

**In the matter of an investigation into the death of
Mr Tariq Sabri Mahmud**

Inspector: Sir George Newman

Progress Statement No.1 – 25 September 2017

This is a statement in connection with the investigation into the death of Mr. Mahmud which I am currently conducting in accordance with a letter of appointment from the Secretary of State for Defence dated 25 May 2017. I should also like to take this opportunity to briefly remind those who wish to know more about the origin, status and legal purpose of the investigations, which have been conducted since 2014, that there exists on the website of the IFI an abundance of accurate information which will readily answer most of the general questions which are frequently directed to the Horse Guards address.

The title IFI was adopted as a convenient generic title to cover any judicial investigation which the Secretary of State concluded he was legally bound to establish in order to comply with the judgement of the Divisional Court delivered in 2013. It is not a legal entity. It is not a department and comprises a judge and a small team who assist him. The legal status of any investigation is derived from the appointment of a judge who must conduct an investigation which complies with all the legal requirements which have been laid down by the court. Since 2014 the duly appointed judge and his assistants have been housed in Horse Guards. The adoption of the generic title may have given rise to confusion, particularly since there existed, until recent months, IHAT, an entirely different body fulfilling non judicial functions, which conducted criminal investigations into allegations including those brought to the attention of British Authorities through Public Interest Lawyers (PIL), a firm of solicitors. Each of the reports covering the investigations completed to date have full explanations of the process, purpose and status of what the “IFI” or more accurately the Inspector appointed to conduct an investigation, is bound to do.

I should like to emphasise that the Inspector does not initiate investigations. The Secretary of State appoints an Inspector to carry out an investigation and the judge appointed has to proceed within his Terms of Reference to report his findings. I completed a Report which was published in September 2016 into the death of Ahmed Jabbar Kareem Ali, who died by drowning whilst in the custody of British forces. For the reasons which appear in Section 7: Part 11 at page 49 to 51 I divided my report into two parts. The need arose from some of the findings in the Chilcot report, my own concern about the absence of training in connection with looting and my awareness there were allegations of looters being soaked in water which were awaiting decisions by appropriate authorities. Unless and until I am informed about the stages of decision making in any other drowning allegations I shall not proceed with Part 2 in Ali.

Currently the only other case of death which I have been appointed to investigate is that of Mr.Mahmud.

The Case of Mahmud

It can be seen from my letter of appointment that his death was investigated by UK Service Police who reported in June 2004. IHAT completed a review in 2012 and it was followed by subsequent lines of inquiry being followed, leading to the decision of the Director of Service Prosecutions directing that no charges should be brought.

I have read the extensive volume of witness statements and other documents and have conducted inquiries of my own. It will be a complex investigation. The deceased was one among a group of some 63 prisoners of war (EPW) detained at a vehicle check point (VCP) west of Ar Ramadi in Iraq on the 11 April 2003. The capture at the VCP was conducted by Australian Forces, possibly in company with a member of the US forces. British Forces transported the EPW by two Chinook helicopters to a Forward Operating Base in the Iraqi western desert known as H-1, where they were handed over to the US forces.

The deceased was in the first group who were transported. It has become clear to me that there are a number of important issues to be resolved:

1. The identity of the deceased is open to uncertainty. I have commenced inquiries in Iraq which may lead to evidence being made available to me which will enable me to resolve this issue. It is a critical element of an Article 2 inquiry that the family of the deceased should be involved. It is highly probable that his family are ignorant of the circumstances in which he died.
2. Another critical element of an Article 2 inquiry is the need to enquire into what investigations (if any) took place after his death. There is an issue as to when he died, who had custody of him at the time of his death, what caused his death and what investigations did take place. It is likely he was buried by the US forces at the site known as H-1.
3. Since three Coalition Forces were involved there will be a need to establish under which principles of the law of war they were operating and the extent to which any failure to comply with the necessary legal requirements comprise relevant circumstances surrounding his death and or it can be shown that there was a failure to carry out appropriate procedures and investigations.

I have already made contact with a number of witnesses who were engaged in the transportation of the EPW. I am pleased to report that they have all agreed to cooperate. Where requested legal assistance has been accorded to them. In the near future I shall hold a directions hearing when we will be able to agree on a preliminary timetable for taking their evidence. I have yet to consider which witnesses should give their evidence at a hearing. All evidence taken by me will be posted on the website at an appropriate time.

Finally I am aware that inquiries may have been made by one or more newspapers in connection with the identity of the deceased. For obvious reasons if such information could be made available to me it would assist.

SIR GEORGE NEWMAN