

## **The Iraq Fatality Investigations**

Inspector: Sir George Newman

### **Progress Statement No. 1 – 16 July 2014**

Good day. I wish to clarify certain matters and to outline the current position.

I have concluded that it is sensible to divide the investigations into 4 sections whilst progressing all sections at all times. However, once investigations and enquiries are sufficiently complete in one section and are at a stage for public presentation of material and for the holding of a public hearing, I will move to that stage for that particular section.

The sections for examination are:

- 1) The date and cause of death for each of the deceased;
- 2) The relevant circumstances arising during the passage of each of the 4 stages of Operation Telic; in particular, the legal framework, the preparation for the aftermath of the invasion, the state of affairs prevailing in Iraq in May and August, and the training and instruction of soldiers required to carry out policing and law and order duties;
- 3) The immediate circumstances surrounding the death of the deceased and, further, the planning, control and discipline being maintained over policing operations carried out by the soldiers, including those giving rise to the alleged circumstances surrounding the deaths;
- 4) The previous investigations and enquiries into the deaths.

Thereafter there will be the reports, and any recommendations which it is appropriate to make.

I propose in the near future to make public the material concerning the cause of death of Mr Abdullah and to do so in time for a public hearing which is planned for a date in September.

I shall communicate the date when the arrangements have been finalised. They will, I trust, include arrangements for a video link to Iraq. I shall endeavour to cover the cause of death of Mr Said at or about the same time.

The essential requirement for due participation in these investigations by the families of the deceased in Iraq has inevitably introduced a measure of difficulty and uncertainty into my preparations. These difficulties will continue. The families live in Southern Iraq in remote country areas, have limited access to communications, and neither speak nor understand English. Travel to

and from city centres can be expensive and time-consuming, but without travel, access to a video link will not be possible.

I know that members of the family of Mr Abdullah travelled to England and gave evidence in the court martial proceedings. It is likely that they had a limited understanding of those proceedings and its procedures. As witnesses for the prosecution in an adversarial setting, it is likely that they found the process of waiting, then giving evidence and then being cross-examined by senior and experienced counsel to be very difficult. I am aware of the likelihood that, having regard to what they believe to be the circumstances in which the death occurred, they held, and still hold a sense of grievance and a strong desire to receive recompense for the wrongs they feel have occurred. It is essential that the families have a clear understanding that these investigations are not concerned with prosecuting wrongs which may have been done, nor with proving an entitlement to receive, or be awarded compensation. My purpose is to establish the cause of death, and to make findings about all the circumstances in which the death occurred.

The legal requirement for the investigations reflects the established view that those who suffer bereavement are entitled to have the benefit of independent judicial findings about how death occurred and to have findings as to all the circumstances in which death occurred. No more can be expected by them, and in return, due participation by them, and by all who can assist, is required.

I have no doubt, that the need for clarity and understanding on the part of the Iraqi families and witnesses will be assisted if it is conveyed to them by appropriate persons in Iraq who can give due time to the task, and who have insight into their culture, customs and traditions, and of course speak the same language. These matters have been behind my firm conclusion that the families and witnesses' best interests lie in having the benefit of legal advice in Iraq from an appropriate Iraqi lawyer or lawyers. I am pleased to be able to report that progress has been made in this regard and I have approved appropriate and qualified lawyers from Basra to approach the families and witnesses with a view to fulfilling the necessary advisory role.

The firm has been given instructions by my team, has been able to study the documents on the website, including the note for witnesses. The witnesses, the lawyers in question, and the families will, I hope, be able to work together. The first section I have planned for September will be a goal of particular importance for them and they should seek to be ready by that time for that part of the investigations.

I have made enquiries about the current state of security, travel, and communication in Basra and Southern Iraq. There are uncertainties and some risks, but there are grounds to believe the steps required to progress these investigations can be taken. If the situation changes I shall have to consider the consequences of the change.

I now turn to the soldiers. The majority have agreed to assist and I have approved their request for legal advice to be available to them. So far as the risks attendant upon them giving evidence to me are concerned, I make the following observations:

- 1) A pre-condition for these investigations is that the Divisional Court has concluded that there is no reasonable prospect of them being prosecuted in the United Kingdom.
- 2) The setting up of these investigations by the Secretary of State carries an implicit declaration by him that he is of the same view.
- 3) They have the benefit of not guilty verdicts in criminal proceedings based on the alleged circumstances in which the deaths occurred.
- 4) The terms of reference remove individual and collective culpability from my remit.
- 5) Further, I have asked the Attorney-General to provide an undertaking for each soldier covering the giving of evidence to me. The Attorney-General is considering with the Service Prosecution Authority and the Crown Prosecution Service whether such an undertaking should be given and if so, in what terms. I should know the outcome shortly.

We have prepared a protocol for costs which will be put out on the website. It gives details in relation to eligibility, procedures and the consideration of awards.

As to the second stage of the investigations, whilst there has been considerable progress in gathering evidence on the state of affairs in Iraq at the material time, the relevant aspects of Operation Telic and questions of training and discipline, and the overseeing of policing operations by soldiers, there are more witnesses I need to interview. I am not without hope that we will be able to commence this section at a date in September or shortly thereafter.

With regard to Section 3 of the investigations, namely the immediate circumstances including the eyewitness evidence, there is work yet to be done, both by the soldiers and the Iraqi witnesses and by the lawyers who are available to them to give them advice. It must be set in train now. The first step must be the prompt resolution from the giving of legal advice for the Iraqi witnesses and the soldiers, and the speedy movement to the preparation of their evidence for an oral hearing.

Thank you.