacted by pushing Ibrahim Al-Ismaeeli once in the chest to prevent the detainee from pushing him further. Ibrahim Al-Ismaeeli's account of this incident is thus a gross exaggeration of the reality. I make no criticism of the guard who acted reasonably to prevent a further assault on him. Ibrahim Al-Ismaeeli should not have pushed him in the area of his chest. Ibrahim Al-Ismaeeli's exaggeration of what occurred is so extreme that it is clear he was trying to mislead the Inquiry into believing that he had been ill-treated by the soldier in question. This simply was not the case.

The door incident (Ahmed Jabbar Hammood Al-Furaiji (detainee 777))

- 4.520** In his written evidence, Ahmed Jabbar Hammood Al-Furaiji (detainee 777) said he was once refused access to the doctor and was then made to sit outside in the hot sun where he was abused by a group of soldiers. I have set out his written accounts below:

"I have been asked to describe any of the soldiers that assaulted me at al Shaibah. One was a British or Israeli soldier of medium build with a bald head. This soldier refused to let me see a doctor, put me in the hot sunshine for extended periods and told me to shut up. I would not recognise this soldier or anyone else that mistreated me during my detention. I was told that this soldier was Israeli by a soldier called Ivan."⁵⁰⁴⁷

"On one occasion I remember I was feeling exhausted and had a headache. I called the guard and said "doctor". The man I describe [in the earlier excerpt] said I had to wait. Eventually he took me outside and I was shown where to sit. It was midday and the sun was burning hot. I was told to wait under the sun even though I felt unwell. I believe the soldier did this to me on purpose. Then the soldier brought four or five other soldiers who all surrounded me. They were yelling at me saying words that were extremely unpleasant. I cannot repeat their words because it is not in my nature to use such words. They held their batons in their hands as if to threaten me with a beating."⁵⁰⁴⁸

⁵⁰⁴⁰ Marine Kavanagh [166/55-61]

⁵⁰⁴¹ Marine Burford [159/186-194]

⁵⁰⁴² Sergeant Sharplin [162/153]

⁵⁰⁴³ Corporal Green [132/65-66]

⁵⁰⁴⁴ Marine Hussey (ASI017753) [55]

⁵⁰⁴⁵ Marine Kavanagh [166/60-67]

⁵⁰⁴⁶ Marine Burford [159/194]

⁵⁰⁴⁷ Ahmed Jabbar Hammood Al-Furaiji (detainee 777) (ASI000885) [68]

⁵⁰⁴⁸ Ahmed Jabbar Hammood Al-Furaiji (detainee 777) (PIL000324) [97]

4.521 This incident appears to be recorded in the Daily Occurrence Book on 5 September 2004 at 09:50 hours. Marine Kavanagh made the entry, which reads as follows:

“777 requested to see the doctor because of an [sic] headache. When he was brought out of the cell he was moaning about something. The doctor was present at the time standing by the razor box in the compound, when the doctor asked him to come into the sickbay he refused and wanted to go back to the cells, so I took him back and opened the door, as he walked in he pushed the door on me, so instead of it hitting me I pushed it back onto his arms

*Actions: Witnessed by Sergeant Johnson to 777 who is now seeing doctor in sickbay. REF: headache”.*⁵⁰⁴⁹

4.522 The entry is followed with a note in different handwriting:

*“Note: should not be responding to these sorts of issues. Marine Kavanagh spoken to by Sergeant Johnson MPS”.*⁵⁰⁵⁰

4.523 The Daily Occurrence Book records that the following soldiers were on duty when this incident occurred: Corporal Green; Marine Kavanagh; Marine Hussey and Marine Burford.⁵⁰⁵¹

4.524 Corporal Green told the Inquiry that he did not witness the incident and was not otherwise aware of it.⁵⁰⁵²

4.525 Marine Hussey did not refer to this incident in his written Inquiry statement and he did not give oral evidence to the Inquiry.⁵⁰⁵³

4.526 Marine Burford vaguely recalled this incident but he was not sure if he was present himself or whether he heard about it from somebody else.⁵⁰⁵⁴

4.527 Marine Kavanagh said he did have some recollection of this incident. He said he could no longer recall what Ahmed Al-Furaiji was complaining about when he was brought out of the cell. He said the “razor box” was a reference to a yellow “sharp box” in which razor blades were stored for distribution. The box was kept outside the office, which appears to be a reference to the where the reception and Medical Centre were located.⁵⁰⁵⁵ Marine Kavanagh said he could recall pushing back the door onto the detainee’s arm, but that was to prevent the door from hitting him.⁵⁰⁵⁶ He recalled he was spoken to by Sergeant Johnson, and he was also pulled aside by Major De Reya who reprimanded him for this incident.⁵⁰⁵⁷ Marine Kavanagh denied leaving anybody outside in the sun. He also said he never witnessed guards standing around a detainee in the sun, shouting abuse and intimidating the detainee with their batons.⁵⁰⁵⁸

⁵⁰⁴⁹ (MOD004114)

⁵⁰⁵⁰ (MOD004114)

⁵⁰⁵¹ (MOD004113)

⁵⁰⁵² Corporal Green [132/70-72]

⁵⁰⁵³ (ASI017737)

⁵⁰⁵⁴ Marine Burford [159/197-202]

⁵⁰⁵⁵ Marine Kavanagh (ASI018243) [67]; (MOD045996)

⁵⁰⁵⁶ Marine Kavanagh (ASI018243) [67]

⁵⁰⁵⁷ Marine Kavanagh (ASI018243) [68]

⁵⁰⁵⁸ Marine Kavanagh (ASI018243) [69]; [166/63-69]

4.528 Sergeant Johnson described this incident in his written evidence:

“This was around 9am and took place between the recreational and cell area. Marine Kavanagh was walking behind Detainee number 777 when words, that I was unable to hear, were exchanged. The detainee forcefully pushed the door behind him and at Marine Kavanagh. Marine Kavanagh shoved it back and the door hit the detainees’ [sic] right hand. The hand did not get trapped and there was no blood. I do not think it caused even a minor injury. The Paramedic took a look at the hand and confirmed that there was nothing wrong. I witnessed the incident as I was in the vicinity, and there would also have been at least three other IGF personnel present, although I cannot recall who. I immediately told Marine Kavanagh that he should rise above any provocation and he has got to overcome that kind of behaviour and remain professional at all times. I recall saying to him “you need to grow up”. It was, however, an instinctive reaction of Marine Kavanagh, who was subsequently verbally reprimanded by me, as recorded. [...]

I reported the incident to WO2 Parrott.”⁵⁰⁵⁹

4.529 Major De Reya also recalled this incident in his written evidence:

“I have an independent memory that Marine Kavanagh was spoken to about this incident, and from my review of the DOB I can see that it was Sergeant Johnson who did this. Sergeant Johnson warned him about getting into a situation where a detainee could push a door on him. The approach of the IGF was to always remove opportunities for tempers to flare and certainly not to respond. Marine Kavanagh was taken to task for this. The concern was that a guard had managed to get himself into a situation where he could be attacked and jeopardise his own safety and perhaps that of others. This was seen as a training issue, it was necessary to remind Marine Kavanagh of the need to maintain distance, control and professionalism. Although the atmosphere at the DTDF was good, the guards had to remain alert and aware of the circumstances, particularly because they were outnumbered by the detainees.

I do not recall whether I specifically followed up with Marine Kavanagh, but this incident was taken seriously as it was important to defuse any potential tensions within the DTDF. I am confident that this matter was dealt with appropriately at the time.”⁵⁰⁶⁰

4.530 I am satisfied that Ahmed Al-Furaiji was not denied access to medical care. I am further satisfied that Ahmed Al-Furaiji was not made to sit outside in the sun, and he was not surrounded by a group of guards threatening him with batons as he alleges. Ahmed Al-Furaiji’s account of this incident is a gross exaggeration of the reality, intended to mislead the Inquiry into concluding that he had been ill-treated. I am satisfied that the entry in the Daily Occurrence Book accurately records what did happen. Ahmed Al-Furaiji pushed a door towards Marine Kavanagh who responded by pushing the door back, causing the door to hit Ahmed Al-Furaiji’s right arm. Ahmed Al-Furaiji was medically examined shortly thereafter. Marine Kavanagh was reprimanded for his conduct, both by Sergeant Sharplin and by Major De Reya, which was, in effect, an over reaction to an act of provocation on the part of Ahmed Al-Furaiji.

⁵⁰⁵⁹ Sergeant Johnson (ASI014484-85) [133]-[134]

⁵⁰⁶⁰ Major De Reya (ASI018963) [162-163]

The Dentist Incident (Mahdi Jasim Abdullah Al-Behadili (detainee 773))

4.531 In his Judicial Review statement, Mahdi Jasim Abdullah Al-Behadili (detainee 773) described an occasion when he claimed he was assaulted whilst being escorted to the dentist:

"I was generally treated alright after I was moved to the bigger cell. However, I recall one occasion when I was badly beaten, when I had asked for a dentist. I was taken to a dentist about one week after I had asked to go. I was collected from my cell and my eyes were covered. On the way I was beaten on my back with sticks and metal rods, which was very painful. They used a special weapon like a truncheon to beat my thighs and back. The beating lasted for about 15 minutes until we reached a car. I was then driven to a separate section of the prison to see the dentist. I tried to find out who was beating me by looking through the gaps in their fingers, however, I could tell that they were playing with me and the soldier would just move from side to side so that I couldn't see him. I didn't recognise him. At the dentist they gave me some medicine as they were unable to pull out my tooth. The medicine did help. I was not beaten on the way back to my cell".⁵⁰⁶¹

4.532 In his written evidence to the Inquiry, Mahdi Al-Behadili described the incident again:

"Whilst detained at Shaibah I had a toothache and needed to see a dentist. On the way to the visit to the dentist I was taken with another detainee called Awdeh. I was handcuffed and blindfolded. Whilst being escorted to the dentist I was struck on the back causing redness. In a previous statement in 2008 I said I had been struck with a stick, metal bar or special weapon. This is an assumption made by me; although I never actually saw such instruments, I said this because of the severity of the marks that were on my body. These were not permanent and I was never medically examined in relation to them".⁵⁰⁶²

"I requested to see the dentist because I had a problem with one of my teeth. Myself and another detainee were taken by car. We were blindfolded as we were taken to and from the dentist. As we were going towards the car to travel to the dentist, I was hit by one of the soldiers on one or two separate occasions. I was hit to my back. I do not why I was hit [sic] and cannot recall that I had done anything wrong. It seemed unprovoked. The blows were painful but fortunately no lasting damage was done and I did not suffer any permanent injury".⁵⁰⁶³

4.533 Mahdi Al-Behadili's medical records indicate that on 6 June 2004 he was referred to the dentist.⁵⁰⁶⁴ The Daily Occurrence Book indicates that Mahdi Al-Behadili and another detainee were escorted to the Dental Centre by the Quick Reaction Force ("QRF") at 09:15 hours on 15 June 2004.⁵⁰⁶⁵

4.534 Major David Richmond addressed this allegation in his written evidence to the Inquiry. He confirmed that he had never heard about any such incident. He said that if any detainee had returned from the Field Hospital showing signs of a severe beating, he would have expected the incident to have been reported to him and he would have carried out a full investigation

⁵⁰⁶¹ Mahdi Jasim Abdullah Al-Behadili (detainee 773) (MOD006501) [50]

⁵⁰⁶² Mahdi Jasim Abdullah Al-Behadili (detainee 773) (ASI001123) [86]

⁵⁰⁶³ Mahdi Jasim Abdullah Al-Behadili (detainee 773) (PIL000795) [66]

⁵⁰⁶⁴ (MOD043435)

⁵⁰⁶⁵ (MOD003894)

and brought in the RMP. Major Richmond said he also would have expected the detainee to complain to him during his next walk-round.⁵⁰⁶⁶

4.535 The Daily Occurrence Book indicates that Major Richmond conducted a walk-round at 18:00 hours on 15 June 2004. The notes indicate that fifteen detainees spoke to Major Richmond about various matters, but there is no note of any complaint made by Mahdi Al-Behadili.⁵⁰⁶⁷

4.536 The report of the Release Medical examination indicates that on 22 September 2004, Mahdi Al-Behadili had “no cuts or bruises” on his body.⁵⁰⁶⁸ That report is of limited assistance on this issue, given that the examination took place some three months after the alleged assault.

4.537 In the event, I am satisfied that Mahdi Al-Behadili’s allegation is a fabrication.

Alleged misrepresentations regarding transfer

4.538 On 21 and 23 September 2004, the detainees were transferred out of the DTDF.⁵⁰⁶⁹ They were handed over to the Iraqi criminal justice system. Before they left the DTDF, each detainee was given a medical examination. The results of the examination were recorded on forms that were identical to the Initial Medical forms, except that the title had been amended.⁵⁰⁷⁰

4.539 In preparation for the transfer, Major Anthony De Reya organised rehearsals for the guards who would act as escorts. During the rehearsals, the guards practised how to move a person who was wearing both handcuffs and blackout goggles so that they could understand the risks of the individual falling and how best to assist them during transfers to and from the vehicles and aircraft. During the rehearsals, a soldier played the part of the handcuffed and blindfolded detainee.⁵⁰⁷¹

4.540 In their written evidence to the Inquiry, Mahdi Jasim Abdullah Al-Behadili (detainee 773), Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774), Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776), Hussein Fadhil Abass Al-Behadili (detainee 778) and Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) said that when they were transferred out of the DTDF, they were under the impression that they would be released, rather than transferred to the Iraqi authorities. I set out their separate accounts below.

4.541 Mahdi Al-Behadili said in his written evidence that somebody the other soldiers called “Major” lied to him by saying he would be released.⁵⁰⁷²

4.542 Ibrahim Al-Ismaeeli said in his written evidence that he was told he was going on the “Happy Bus”:

“I remained at Shu’aiba detention centre for 4 months, and 20 days. Suddenly, one day I was told that I going to be released and that I would soon be with my family. I was told that I’d be going on the “Happy Bus.” They gave me a paper to sign just before

⁵⁰⁶⁶ Major Richmond (ASI022560-61) [307]

⁵⁰⁶⁷ (MOD003895)

⁵⁰⁶⁸ (MOD043473)

⁵⁰⁶⁹ (MOD044225)

⁵⁰⁷⁰ (MOD043394); (MOD043472); (MOD043536); (MOD043599); (MOD043654); (MOD043714); (MOD043994); (MOD044047)

⁵⁰⁷¹ Major De Reya (ASI018967) [176]

⁵⁰⁷² Mahdi Jasim Abdullah Al-Behadili (detainee 773) (ASI001123) [87]

being transferred from the prison. I signed it as I did not want to delay my transfer, but I do not know what it was. They didn't give me my personal belongings there."⁵⁰⁷³

4.543 Abbas Al-Hameedawi said in his written evidence that he was told he would be released:

*"I recall before sunset on 20 September 2004 that my name was called along with Ibrahim, Kadhim, Madhi Jasim and Hussein Jabari Ali. There may have been others but I cannot recall who else. We were taken to a room in the same detention centre where they put us all together. We spent the night in this separate room. In the morning they said we were going to be released and sent home. We ate breakfast and soldiers brought us the clothes we were wearing when we were taken prisoner on 14 May 2004. [...]"*⁵⁰⁷⁴

4.544 Hussein Al-Behadili said in his Judicial Review statement that the detainees' were told they were going on the "Happy Bus":

*"On being transferred, we were told that we would be going home on the "Happy Bus". I was so relieved that I was finally being released, but this turned out to be a lie. I was very afraid and confused about where I was being taken as no one would tell us directly. The British soldiers still told us that we were on the "Happy Bus" now, but this certainly wasn't the case. Instead of being taken home, I was taken by bus with others to Basra Airport and then flown to Bagdad."*⁵⁰⁷⁵

4.545 Atiyah Al-Baidhani also said he thought he would be released:

*"When I thought I was going to be released on 21 September I was given the items listed on [the Internee Property Sheet]. I did not care that the black shirt was included, even though it was not mine. I just thought I was going to be released and see my family. I would have signed anything"*⁵⁰⁷⁶

4.546 It appears that the term "Happy Bus" was familiar to the soldiers who operated the DTF. On 15 September 2004, Major De Reya used the term in an email he sent to Capt Harry Mynors and Major Moorhouse regarding the detainees' pending transfer:

*"[...] good, a date at last: let's get on with it, although bearing in mind the fact that 4 of the Al Amarahs will be separated from the others and waiting for the Happy Bus, we will probably have to get the ICRC to promise not to mention where they are going the day after they speak with them on the 22nd."*⁵⁰⁷⁷

4.547 In his written evidence, Major De Reya explained that the term "Happy Bus" was used by the detainees to refer to release from detention.⁵⁰⁷⁸ Major De Reya said the detainees were not told that they were being transferred to Iraqi custody, but simply that they were being moved. Major De Reya said he did not tell the detainees they were being released and he did not believe they were told that by anybody else. Those who were involved in the transfer were instructed not to say anything to the detainees other than that they were being moved.

⁵⁰⁷³ Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) ASI013960 [37]

⁵⁰⁷⁴ Abbas Abd Ali Abdulridha Al-Hameedawi (detainee 776) (PIL000454) [28]

⁵⁰⁷⁵ Hussein Fadhil Abass Al-Behadili (detainee 778) (MOD006567) [61]

⁵⁰⁷⁶ Atiyah Sayyid Abdulridha Al-Baidhani (detainee 779) (PIL000165) [26]

⁵⁰⁷⁷ (MOD044236)

⁵⁰⁷⁸ Major De Reya (ASI018968) [180]

To the best of Major De Reya's knowledge, the detainees were not told that they were being released.⁵⁰⁷⁹

4.548 The evidence indicates that the detainees were not told that they were being transferred to Iraqi custody. Some detainees may have formed the impression that they were being released. The escorts did not seek to correct that impression. I am satisfied that the instruction from Major De Reya to the escorts was that they should simply tell the detainees that they were being moved without specifying the destination. If there had been a conscious decision to misinform the detainees what was to occur, that would have been a matter for criticism, but I accept that was not the case.

⁵⁰⁷⁹ Major De Reya (ASI018968) [179]