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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES
COMMITTEE

Reference: Duties of Australian personnel in Iraq

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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

Tuesday, 29 March 2005

Members: Senator Hutchins (*Chair*), Senator Sandy Macdonald (*Deputy Chair*), Senators Hogg, Johnston, Mackay and Ridgeway

Chair for the inquiry into the duties of Australian personnel in Iraq: Senator Hogg

Substitute members: Senator Chris Evans for Senator Hutchins, Senator Faulkner for Senator Mackay and Senator Bartlett for Senator Ridgeway

Participating members: Senators Abetz, Bartlett, Boswell, Brandis, Brown, George Campbell, Carr, Chapman, Colbeck, Collins, Conroy, Coonan, Crossin, Denman, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fifield, Forshaw, Harradine, Kirk, Knowles, Lightfoot, Ludwig, Mackay, Mason, McGauran, Nettle, Payne, Robert Ray, Santoro, Stott Despoja, Tchen, Tierney and Watson

Senators in attendance: Senators Bartlett, Chris Evans, Faulkner, Ferguson, Hogg, Johnston and Sandy Macdonald

Terms of reference for the inquiry:

To inquire into and report on:

- (a) whether any Australian personnel (including employees, contractors and consultants) were present, or had duties which included being present, during any interrogations or interviews (however defined) of persons detained in relation to the war in Iraq, and in particular those persons suspected of having knowledge of Iraq's weapons of mass destruction;
- (b) whether any knowledge of, or concerns regarding, the treatment of those Iraqi detainees was provided to Australian Government departments, agencies and ministers, and what actions resulted from the provision of this information;
- (c) whether the Iraq Survey Group (ISG) were able to report frankly and fearlessly on what they had found, or whether attempts were made to censor or otherwise distort their findings; and
- (d) whether any Australian personnel provided information or concerns to any part of the Australian Government relating to concerns about the functions or reports of the ISG, and what actions resulted from the provision of this information.

WITNESSES

BARTON, Mr Rod, Private capacity 1

Committee met at 2.03 p.m.**BARTON, Mr Rod, Private capacity**

CHAIR—I declare open this meeting of the Senate Foreign Affairs, Defence and Trade References Committee and call the committee to order. Today the committee will conduct its first public hearing into the duties of Australian personnel in Iraq. The terms of reference were referred to the committee on 8 March this year. The committee has called for submissions, which should be lodged with the secretariat by 8 April 2005. The committee is due to report to the Senate on 21 June 2005.

I now turn to the matter of parliamentary privilege. All witnesses appearing before the committee are protected by parliamentary privilege with respect to the evidence provided. Parliamentary privilege refers to the special rights and immunities attached to the parliament, its members and others who are necessary for the discharge of the parliamentary functions, without obstruction and fear of prosecution. This means that you cannot be prosecuted or disadvantaged because of anything you say in evidence or because you gave evidence. Any act by any person which operates to the disadvantage of a witness on account of evidence given by him or her before the Senate or any of its committees is treated as a breach of privilege, which is a matter that the Senate takes very seriously. These resolutions are intended to protect witnesses. However, I must also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

I welcome Mr Barton to this hearing. The committee prefers all evidence to be given in public but, should you at any stage wish to give any part of your evidence in private, you may ask to do so and the committee will consider your request. I invite you to make a brief opening statement, after which we will proceed to questions.

Mr Barton—In this opening statement I will address briefly all four terms of reference and provide additional information that I consider to be relevant. But first, since I am appearing before this committee in a private capacity, I think it is appropriate that I give a little of my own background. I am a former Director of Strategic Technology with the Defence Intelligence Organisation. There I was responsible for managing the section that monitored foreign developments of weapons of mass destruction and ballistic missiles. In 1991, I was invited by the United Nations Special Commission to participate in the first weapons inspection in Iraq. Over the next eight years, until the end of 1999, I continued to be involved with UNSCOM and, in fact, worked in this capacity at the UN headquarters from 1994 to 1996.

Early in 2001, I was invited by Dr Hans Blix to become an adviser to him and his new organisation, UNMOVIC, which is UNSCOM's replacement. On a non-continuous basis, I worked for Dr Blix until the outbreak of war in March 2003. Then in late 2003 I was recruited by the Iraq Survey Group, a coalition organisation that investigated Iraq's WMD or, to be more precise, the lack of them. My job in the ISG was as a special adviser to the then head, Dr David Kay. Unfortunately, just before my arrival in Baghdad in December 2003, Dr Kay left the ISG, not to return. By mutual understanding with Major Keith Dayton, who was then the military commander of the ISG, I provided strategic guidance to the organisation and gave technical advice to the investigating teams. I left the ISG at the end of March 2004, for reasons I will elucidate later. However, I returned for a few weeks in September that year, to assist with the

preparation of what was essentially the ISG's final report. In October 2004, at the invitation of the US, I attended the congressional hearings on that report.

Now I would like to address the terms of reference. The first deals with the questioning of Iraqi prisoners. I questioned an Iraqi prisoner in a special prison, Camp Cropper, on 30 December 2003. The circumstances, briefly, were that some CIA officials believed that the prisoner had not been cooperating and asked me whether I would try. I knew the individual quite well from my former UNSCOM days, and I agreed. I questioned him for about four hours, with a 20-minute break in the middle. The occasion was quite cordial.

I will not discuss here the difference between 'interview' and 'interrogation'; that is for others to decide. But I will say this: until recently I did not really draw a distinction between the two and I used the terms interchangeably—nor was I ever briefed by the defence department or anyone else on the distinction, nor given an instruction in any form not to be involved with interrogations. I know there was at least one other Australian who was not given any such instructions.

I would like to point out that the Iraqi I questioned was at that time a prisoner of war. Like all inmates of Cropper, he was not asked whether he would like to be involved in an interview. He was simply brought to me by a prison guard and, when I had finished, he was returned to his cell by the same guard. I am aware that some of the prisoners at Cropper were questioned at 2 o'clock in the morning. Although many prisoners did not cooperate during questioning, I have not heard of one case where a prisoner at Cropper refused to go with a guard. Coercion was there in the form of implied force, although I am not aware that it was ever actually used. Just as importantly, coercion was there in the form of withdrawal of privileges, such as the removal of reading or writing material or of the use of a mobile phone to contact children.

For the record, I would like to make it known that I was also involved in the reorganisation of how interviews or interrogations were conducted by the ISG. This, I believe, was consistent with my duty statement, and I can provide more detail on this if required.

Again for the record, in a minor way I also had a role in the arrest of one Iraqi. I was asked, according to my notes on 18 December 2003, whether I agreed to the detention of this person. I did, and the next day he was arrested and eventually sent to Cropper, where I understand he still is.

I would also like to mention that, after 28 June 2004 and the return of sovereignty to Iraq, the prisoners at Cropper were no longer prisoners of war. Officially they became prisoners of the interim government, although they were still held in custody by the US. I am aware that, after June, the UK government became concerned about the legal status of these prisoners and, consequently, prohibited their interrogators from having contact with the prisoners. On my return to Baghdad in September, I was asked by the head of the ISG to question some senior inmates at Cropper. I inquired but never discovered what the Australian policy was. However, given the UK concerns, I declined to question any prisoner and I also declined to prepare questions for others to ask. I am not sure whether any other Australians were involved with prisoners at Cropper after June 2004.

The second term of reference relates to concerns about the treatment of prisoners and resulting actions. On 10 January 2004 I inspected Camp Cropper. Given the circumstances, I believed Cropper was generally well run, but some things concerned me—the size and design of cells, the use of privilege to gain cooperation and the extensive use of solitary confinement. I made these concerns known at the time to the commandant of the prison. What was of greater concern to me was the way that some, although not all, prisoners were treated prior to their arrival at Cropper. I saw photographic evidence that I believe indicates that some were beaten shortly after their arrest, possibly as a softening-up process. I also became aware much later of a death in custody that looked suspicious.

On return to Australia at the end of March 2004, I reported my general concerns about prisoner mistreatment to a senior official in the Department of Defence. At the time, I did not go into details, but I did make a recommendation that Australia should not be involved in the interview process. Late in 2004, when there was a Defence inquiry, I completed a proforma in May and then in June, which provided full details to a defence official.

The defence department told me in early July 2004 that it would write to the US Ambassador in Canberra to inform him of my concerns, including the death in custody. On 19 August 2004 a US military police officer from the Criminal Investigation Division interviewed me in my home. Since no Australian government official was at this interview, I called the defence department afterwards to provide a summary of what I had said. I heard no more on the progress of the US investigation until 24 November last year, when I was told, according to my notes: ‘Barton had not witnessed prisoner abuse nor had direct knowledge; therefore, the investigation could not proceed further.’ I said that this was unsatisfactory and the departmental official agreed. He said he would refer the matter back to the International Policy Division of Defence for them to follow up. He undertook to keep me informed, but I have heard no more since then.

I do not know what action was taken by government officials since I first reported abuse in March 2004, but I regret now that I was not more emphatic at the time. I now have some reason to believe that abuse of prisoners associated with Camp Cropper continued until at least June 2004. I have recently received documentation to support this statement. Finally on this issue, I would like to say that I am not the only person to report suspected prisoner abuse associated with Camp Cropper. I am aware that a senior UK official has reported on a number of occasions his concern to the British government.

The third term of reference relates to whether the ISG was able to report frankly. The substantive report of the ISG presented to congress last October is, I believe, a frank and honest report. As far as I am aware there was no attempt by any government to censor or in any other way interfere with the conclusions of this report. Unfortunately, this was not the case with respect to an interim report that I was involved with in March 2004.

There is a lot of background to this March report that I can elaborate on if required. Some of this is detailed in my letter of resignation, which, with the committee’s approval, I would like to table. I was responsible for the coordination and oversight of the March report. It was circulated to capitals for comment, and I received feedback from Washington, London and Canberra. The comments from Canberra were constructive and largely editorial and caused me no difficulty. London, however, suggested that we add certain material. I believe these additions were designed to leave the impression that WMD might yet be found. This would have been contrary

to our views. The CIA also sent suggested amendments. Many of these were quite useful, but there were two amendments that were blatant attempts to change our findings.

To the credit of Charles Duelfer, the head of the ISG, these attempts at changing the nature of the report were rejected. Nevertheless, it was still a poor report in that it did not say what by this time we knew. I resigned from the ISG as soon as the final draft of the report was completed. In my view the report was symptomatic of a wider malaise in the ISG. At that time there was no real objectivity in the investigation and it seemed to me that a lot of the direction, particularly in the chemical and biological areas, was coming from Washington. My resignation letter outlined some of this. Again, I should make it clear that I was not the only person to resign. Another senior Australian resigned shortly before me, for similar reasons, as did one senior investigator from the UK.

The final term of reference concerns what information was provided to any part of the Australian government regarding concerns about the ISG. As mentioned previously, I reported my concerns about the ISG to government authorities. My letter of resignation documents my views. I discussed these with a senior Defence official on 31 March 2004. I understand that my colleague who resigned shortly before me wrote a similar letter of resignation and discussed this with various senior officials in both DFAT and Defence in March last year. I do not know what action the government authorities took.

Finally, I would like to mention a discussion about prisoners that I had with the Australian Ambassador in Baghdad. It was at a dinner party held on 2 March 2004 at his residence and attended by the ambassador, a Foreign Affairs official who was then head of the Iraq Task Force, my ISG colleague who later resigned and me. During the evening we discussed the issue of the continuing detention of certain prisoners at Camp Cropper. A year has passed since that conversation and the ISG has issued its final report, which concluded that there were no WMD in Iraq after 1991, nor programs to produce them. I believe it is unjust that a few of the former Iraqi WMD scientists remain in jail. No matter what you may think of their former occupations, under international law they have committed no crime, nor will they be charged with any. One prisoner in particular, Huda Amash, who I saw in Cropper early last year, probably should not have been arrested in the first place. She is there because certain US agencies believed she had restarted Iraq's biological program in the mid-1990s. Of course, we now know that there was no such program after 1991.

Australia has some responsibilities for the prisoners at Cropper. We were part of the coalition, we were part of the ISG and we were involved with the prisoners. I believe the Australian government should formally put a request to the US and the new Iraqi government for the release from Cropper of those prisoners who are not to be charged with any crime. That completes my opening statement.

CHAIR—Thanks very much. You mentioned a letter of resignation, which the committee already has in its possession. We will formally admit that as an exhibit for the purpose of the hearing this afternoon. Do you have any copies of that opening statement available?

Mr Barton—Yes, I can make a copy.

CHAIR—Can you make it available to the secretariat? We can arrange to have it made available to the members of the committee at the table. It might assist them in their questioning this afternoon.

Senator FAULKNER—Can I start with your duty statement for your employment with the ISG, particularly that element of your duty statement, which says:

Direct, plan and assist where appropriate in the interviewing of scientific and high value Iraqi personnel.

Is that just standard wording or were you in any way involved in the development of that element of your own duty statement?

Mr Barton—No, I had no involvement with the development of the duty statement. Before I was employed with the ISG, officials in Canberra made inquiries as to what might be the nature of my duties working for Dr Kay. Resulting from those discussions they drew up this duty statement. I understand that was the process—they drew up this duty statement; I had no personal involvement.

Senator FAULKNER—The defence minister, Senator Hill, has built an edifice around the difference between interviewing and interrogation, and I noticed the comments that you made in your opening statement about that terminology. But what I am interested in understanding is what occurred prior to your going to Iraq. Were you given assurances and what training was undertaken and what involvement did you have in relation to what was allowable and what was not allowable in terms of interviewing and interrogation?

Mr Barton—You mentioned a number of things there. I had no training specifically related to this. Of course I had a lot of experience of talking to and questioning the Iraqis. I actually had attended a short course when I was in the US with the FBI on interrogations, but I had no formal training.

Senator FAULKNER—Were you briefed about the difference between interrogation and interviewing?

Mr Barton—No, absolutely not. As I said in my opening statement, I never even drew a distinction until recently. It was not discussed and it was not mentioned at all to me.

Senator FAULKNER—Are you aware of any efforts made to brief any Australian personnel on this issue? It may not have happened in your case: are you aware of it happening in any others?

Mr Barton—I am not aware of it happening in any other case. As I said, I had a colleague who was employed with an almost identical duty statement to mine—I think it was actually identical. He was not briefed on this either or given any instruction.

Senator FAULKNER—When did you first find out about the difference that exists in the minds of some between an interview and an interrogation?

Mr Barton—I first became aware that people were drawing a distinction when I phoned up the defence department after Senator Hill's statement last year. I was angry because he had made a statement that we did not do any interrogations and I regarded what I was doing, at least at that time, as interrogation. So I phoned up the department and I was told by a departmental official that there was a difference. That was the first I had heard of this.

Senator FAULKNER—Are you aware of Defence guidance in relation to these matters—in other words, interviews and interrogations?

Mr Barton—No. I had no Defence guidance. In fact, as I pointed out, I returned to Iraq in September and still no-one had given me any instruction when I went back.

Senator FAULKNER—You have talked about events that took place in a place that is described as 'Purgatory'. Can you outline for the committee what Purgatory was, where it was and what you understand took place there?

Mr Barton—I never visited this place called Purgatory, but I heard about it. I think I heard about it during my very first days or the first week or two after I got to Iraq in December 2003. I understood at that stage that Purgatory was some sort of processing centre before they went into Camp Cropper and that it was a place where there was some initial questioning or something like that. But I was not told the nature of Purgatory; it was just conversation with another official at Camp Slayer, which was the headquarters for the ISG. Later on I understood that perhaps more was going on in Purgatory than I first realised.

Purgatory was a processing centre where, I was told, prisoners after being arrested were kept for about two or three days. I understood at that time that 72 hours was the maximum. I am not exactly sure where it was, but it was pointed out to me that there was a hangar somewhere in the vicinity of Camp Cropper—and I have seen that hangar from the outside—where this activity took place.

Senator FAULKNER—So when you say it was a processing centre, was it where prisoners, after they were first captured, would be processed and assessed? Is that how it worked?

Mr Barton—That is what I assumed to begin with, but later on, particularly after going to Camp Cropper, the actual process—the induction, if you wish—into Camp Cropper occurred at Camp Cropper. There was a facility there where they were fingerprinted and photographed and their details were taken, medical records were done and so on. That actual processing occurred when they went to Camp Cropper; so there was something else going on in this Purgatory, as it was called. I still do not know exactly what went on in Purgatory or who was involved with it, although there was some discussion about a unit that at the time was referred to as Task Force 121—and, again, I am connecting events which may not be connected. Task Force 121, as I understand it, was a task force attached to the ISG—not part of the ISG. Their job was to go out and collect high-value detainees, including those associated with Iraq's WMD program. Their job was to collect such people and bring them in, and those people would eventually finish up in Cropper.

Senator FAULKNER—Why did your suspicions grow about this place called Purgatory?

Mr Barton—Because, in January or maybe even in early February, during the regular briefings we had at Camp Slayer—which was, as I said, our headquarters—they put up photographs of individuals who were at Cropper. These photographs had been taken during the induction process, which I just mentioned to you was at Cropper. These photographs were taken when they arrived at Cropper and certainly in two of these photographs—and, I suspect, in some others, although it was a bit harder to see—the person photographed had clearly been beaten about the head. At a briefing I attended, General Dayton asked why these people had abrasions. The head of JIDC—the Joint Interrogation and Debriefing Centre—immediately answered, ‘They resisted arrest, sir.’ Even at that time I was a bit perturbed by this because the nature of the bruising and so on about the face seemed to be more than you would get if you just resisted arrest. When you see one, you think, ‘Maybe this is correct,’ but when you see two—and there may be others—it occurs to you that this was not something that happened just during arrest. I am only deducing that the beating occurred during time at Purgatory.

Senator FAULKNER—Did you or anyone else you are aware of take this matter any further—this issue of the prisoners with abrasions?

Mr Barton—Not at the time. A few of us were concerned, but at this stage, of course, we were not aware of anything that was going on at Abu Ghraib. We just thought that these were perhaps some isolated incidents or that we had not interpreted the evidence correctly.

Senator FAULKNER—You talk about the Joint Interrogation and Debriefing Centre. Was that the official name of the facility?

Mr Barton—No, not the facility. The staff who were attached to the ISG were called JIDC, Joint Interrogation and Debriefing Centre; they worked in that centre, which was located at Camp Slayer. There were about 45 debriefers or interrogators, and they worked with the prisoners. In fact, each prisoner had a case officer attached to them, and so all the interviews, interrogations—whatever you wish to call them—were done in the presence of the case officers.

Senator FAULKNER—Did the interview or interrogation in which you were involved take place under the auspices of the Joint Interrogation and Debriefing Centre?

Mr Barton—That is right. In fact, the case officer for the prisoner that I questioned sat in during that interview. He did not take part, but he sat in during the interview or the interrogation.

Senator FAULKNER—But the official terminology was Joint Interrogation and Debriefing Centre?

Mr Barton—Yes. They were referred to as either interrogators or debriefers, as you might expect. They were, I believe, all trained interrogators. They were not all American; I believe there were three British officers attached to that unit.

Senator FAULKNER—But are you aware of any training that any Australians who were involved in interrogation or interviews might have had? You have said, as far as I understand it, that you did not have any formal training yourself. Is that fair? You should say that, I suppose.

Mr Barton—Yes. Other than the very short course I did with the FBI when I was in the US, I had no formal training at all in interrogation.

Senator FAULKNER—You had no training or guidance from Defence?

Mr Barton—No.

Senator FAULKNER—We have the Australian defence minister now making a distinction between interrogation and interviews, but you were not aware of this distinction when you were involved in this sort of activity in Iraq?

Mr Barton—No, I was never briefed. As I have said, I was never briefed, even when I went back to Iraq in September.

Senator FAULKNER—Are you aware of any guidance provided to any Australian personnel there at all about these matters?

Mr Barton—I am not aware of any other guidance given to any of the other Australians. There may have been, it may have occurred, but I am not aware of it. It was never discussed with me by them or by anybody else from Defence.

Senator FAULKNER—How did you find yourself in a position then to be involved in a reassessment of the interrogation techniques and methods that were used?

Mr Barton—I am sorry, I do not—

Senator FAULKNER—I think you said in your opening statement that you were involved in reassessing some of the methodology or methods that were used.

Mr Barton—Yes. What I said was that I was involved in the reorganisation of how we did some of that questioning. My real concern here—and I had a series of meetings over this—was that the interrogations were not being coordinated. Very often there would be several different teams interviewing the same person and not using information that had already been collected. So I was quite concerned about the lack of coordination. First of all, I had a meeting with the strategy group and then I called the interrogators themselves together and had a meeting with them—quite a large meeting, 45 to 50 people. Then I spent a whole morning with the head of JIDC, talking to him about how we could do things better. But it was not about how we would do the actual questioning; it was about how we would use the product more efficiently to do further questioning.

Senator FAULKNER—Why did that responsibility fall to you?

Mr Barton—As I said in my opening statement, when I arrived I really had no boss. Dr David Kay had left and, so I discovered, he was not to return. In fact, even at that time General Dayton went on three weeks leave. So I was the senior scientific person there, and I took it upon myself, as the senior adviser, to provide advice. As I said in my opening statement, that was with the encouragement of General Dayton.

Senator FAULKNER—Could you provide the committee with a little more information about your concern, which you referred to in your opening statement, about what occurred through to, I think, June 2004? I have not had an opportunity yet to read the opening statement, but my recollection is that by June 2004 some matters of concern to you still had not been addressed. You indicated to the committee that you had documentation which supported that view.

Mr Barton—What I actually said was that I believed that abuse of prisoners associated with Cropper—not actually at Cropper itself—continued until at least June 2004. I am quite happy to provide the document. I mentioned that I now have some documentation to indicate that actually occurred. The document I have is a US originally classified ‘Secret/NO FORN’ document, but it has now been declassified under the Freedom of Information Act. It is a document from Vice-Admiral Jakobi, the director of the DIA, whom I have met, and it is to the Undersecretary of Defense for Intelligence—and I think I know who that is.

CHAIR—Mr Barton, if you are going to quote from that document, it might assist the committee if we tabled it as an exhibit. At your earliest convenience, could you provide it to the secretariat and it will be made available to those at the table.

Mr Barton—Fine. Very briefly, because it is written in US military jargon, the document refers to two of the interrogators from JIDC reporting abuse of prisoners at a place called the temporary detention facility, which I suspect is Purgatory. The JIDC people, who are attached to this unit, refer to prisoners arriving at the temporary detention facility. They say:

The prisoners arriving at the temporary detention facility have burn marks on their backs, some have bruises and some have complained of kidney pain.

The document then refers to one of the two JIDC people witnessing—and here they refer to officers from Taskforce 626, which I think replaced Taskforce 121, which I mentioned earlier—‘Taskforce 626 officers punch a prisoner in the face to the point that the individual needed medical attention’. It goes on with a few more details about what happened after that. I will provide this document to the committee.

Senator FAULKNER—We would appreciate that. We might come back to that with the benefit—

CHAIR—Is there evidence on that document that it is declassified?

Mr Barton—Yes, it is declassified. You can see that the classification has been crossed off and some of the details have been blacked out. The document has been obtained under the Freedom of Information Act.

Senator FAULKNER—In your opening statement you indicated that the sorts of concerns you have raised both publicly and before this committee were not limited to yourself. You have mentioned that one other Australian and a UK official also tendered resignations as a result of their concerns. Is that correct?

Mr Barton—That is correct, yes.

Senator FAULKNER—Can you inform the committee of when you understood those resignations to take place?

Mr Barton—Those resignations took place in March 2004.

Senator FAULKNER—Do you have an understanding of why those resignations took place?

Mr Barton—Yes. In fact, I have seen both of their resignation letters, and of course I discussed this with them. I know exactly why they resigned, and it was essentially for the same reasons that I resigned. That is, they felt there was no objectivity at that time in the ISG, not only in the way it was reporting but in the way it was doing its investigation. As I mentioned, the direction seemed to be coming from Washington and from the CIA.

Senator FAULKNER—I am a little perplexed about the Australian official's resignation, because you indicated in your opening statement that that Australian official—could you identify that official for us, please?

Mr Barton—That person is a private individual. He works as a consultant to a government department and I believe he would rather not be identified for privacy reasons.

Senator FAULKNER—We will come back to that in a moment. You have said that this official wrote a similar letter of resignation to yours but also discussed with senior officials in DFAT—and Defence, I assume—the reasons for his resignation. Would that be right?

Mr Barton—That is correct. In fact, when he indicated that he might resign they encouraged him to remain on until a visit from the head of the Iraq task force, who was coming anyway, and then he was to discuss it with that individual—which we did during that visit, which was early in March 2004.

Senator FAULKNER—Are you able to identify the UK official?

Mr Barton—Again, he is a private individual and he would prefer not to be named.

Senator FAULKNER—Are you able to identify the UK official?

Mr Barton—I would rather not give his name. I know who he is, of course, but I would rather not name him.

Senator FAULKNER—You see, Mr Barton, it is important for the committee's work to be able to try and follow up. It may not be possible with the UK official, but it certainly would be possible with an Australian who worked for the ISG.

Mr Barton—Yes.

Senator FAULKNER—It is totally unclear to me what the privacy concerns could possibly be here. Perhaps you could explain to me why there are privacy implications, because on this side of the table, at this point, I do not understand them. I think I tend to be fairly sensitive about matters that ought to be dealt with in confidence before Senate committees. I think I have got a

very good record in relation to that, but at this point I am perplexed as to why that name cannot be provided.

Mr Barton—It is a bit difficult if you do not know who it is. He has asked me not to identify him, so I am trying my best not to identify him. I do not know whether he will appear before this committee or whether he will volunteer to appear before this committee. Of course, he may well do.

Senator FAULKNER—It is a bit difficult to ask him to appear before the committee if we do not actually know his name.

Mr Barton—Would it be possible to give his name in camera so that it does not appear on the official record, so he is not harassed by the media and so on?

Senator FAULKNER—I think that is a second-best option, I would have to say. I am very reluctant to do that, but we might come back to that, Chair.

CHAIR—I think that is an issue that can be laid on the table for the moment and we can determine that closer to the end of proceedings today. That might be the best way. Otherwise, we have got to clear the room, and I am not disposed to do that at this stage.

Senator CHRIS EVANS—Mr Barton, are you saying that the second official who resigned is the same official who contacted the Department of Defence following Minister Hill's statement to complain about what they saw as a potential inaccuracy in his statement? Is this one and the same person? I will go back a step. You may or may not be aware that during the Senate estimates process the defence department rather belatedly admitted that they had received two calls from officers who had been in Iraq complaining about Minister Hill's statement and concerned that he may not have fully represented what they had provided to the defence department. One was you and the other was described to us at the time as a senior military official. Is this person the same person as the person you referred to as having resigned from the ISG or is this a different person again?

Mr Barton—I believe this is a different person.

Senator CHRIS EVANS—So this is a non-military officer who was serving with the ISG?

Mr Barton—A non-military officer, yes.

Senator CHRIS EVANS—Was that person someone with a scientific background?

Mr Barton—Yes.

Senator CHRIS EVANS—We will come back to the question of whether or not we can identify this person. That takes me to that other issue. You completed the survey that the defence department circulated to all persons who had been inside Iraq which was used as the basis, allegedly, for the government's knowledge of these matters. Is that right?

Mr Barton—That is correct, yes.

Senator CHRIS EVANS—When did you fill that in? In May 2004?

Mr Barton—Yes, I think I returned it on 23 May, from memory. I wrote this down the other day.

Senator CHRIS EVANS—In that statement, which I think is now on the public record, you answered ‘yes’ to the question of whether you had visited a coalition detainee detention centre, holding facility, prison or interrogation cell. So you were clearly part of the subgroup that was then going to be interviewed by the department. You also commented about what you knew of concerns about the mistreatment of prisoners. Were you interviewed following your completion of that form?

Mr Barton—I was, yes.

Senator CHRIS EVANS—When were you interviewed?

Mr Barton—I think it was 9 June.

Senator FAULKNER—Who interviewed you, Mr Barton?

Mr Barton—Since this individual has already been identified elsewhere in the estimates, it was Mr Mike Pezzullo.

Senator CHRIS EVANS—Mr Pezzullo interviewed you and you told him what you knew of allegations of mistreatment and of the interview/interrigation that you had been involved with at Camp Cropper?

Mr Barton—That is right.

Senator CHRIS EVANS—I gather from Mr Pezzullo’s evidence that following the interview there was some to-ing and fro-ing regarding the record of interview. Could you explain for us your version of what happened there?

Mr Barton—He wrote the record of the interview up, which I saw about two weeks later, I think. I will look at my crib sheet here of dates. I think I saw it on 17 June. In fact, one of his staff brought it around to my house to have a look at and to sign. There were some things that I felt were missing from that, including the fact that I had reported the abuse to the defence department in March. That was not in the statement.

Senator CHRIS EVANS—You had discussed that with Mr Pezzullo at the original interview, but that was not contained in his first draft of your record of interview?

Mr Barton—Yes. I asked him about this. He said at that stage, as I recall, that there were going to be two versions of this. One version he wanted to pass to the US so that they could follow up and the other one was for internal use. It would be inappropriate, he said, for the external version to have what I reported to the defence department internally and to whom.

Senator CHRIS EVANS—Did you take from that that he did not want the US to know that you had already made the department aware of your concerns?

Mr Barton—As early as March, yes. And the individual whom I reported to—he did not want that person identified.

Senator CHRIS EVANS—In effect, he was asking you to sign a sort of public version but on the understanding that there would be an internal version, which would be more complete. Is that right?

Mr Barton—Yes. I gather he then was going to subdivide it, because I only signed one version. I annotated the copy I was given with the fact that I had informed the defence department of my concerns in March 2004. So I annotated that. That is the copy I signed—with this amendment in it. I only signed one copy.

Senator CHRIS EVANS—Was this at your home?

Mr Barton—Yes, this was at my home. They brought it out. I had a talk to Mr Pezzullo about this and he sent his staff out again, I think on the following day, and I signed off on the following day.

Senator CHRIS EVANS—So had he amended the first draft in accordance with your request?

Mr Barton—No, it was just handwritten.

Senator CHRIS EVANS—By you or by Mr Pezzullo?

Mr Barton—No, by me.

Senator CHRIS EVANS—So you still had the original draft by Mr Pezzullo, which you found unsatisfactory, and you then annotated it the following day—

Mr Barton—That is correct, yes.

Senator CHRIS EVANS—and then signed that copy.

Mr Barton—That is my recollection, yes.

Senator CHRIS EVANS—In effect, you made an addendum to the draft that he had prepared, which included a reference to your reporting to the first assistant secretary your concerns at your March interview.

Mr Barton—That is essentially it, yes.

Senator CHRIS EVANS—That was the only copy that you formally signed off on?

Mr Barton—Yes. I might add that I do not have a copy of that because it was classified. I classified it myself. When he brought it out to me originally, it had no classification on it. I said, ‘It should have a classification on this because I have given you some intelligence information.’

Senator CHRIS EVANS—When do you think you signed off on that?

Mr Barton—I believe it was 18 June, according to my notes.

Senator CHRIS EVANS—On 18 June?

Mr Barton—Yes.

Senator CHRIS EVANS—In effect, you had seen the draft; you had spoken to Mr Pezzullo on 9 June, but you did not sign off on it until 18 June, which was a couple of days after Senator Hill’s statement to parliament.

Mr Barton—That is correct.

Senator CHRIS EVANS—Just so I have the context right: you complied with the defence department’s circulars seeking information; you then had the official interview; and they prepared a draft of the record of interview, which you thought it was necessary to amend. But, while that was going on and before it was finalised, Senator Hill—he did not make a ministerial statement; he was very keen to make sure that it was not a ministerial statement—provided additional information, as he described it. During that period, you were in discussions with Mr Pezzullo and still had not signed off. I gather that on 17 June, the day following Senator Hill’s statement to the parliament, you rang Mr Pezzullo. Is that right?

Mr Barton—That is correct. In fact, out of habit, I made a handwritten record of that phone conversation. So I know when it was; I know it was on 17 June at about 9.45.

Senator CHRIS EVANS—Why did you ring him?

Mr Barton—I rang him because I was annoyed with Senator Hill’s statement that we had not been involved with interrogations. In fact—putting that aside, as it is the lesser of the matters—I said to him that I was also not happy that he had not referred to my reporting of prisoner abuse, which I had first reported back in March that year and then given the full testimony on 9 June to Mr Pezzullo; he had not referred to that prisoner abuse that I had referred to.

Senator CHRIS EVANS—Did he in that conversation explain why that was not contained in the minister’s explanation to parliament?

Mr Barton—No. He said that the minister decides what he is going to say. But he did make an undertaking. I do not get angry very often but this was one of the few occasions I did and he could sense that I was annoyed with the situation. He said: ‘I will be with the minister again today. I will talk to the minister again today’—this would be on the 17th—‘and tell him of your views.’ I assumed that he did that.

Senator CHRIS EVANS—He did not attempt to make some distinction between ‘interview’ and ‘interrogation’ or between Abu Ghraib and Camp Cropper? When you look back at the minister’s statement, one could defend it on the basis that there was no reference to Camp Cropper, that there was reference only to Abu Ghraib.

Mr Barton—We talked about that. But I said the whole implication of that statement was that we had nothing to do with the prisoners. The words could have been carefully selected to refer only to Abu Ghraib, and there was another place where it referred to ADF or something. I said, ‘In my view, that was misleading when I have provided you with this information.’ That is when he said, ‘I will talk to the minister and let him know your views.’

Senator CHRIS EVANS—Was the subject of your statement or record of interview also discussed in that telephone conversation, or had that already been resolved?

Mr Barton—No, that was not resolved until later that day.

Senator CHRIS EVANS—I note that you did not sign it until the following day, but was that the subject of the conversation or was it purely your concern over—

Mr Barton—No. It was a fairly short conversation with him. He had to go to some other meeting, as I recall. We did not discuss the transcript of my interview with him.

Senator CHRIS EVANS—So you made it clear that you were not happy with the minister’s statement to parliament. He undertook to convey that to the minister, and the following day you signed your record of interview with the addendum which made clear that you had reported that in March to the first assistant secretary of Defence?

Mr Barton—That is correct.

Senator CHRIS EVANS—Did you hear any further about whether there were two versions of your statement then?

Mr Barton—I think it was on the 18th that he told me that there were going to be two versions and that that is why he had not included that bit about my reporting back in March—because they were going for two different purposes.

Senator CHRIS EVANS—So then Mr Pezzullo gave evidence that on, I think, 21 or 22 June he rang you to seek your agreement to your name being submitted to the US officials. Is that your recollection of events?

Mr Barton—Yes, and in fact I have a record of that conversation as well which was on 21 June at 5.30 in the afternoon.

Senator CHRIS EVANS—As I recall, Mr Pezzullo was not sure whether it was 21 or 22 June. But you say it was the 21st?

Mr Barton—Yes.

Senator CHRIS EVANS—So he rang you at 5.30 or so in the afternoon.

Mr Barton—Yes.

Senator CHRIS EVANS—And what was the nature of the conversation?

Mr Barton—Basically to tell me that my amendments to the record that I had already signed were accepted by him and that they would do two versions—one would go to the secretary of Defence and the other one would go—I do not think he actually said ‘to the US ambassador’ at that stage but he said ‘to be followed up with the US’. In fact, that is what my notes here say: ‘to be followed up with the US.’ As I said in my opening statement, it was on 1 July that I had another phone call from the Department of Defence saying that such a letter had been written to the US ambassador.

Senator CHRIS EVANS—So you confirm that Mr Pezzullo rang you and mentioned that they wanted to submit some paperwork to the US to follow up on the concerns that you had raised?

Mr Barton—Yes.

Senator CHRIS EVANS—Did you at that time discuss any feedback from the minister about your concern about his statement?

Mr Barton—I am sorry?

Senator CHRIS EVANS—You had had a conversation on 17 June about your concern about the minister’s statement. He then rang you again, on 21 June. Was there any further discussion about the minister’s response?

Mr Barton—No. I did not raise it with him either.

Senator JOHNSTON—Thank you for coming along today. Have you ever had any legal training as to the factual gathering of evidence?

Mr Barton—No, not legal training on the factual gathering of evidence—not as such. I have had some legal training, but not on the factual gathering of evidence.

Senator JOHNSTON—What sort of legal training have you had?

Mr Barton—At the very start of my career I was a patent examiner and I did the equivalent to first year of university.

Senator JOHNSTON—So it was IP related legal training?

Mr Barton—Yes, but it was more general than that. It was a full nine-month course.

Senator JOHNSTON—Did you ever come across the concept of hearsay?

Mr Barton—Yes.

Senator JOHNSTON—Do you understand the meaning of the word ‘rumour’?

Mr Barton—Yes.

Senator JOHNSTON—Do you understand the meaning of the word ‘gossip’?

Mr Barton—I do.

Senator JOHNSTON—Where, in terms of your allegations about abuse, does your understanding fit in that spectrum—hearsay, rumour or gossip?

Mr Barton—It does not fit any of those. I am an intelligence analyst. I have collected intelligence over many years. There is rumour and gossip, but you have to assess sources. If I believe the source is reliable then I put that in for what that is.

Senator JOHNSTON—So it was a subjective test on your part—what you believed?

Mr Barton—Yes.

Senator JOHNSTON—In terms of the facts as to what you actually saw, there was one interview on 30 December—correct?

Mr Barton—Yes.

Senator JOHNSTON—Which was cordial?

Mr Barton—Yes.

Senator JOHNSTON—You did not participate in any other interviews personally yourself, did you?

Mr Barton—That is correct.

Senator JOHNSTON—So every piece of information that you have about interviews came to you from what somebody told you in the nature of hearsay, rumour or gossip—correct?

Mr Barton—I would not put it in those terms. In my position in the ISG I spoke to a lot of the people who did interrogations. I have never made the statement that the prisoners at Cropper were mistreated as such.

Senator JOHNSTON—Let us just emphasise that. The prisoners at Cropper were, to the best of your knowledge and understanding, not mistreated—correct?

Mr Barton—Not when they were at Cropper. I believe they—

Senator JOHNSTON—Not to the best of your knowledge?

Mr Barton—As I said in my opening statement, there were some concerns that I had from my tour of the prison which came a bit later, in January. As I mentioned there, I was concerned about a number of factors.

Senator JOHNSTON—The 1.5- by two-metre rooms?

Mr Barton—Yes, it included that and also the length of time they spent in solitary confinement. In fact some of those prisoners, as far as I am aware, are still in solitary confinement.

Senator JOHNSTON—But the Red Cross visited twice in January, did it not?

Mr Barton—It did. It expressed some—

Senator JOHNSTON—Did you take up these concerns that you had with the Red Cross?

Mr Barton—I did not have any contact with the Red Cross.

Senator JOHNSTON—Did you go out of your way to seek out the Red Cross? They are everywhere in Iraq at the moment, aren't they?

Mr Barton—Yes, but it was not my responsibility to do that.

Senator JOHNSTON—But it is your responsibility to allege abuse by Australians in interrogations when you have not witnessed or brought one solitary shred of plausible evidence to this committee—is that correct?

Mr Barton—I have never said that any Australian was involved in any abuse.

Senator JOHNSTON—Let us emphasise that: no Australian was involved in interrogations at Camp Cropper. That is the second point we want to establish. Correct?

Mr Barton—I did not say no Australians were involved in interrogations. I said no Australians were involved in abuse.

Senator JOHNSTON—All right. We will come back to the nomenclature of 'interrogation' and 'interview'. When you wrote your letter of resignation—it was a two-page document—you commenced by saying that you wanted to explain by placing on the record 'the reason for my early departure'. It is fair to say, is it not, that interrogations and abuse of prisoners had nothing to do with your early departure—correct?

Mr Barton—That is correct.

Senator JOHNSTON—You nominate approximately five reasons why you departed the ISG. You were disappointed that David Kay did not return—I note that you used the word ‘unfortunately’; you had expected that you would be working with him.

Mr Barton—I would not say that that was a reason for my departure.

Senator JOHNSTON—But you had an expectation, and you were disappointed that he was not returned.

Mr Barton—I was disappointed that he had not returned, but it was not a reason for my departure.

Senator JOHNSTON—The new CIA approach, inaugurated when he departed, was not one that you agreed with.

Mr Barton—His approach to the report was certainly one that I did not agree with. That is correct.

Senator JOHNSTON—The progress report was to be a 25-page report and it was to be a biased report and it suppressed a lot of information, and that was another reason why you decided you had had enough.

Mr Barton—That was a reason, yes.

Senator JOHNSTON—But you did say—and I would like you to clarify this:

My stance on the ISG should not be seen as a criticism of other Australians who remain with the group. They are making a substantial contribution to a coalition effort. I saw my situation as somewhat different to theirs. As a strategic adviser, I was in part responsible for its direction and could not in conscience continue. My recommendation is for Australia to continue its broad support of the ISG but not at senior level.

Mr Barton—That is correct.

Senator JOHNSTON—So in terms of what Australians were doing in the ISG, you were without complaint?

Mr Barton—I discussed this with the senior Defence official at the time. The essence of that statement was that the others in the ISG were collecting information about WMD or the lack of them and why they were not there and so on, and I thought that was very valuable work that they were doing.

Senator JOHNSTON—They were making a substantial contribution for which we should all be very proud.

Mr Barton—Absolutely; and I hope that is reflected in that statement.

Senator JOHNSTON—Good. You were not aware at any time, given your terms of employment, of the concept of operations as inaugurated by Brigadier Meekin.

Mr Barton—That is correct.

Senator JOHNSTON—Together with the CDF's executive orders.

Mr Barton—That is correct.

Senator JOHNSTON—You knew nothing of those.

Mr Barton—No.

Senator JOHNSTON—And you knew nothing about the fact that those two documents stipulated that no Australian ADF personnel were to participate in the interrogation of prisoners. Correct?

Mr Barton—I knew nothing about that.

Senator JOHNSTON—That is right: you knew nothing about it. When you spoke on *Four Corners* you knew nothing about it.

Mr Barton—That is correct.

Senator JOHNSTON—You were in ignorance of the facts.

Mr Barton—I was certainly in ignorance of that concept of operations—that is correct.

Senator JOHNSTON—Because you went into the employment via a contract that was totally different, save for one other, from all other Australian personnel on the ground. You were not part of the chain of command.

Mr Barton—I am not sure that I was not part of the chain of command. I was a public servant—although, to put it in Public Service terms, a 'non-ongoing' public servant—so I presume I was in some sort of chain of command.

Senator JOHNSTON—But you knew nothing of the directive about interrogations.

Mr Barton—It certainly was not briefed to me, no.

Senator JOHNSTON—Indeed, you did not conduct an interrogation.

Mr Barton—Is that your statement or—

Senator JOHNSTON—You tell me: did you conduct any interrogations?

Mr Barton—I believe, as I said on that *Four Corners* program, that it was an interrogation—but by my understanding of what that is. As I pointed out in my opening statement, the prisoner who was brought to me really had no choice about whether he was brought there, there was

coercion in certain forms, there was always a threat of force. As I mentioned, some of them had been beaten before they got to Cropper, so there was always that implied force.

Senator JOHNSTON—You suspect they had been beaten, because you saw signs that may have been supportive of that allegation, but you have no knowledge of that.

Mr Barton—No direct knowledge; that is correct.

Senator FERGUSON—Yours was a cordial interrogation, was it?

Senator JOHNSTON—A cordial interrogation. Do you know of or have you ever read the interrogators' handbook of the ADF?

Mr Barton—No, I have not.

Senator JOHNSTON—So when 'interrogation' is defined you have no knowledge of that?

Mr Barton—I have no knowledge of their definitions of 'interrogation' or 'interview'. I have never seen that handbook.

Senator JOHNSTON—Save for you and one other, all ADF personnel had a different term of employment. They were the subject of the concept of operations and the CDF's executive orders with respect to interrogations, but not you.

Senator CHRIS EVANS—Is that right?

Senator JOHNSTON—I am putting it to him.

Senator CHRIS EVANS—No, you are asserting it. What is the evidence for that?

Senator FAULKNER—I do not think it is right.

Senator JOHNSTON—I am asserting that, save for two of them, all ADF personnel were the subject of the concept of operations and the CDF's executive orders.

Senator CHRIS EVANS—That was not the evidence given to Senate estimates, that is all.

Senator JOHNSTON—I am putting that to you, Mr Barton—you were different.

Mr Barton—I do not know whether that is correct or not.

Senator JOHNSTON—If everybody else understands the meaning of the word 'interrogation' and you do not, do you think that is a very significant fact when you start adjudicating upon whether you have been in fact carrying out interrogations?

Mr Barton—I have my own understanding of what an interrogation is.

Senator JOHNSTON—It is a layperson's understanding?

Mr Barton—Yes, it is a layperson's understanding.

Senator JOHNSTON—It is not the ADF's understanding?

Mr Barton—That I do not know, because I have not read their definitions.

Senator JOHNSTON—So you are prepared to say that a cordial discourse on a wide range of subjects, some social, is to be an interrogation?

Mr Barton—Given the circumstances of that prison, yes, I think that was an interrogation, in my own understanding, because—

Senator JOHNSTON—Are all interviews with prisoners therefore interrogations?

Mr Barton—I believe so. They were all prisoners of war and they had little choice in whether they were going to participate in this questioning. Therefore I believe they were all interrogations at Camp Cropper.

Senator JOHNSTON—When did you come to that conclusion?

Mr Barton—That was always my understanding.

Senator JOHNSTON—Mr Barton, please be frank with the committee. You completed a questionnaire sent out by the Department of Defence wherein you referred to this—I will quote to you from it. Do you remember completing the questionnaire?

Mr Barton—I do.

Senator JOHNSTON—It says:

The objective of this questionnaire is to ascertain if, in the course of your duties, you had any contact with PWs ...

That is prisoners of war, I take it?

Mr Barton—Correct.

Senator JOHNSTON—It goes on:

...or detainees, the nature of your contact and the possible need for more detailed interview. This questionnaire is not part of a disciplinary investigation or administrative inquiry.

Question 2.4 says:

Did you visit any coalition PW or detainee detention centres, holding facilities, prisons or interrogation cells?

Your answer was 'yes'. Question 2.5 says:

If so, when and in what circumstances?

You answered:

Two visits ... 30 December 2003, to interview a former Iraqi senior government official.

Are they your words?

Mr Barton—They are my words. As I said before, I did not draw a distinction between interview and interrogation. It was not an issue.

Senator JOHNSTON—You now want to change that. If you could do that again, you would change that to 'interrogation'?

Mr Barton—No, if I could do it again, now that we have had all of this discussion since that *Four Corners* program, I would put down interview/interrogation.

Senator JOHNSTON—Right.

Mr Barton—Because I still do not draw a distinction.

Senator JOHNSTON—Who typed this questionnaire up for you?

Mr Barton—Who typed it?

Senator JOHNSTON—Yes. How did you get the questionnaire typed?

Mr Barton—It was emailed to me and I—

Senator JOHNSTON—In blank form?

Mr Barton—Yes, and I filled it in and emailed it back.

Senator JOHNSTON—So you photocopied it or scanned it into your computer and then typed it in?

Mr Barton—No, it came in as text and I filled in the answers on the computer and emailed it back.

Senator JOHNSTON—So you actually chose the words personally—you did not dictate them? There is no doubt that you selected the words in the questionnaire?

Mr Barton—Absolutely.

Senator JOHNSTON—So you used the word ‘interview’ in answer to question 2.5, where you say you interviewed a former Iraqi senior government official. You say that is wrong and now you would change it to interview/interrogation?

Mr Barton—Now that we have had all this consideration over the difference, yes, I think I would, to show that I do not draw a distinction between the two.

Senator SANDY MACDONALD—You were dealing with an old friend.

Mr Barton—An old friend?

Senator SANDY MACDONALD—You were interviewing an old friend.

Mr Barton—Yes. I had last interviewed him in December 1998.

Senator SANDY MACDONALD—Clearly he would not have been a detainee then, would he?

Mr Barton—He was not a detainee. He was a general and it certainly was an interview at that time. The circumstances now were very, very different. I am sure he regarded it as an interrogation.

Senator SANDY MACDONALD—Didn’t you speak to the lieutenant colonel subsequent to the interview and say that it was ‘like dealing with an old friend’?

Mr Barton—Yes, it was. As I said in my opening statement, the questioning of him was quite cordial, and I think the questioning of most of the prisoners at Cropper was reasonably cordial. From what I hear from the others and from my speaking to the interrogators and people who were involved in this, this was the normal course of events. They were normally cordial. But could the prisoners say, ‘No, I am not coming to this interview’? No, they had no choice. And that is the distinction I draw.

Senator FERGUSON—Did he regard you as an old friend as well?

Mr Barton—He did. We had a break and during the break we chatted about former times.

Senator FERGUSON—It does not sound like much of an interrogation.

Mr Barton—He did appeal to me to get him out of that place.

Senator FERGUSON—I imagine he would.

Mr Barton—He was distressed. There was absolutely no question about that.

Senator JOHNSTON—How often do you think a person being interrogated would appeal to the person interrogating them to help them get out? Would that be normal, do you think?

Mr Barton—I would not know about that.

Senator JOHNSTON—No. You had never interrogated anybody before, had you?

Mr Barton—Not interrogated, no.

Senator JOHNSTON—You had interviewed them.

Mr Barton—I had always interviewed them, yes.

Senator JOHNSTON—And this person asked you for assistance. That was hardly an interrogation, Mr Barton, was it?

Mr Barton—I would say that was during the break, as I mentioned.

Senator JOHNSTON—So you just discussed social things and old times during the break?

Mr Barton—Yes. As I said, it was a cordial interrogation perhaps, or interview.

Senator JOHNSTON—In your answer to question 2.6 you said:

I did not observe any mistreatment of detainees at Camp Cropper ...

That is the crux of this whole matter, is it not? Or do you want to change that too?

Mr Barton—The crux of what whole matter?

Senator JOHNSTON—Your presence here today, in fact. You did not observe any mistreatment of detainees at Camp Cropper. That is what you have told us.

Mr Barton—Other than the conditions at Cropper, which I have already mentioned, I do not believe there was any mistreatment or possibly no mistreatment actually at Cropper. My concerns about mistreatment were, as I mentioned, in this Purgatory—

Senator JOHNSTON—No, there are not concerns about mistreatment, because you have said, ‘I did not observe any mistreatment.’ You had concerns, but they were not about mistreatment, were they? Because you go on to say:

However I was concerned about the size of the cells ...

So there was not mistreatment. It was a prison.

Mr Barton—It was a prison but there were some things at the prison which I think were inappropriate, including, as I mentioned, the solitary confinement, the size of the cells, the use of privileges, which I think—

Senator JOHNSTON—Yes, but you did not declare those as being acts of mistreatment in your questionnaire, which was completed in May 2004.

Mr Barton—I listed those things, though.

Senator JOHNSTON—Yes, but you did not say it was mistreatment, did you? No.

Mr Barton—One can interpret those as you wish.

Senator JOHNSTON—Mr Barton, you are a learned scholar, are you not? What degrees do you hold? You are a microbiologist and hold a Bachelor of Science?

Mr Barton—Yes, that is correct.

Senator JOHNSTON—With honours?

Mr Barton—No.

Senator JOHNSTON—Majoring in?

Mr Barton—Microbiology and biochemistry.

Senator JOHNSTON—I am interested that you now say that the words you used in the questionnaire were ‘flexible’. You were filling out a questionnaire about mistreatment in prisons and about interrogations.

Senator SANDY MACDONALD—With the benefit of hindsight, too.

Senator JOHNSTON—With the benefit of hindsight. We will go on to question 2.7 which is:

If so, what did you do and who, if anyone, did you report this to?

You said:

I expressed my concerns about the possible abuse of detainees to Australian government officials on my return to Australia at the end of March 2004, and recommended that Australia should not be involved in the interview process.

Again, you have chosen the word ‘interview’. Do you wish to change that now?

Mr Barton—It depends on what you mean by the interview process. The interview/interrogation process. The questioning of prisoners, if you wish. That is perhaps the way I would now express it, now that I know there is a debate about this issue.

Senator JOHNSTON—These people had mobile phones or access to them, did they?

Mr Barton—Are you talking about the prisoners?

Senator JOHNSTON—Yes.

Mr Barton—They would use mobile phones occasionally to allow them to have contact with family members. But, as I said, this was a privilege that could be withdrawn if they did not cooperate.

Senator JOHNSTON—These people allegedly had been involved in preparing culture mediums and chemical compounds for the extermination of the regime's enemies internally in Iraq. Is that correct?

Mr Barton—Some of them, yes, and that was, of course, pre-1991.

Senator JOHNSTON—They were able to access communication devices and, you mentioned, small luxuries. What sort of small luxuries were they able to access?

Mr Barton—Writing material, reading material, fruit for lunch instead of a military ration.

Senator FERGUSON—Can I interpose here? Mr Barton, I have just gone back through your *Four Corners* interview. A minute ago you said that you were involved only in one 'interrogation'—your word—on one day of a former friend of yours—or probably a current friend of yours; I do not know. Then you said that there was no abuse at Camp Cropper. Yet when you went on *Four Corners* you said—and I can quote you exactly:

My prisoner abuse wasn't at Abu Ghraib. It was at Camp Cropper, the special prison for high value detainees.

Is that statement now incorrect?

Mr Barton—Just on the plain words, yes, that is incorrect. I should have been a bit more expansive and said that the prisoner abuse I was referring to was prisoner abuse just prior to Cropper.

Senator FERGUSON—And you made that quite specific in your report to the defence forces?

Mr Barton—Yes.

Senator FERGUSON—That it was not at Camp Cropper?

Mr Barton—It was immediately prior to Camp Cropper.

Senator FERGUSON—You said that quite specifically to them?

Mr Barton—I believe so, yes.

Senator FERGUSON—You believe so.

Mr Barton—That is my recollection. I do not have a copy of the statement.

Senator FERGUSON—I am quite concerned at what you have said. All the way through your evidence today, you have talked about what you heard, understood, assumed, suspected, deduced, believed and had been made aware of. Nowhere do you talk about facts. As my colleague Senator Johnston has said, in one instance you were interviewing a friend, which was a cordial interrogation, and everything else you have said has been heard, understood, assumed, suspected, deduced, believed or been made aware of. For instance, you have said that you were aware of prisoners being interrogated at two o'clock in the morning. Were you there?

Mr Barton—I was told that occurred. I know the individual who did it.

Senator FERGUSON—You know the individual who did it?

Mr Barton—Yes, that is correct.

Senator FERGUSON—You were concerned at the treatment of prisoners at the time of their arrest and then you have talked about the two photographs that you had seen. What other abuses occurred that you saw?

Mr Barton—I have never said that I saw it with my own eyes. I was reporting suspected abuse, and I think it is right and proper that I report suspected abuse. I never said that I saw it with my own eyes. I saw evidence that strongly pointed to this.

Senator FERGUSON—In the two photographs.

Mr Barton—I heard other things.

Senator FERGUSON—You heard other things.

Mr Barton—But hearing things is evidence as well.

Senator FERGUSON—Is it?

Mr Barton—I hope so.

Senator FAULKNER—Perhaps hearing things about weapons of mass destruction!

Senator FERGUSON—Senator Faulkner, we did not interrupt earlier when you were having a lengthy dissertation. You have also referred to this 'other Australian'. I understand that you and this other Australian were the only two non-military personnel involved in these particular interrogations or interviews. Is it a fact that you were the only two non-military personnel?

Mr Barton—No, that is not correct. Most of the people who would be involved in 'questioning' were civilians; in fact, I think they all were, to my knowledge.

Senator FERGUSON—Were they current or ex Defence Force personnel?

Mr Barton—They were DIO personnel.

Senator FERGUSON—Obviously they were under a different set of instructions than the ones you were under.

Mr Barton—I do not know what set of instructions they were under. They were civilian personnel working for DIO.

Senator SANDY MACDONALD—The question referred to the involvement of other Australians in interrogation, and the only person we know of who was involved is you, and you have said, ‘I did not observe any mistreatment of detainees at Camp Cropper.’ You could not get it clearer than that. Who was this high-value detainee?

Mr Barton—You wish me to give you his name?

Senator SANDY MACDONALD—Yes, I do. He is an old friend.

Senator JOHNSTON—The general.

Mr Barton—Again, I wonder whether he, too, has a right of privacy.

Senator SANDY MACDONALD—You had interviewed him and debriefed him before, even though he had no obligation to attend. Was that when you were with UNMOVIC or with UNSCOM?

Mr Barton—UNSCOM.

Senator SANDY MACDONALD—He had no reason to attend that interview, so I suspect that he would have no problem with his name being declared.

Mr Barton—If the committee wishes, I can give his name.

CHAIR—That is a matter for you to determine, Mr Barton. If you want to go down the same path with this name as you went down with the previous one then we can discuss them in the closed session later on. You can refuse.

Mr Barton—I think he has a right of privacy as well and I would rather not give his name. He was a general and a minister of state, and I think that that should be sufficient.

Senator JOHNSTON—I accept that, and I think Senator Macdonald accepts that, but I find it interesting that you have named a person called Huda Amash. So a distinction is made: some people are private and some people are not. I have only two questions—

Mr Barton—Could I explain that?

Senator CHRIS EVANS—The defence department have chosen to release the names of certain Australian serving personnel but not to release others. The committee have respected that right. We need to think about being consistent as well. If it is going to be used as a point of criticism, we had better bear in mind that that is what we have done in Senate estimates.

Senator FERGUSON—We are not making a criticism.

Senator CHRIS EVANS—I just make the point that the minister wanted it that way as well.

Senator JOHNSTON—Mr Barton, in your interview with Ms Liz Jackson on the *Four Corners* program, you said:

Yes, this was before Abu Ghraib, but I had certain indications and certain evidence that this had occurred—

and we might come back to the ‘certain evidence’ in a moment—

and I felt strongly enough about it to make a recommendation not only to mention this about the abuse, but to make a recommendation that we shouldn’t—“we” meaning Australia—should not be involved in the interview or interrogation of any of these prisoners at Cropper, and I made that recommendation.

Do you remember that?

Mr Barton—Yes.

Senator JOHNSTON—A page later in the transcript, she asks:

When you recommended as a result of your concerns the Australians no longer be involved in interrogating prisoners at Camp Cropper, do you know what happened with that recommendation?

And you said ‘no’. Her question was in fact quite wrong, wasn’t it? Her question to you was that, when you made the recommendation, your concern was that ‘the Australians no longer be involved’. There were never any Australians involved, were there?

Mr Barton—I cannot say whether her question is right or wrong, but other Australians were involved with the interviewing or questioning—whatever you want to call it—of prisoners at Cropper.

Senator CHRIS EVANS—That is certainly the evidence of the Department of Defence.

Senator JOHNSTON—There were never any Australians involved in interviews that you saw, that you attended or that you were actually present at?

Mr Barton—Because I was a senior person within the ISG, I had regular briefings on what was going on. I read the reports that came out of the questioning, and I was aware that other Australians were involved.

Senator JOHNSTON—Involved in what respect?

Mr Barton—Perhaps they would not do quite what I did because I had more experience than they had and I was senior, but they would sit in on interviews; they would ask questions.

Senator JOHNSTON—To your certain knowledge, were there any Australians interrogating Iraqis at Camp Cropper?

Mr Barton—Again, it depends what you mean by ‘interrogation’.

Mr JOHNSON—It does, absolutely.

Mr Barton—I have not actually heard here a definition of ‘interrogation’.

Senator JOHNSTON—You have no direct knowledge that there were Australians interrogating prisoners at Camp Cropper, do you?

Mr Barton—I am aware that Australians were involved in the questioning of prisoners.

Senator JOHNSTON—Involved in the questioning of prisoners.

Mr Barton—Yes.

Senator JOHNSTON—Yet you are prepared to leave at large a statement by this journalist that Australians had been involved in interrogating prisoners. It is very misleading, is it not? Involved in questions, and interrogating—there is a bit of a difference, is there not?

Mr Barton—As I said in my opening statement, it is for everyone to decide on whether this was interview or interrogation and by what definition they decide that.

Senator JOHNSTON—When you made your report and you submitted it to Canberra, you said when you came home that there was no attempt to influence the wording of the report—there was no attempt to editorialise, to sanitise or to change the tenor of what you purported to report accurately.

Mr Barton—Are you referring now to the so-called final report in October?

Senator JOHNSTON—Yes.

Mr Barton—Yes, there was no interference with that.

Senator JOHNSTON—So Canberra did not seek to do what others had sought to do?

Mr Barton—No-one interfered with the final report in October.

Senator CHRIS EVANS—I think you are at cross-purposes; you have your reports mixed up.

Senator JOHNSTON—Along the way there had been influences brought to bear upon you by the CIA and others about your reporting.

Mr Barton—Yes. In the March interim report there were influences to try to change what we were saying in that report, from London and from Washington—but not from Canberra.

Senator JOHNSTON—The Australian government did not seek to do that. I note that when you were making reports the Australian government did not seek to subvert or change your tenor, themes or the conclusions reached in any way.

Mr Barton—That is correct: not from Australia.

Senator JOHNSTON—Thank you very much.

Senator FERGUSON—I want to follow up on one thing in regard to your recommendation that no Australians be involved in questioning. Did you consider at any stage that your interview/interrogation of your friend from Iraq over that four-hour period constituted an abuse?

Mr Barton—No.

Senator FERGUSON—If you interviewed a person, and no abuse was forthcoming in relation to that POW, why would you recommend that other Australians should not conduct questioning or interviews along the same lines as yours?

Mr Barton—I was concerned, as I said, about what was happening at Cropper—or prior to Cropper, to be precise about this—

Senator FERGUSON—You had better be pretty precise, because you have said both.

Mr Barton—Let me say that I was concerned about what had happened to the prisoners—forget about the location—who were now at Cropper. I was concerned that this process was improper—that is, that they had been abused. It was a view, but I held it fairly strongly. I was concerned that there had been abuse of those prisoners who finished up in Cropper.

Senator FERGUSON—So it is okay for you to interview someone who is a friend of yours, through an interrogation process, but no other Australian should be allowed to conduct interviews such as yours with any prisoner at Camp Cropper. It is okay for you to do it, but no other Australians.

Mr Barton—It is a reasonable question, but of course I did my interview in December before I was aware of this possible abuse. I became aware of that later, and I reported that. If I had gone back or continued on, I would not have been involved; I would have absented myself from that process.

Senator FERGUSON—Why wouldn't you prepare questions for other people? If you were trying to make sure that the correct process took place, why did you decline to prepare questions for others to ask?

Mr Barton—Now you are referring to a different era.

Senator FERGUSON—I know it is a different era, but you said when you went back you declined to—

Mr Barton—When I went back the prisoners were no longer prisoners of war; they were now prisoners held by a foreign government—by the Iraqi government, officially. As I said in my opening statement, I declined to do any interviews, although I was asked—

Senator FERGUSON—I can understand that.

Mr Barton—and I declined to prepare questions for others.

Senator FERGUSON—You did not want the truth to come out or what?

Mr Barton—No, it was because I felt, just as the British government did, that any involvement with those prisoners was probably illegal. The British government actually issued an instruction—I do not know whether the Australians did the same thing. I never saw it. I asked but no-one could tell me. But after 28 June—after sovereignty—the British government issued an instruction to all their interrogators that they were not to question the prisoners, not to prepare questions for others, not to help others in preparing for interviews and not even to use the product that came from any other interviews. In other words, after June, with respect to any information that was coming out of there, the British government wanted nothing to do with it.

I do not know what the Australian policy was. I asked at the time, but I decided, too, that I felt that the prisoners probably were being held illegally now and that I was going to absent myself from it. When I said, ‘I cannot do the interview,’ it was put to me, ‘Well, perhaps you can write some questions for some others.’ I said, ‘No, I can’t do that either,’ and I was not forced any further. They said, ‘Okay, right, I understand.’

Senator FERGUSON—So you were not under any pressure.

Senator FAULKNER—Who did you ask?

Mr Barton—I asked the lieutenant colonel who was the commander of the Australian contingent at the ISG. I asked him, ‘What is your understanding of this now?’ and he said, ‘I’m not really sure.’ I said: ‘Are we questioning prisoners? I understand the British are no longer questioning,’ and he said, ‘I don’t think we are at the moment.’ So I said, ‘Well, I’ve decided I am not going to be involved.’ Then, as I said, I was asked later and I declined to ask any questions.

Senator FAULKNER—So it stayed at that level of a lieutenant colonel.

Mr Barton—I asked him what the policy was and he did not know. I might add that, when I returned to Australia, I did a debrief with the Iraq task force and I raised the same issue with them: what was the Australian policy? I did not get an answer then either. I do not even know whether we had a policy after June. I know—or at least, I was told by the lieutenant colonel—that we had stopped questioning prisoners, but whether we had any involvement after June I do not know.

Senator FAULKNER—So certain people have established an artifice of a difference between interrogations and interviews. But, on this substantial point, wouldn’t there be Defence guidance on that, too?

Mr Barton—I suspect that there would have been, but I never saw it and I was never told.

CHAIR—We will now have a short break.

Proceedings suspended from 3.37 p.m. to 3.51 p.m.

Senator BARTLETT—Can I go back to this apparent complexity of the difference between an interview and an interrogation which seems to be exercising some people's minds enormously. At an estimates committee hearing back in February the minister certainly said that people were provided with operational instructions, a selected list of instructions which specifically said that people were not to participate in interrogations. I just want to confirm that you did not get instructions that detailed that.

Mr Barton—That is correct. I received no instructions.

Senator BARTLETT—Regular defence personnel may or may not have—you are not able to comment?

Mr Barton—I do not know about the others, no.

Senator BARTLETT—At that time in estimates Lieutenant General Leahy provided a definition of 'interrogation' as:

The systematic extraction of information from an individual, either willing or unwilling.

That is opposed to the definition of 'interview':

The questioning of an individual who technically has the right to refuse questions and may leave at any time.

In the situation that you have described in this prison there was always the prospect, as you were saying, of things such as the ability to call the family or the withdrawal of small so-called luxuries. Were those the sorts of things that could be done if someone was non-cooperative? In what sorts of circumstances would someone lose the right to make a phone call? You mentioned concern about the amount of solitary confinement. What sorts of things would lead to that?

Mr Barton—The privilege of having mobile phones, for example, was not a very common practice. It was very occasionally done and therefore it was a very cherished privilege. Therefore if it was withdrawn, so that you could not speak to your children, then of course that was quite a coercive force. Just on the definition you read out, I still would not be sure about whether they were interrogations or interviews. In fact, on that definition which you have just read, I would say that it fits the definition of interrogation—'systematic extraction of information', I think you said. I am pretty systematic.

Senator BARTLETT—I have read through your CV. You have extremely extensive experience in a range of areas over many years working for a lot of different people: on allegations about chemical weapons in Laos; in Iraq, chemical weapons in the 1980s; the first Gulf War in the early nineties; in Somalia, disarmament and demobilisation; and then

UNSCOM. What were the circumstances when you were actually asked to return to Iraq? That was specifically at the request of Dr Kay rather than the Australian government—is that right?

Mr Barton—My return to Iraq when? In December of—

Senator BARTLETT—With the Iraq Survey Group.

Mr Barton—Initially with the Iraq Survey Group? That was at the specific request of David Kay, who was the head of the Iraq Survey Group.

Senator BARTLETT—For your subsequent returns, who was wanting you to come back and to draw on your expertise?

Mr Barton—When I returned in August-September? Charles Duelfer was then head of the Iraq Survey Group and he asked me to return. At first I was quite reluctant, of course, because I thought that the work was maybe still non-objective. I know Charles Duelfer from my past experience with UNSCOM so I knew basically he was a good guy. He said: ‘If you don’t believe me, if you don’t believe I am objective now, talk to some of the others in the ISG. Don’t believe me; listen to what they say.’ And that is what I did—I contacted some of the others who I trusted and they said, ‘Yes, things have really changed.’ Even then I was a bit reluctant. I agreed initially to go to London to do a review of the final report—they were doing a review process in London at the end of August and I thought I would be able to judge then for myself whether the process was now objective or not. I realised in London that it was objective and then from London I went back to Baghdad.

Senator BARTLETT—Up until the last couple of months, had you, in all your experience over 20 years in this sort of field, heard of this precise and apparently very important distinction between interviews and interrogations?

Mr Barton—No, I had not. I have spent a lot of time in my career questioning—for want of a better word now I am always very careful what I say—refugees, defectors and, with UNSCOM, Iraqi officials. I have done quite literally hundreds of hours of interviews or questioning—whatever you call it—but I have never come across this difference. I do recall though, now you mention it, that the FBI course that I did was really more to do with interrogation. In fact, I raised that during the course because the instructor, who was a former FBI officer, said that his experience was with more of the interrogation style. I was with UNMOVIC then, and I pointed out that we were dealing with Iraqi government officials, that we were not in the same circumstances he was referring to. So I said, ‘You know, there is a difference.’ But I never drew up the difference between interrogation and interview. It came close to doing that without me knowing it, I suppose.

Senator BARTLETT—In your extensive experience over all those different areas, with 20 or more years in the field questioning a lot of people in different circumstances, do you think it would be fair to say, from a commonsense understanding of the English language, that there is a large area of overlap between the concepts of interview and interrogate?

Mr Barton—Yes. I have since looked up the word ‘interrogate’. What does it mean? It means just to question. I have always used the term or I prefer the term ‘interview’—it sounds gentler. But, as I have said, I have never drawn a distinction.

Senator BARTLETT—And you never got any reports back from any of your employers over the last 20 years saying, ‘Doesn’t comprehend basic English language concepts’ or anything like that?

Mr Barton—No.

Senator BARTLETT—On the issue of mistreatment of detainees, which in lots of ways is more important to me, you have talked about, and put in your report, the solitary confinement of some detainees. For what reasons were people put in solitary confinement? How long for? Who made those decisions?

Mr Barton—I am only talking about Camp Cropper. Individuals—and there were a large number of them—were put into solitary confinement then so that they could not exchange information with other prisoners. That was the whole purpose of it. They did not want them cross-referencing their stories. When I did the tour of Camp Cropper, I asked the commandant of the prison how many prisoners were in solitary confinement. He said, ‘I can’t tell you.’ I said: ‘What do you mean you can’t tell me? You must have an idea.’ He said, ‘Oh, there’s a lot.’ But he could not give me a figure. It was clear, because I walked along the rows of cells, that there would have been a lot of prisoners in solitary confinement. Being in solitary confinement does not mean that they do not get out of their cells at all; at that time, they got two half-hour exercise periods. So they were in their cells for 23 hours a day with two half-hour exercise periods. The cells are small, as I have mentioned. They are windowless. There is a single electric light bulb. I asked whether they had control of that, and of course the answer was, no, they do not. The light is turned out at the discretion of the guards.

Senator BARTLETT—It does sound very similar to a part of Baxter detention centre, actually, but the cells are a little bit smaller, by the sounds of it. Would you consider that type of treatment to constitute mistreatment? Would that depend on how long it went on for?

Mr Barton—Certainly some of the things there I think were mistreatment or very close to it. I think the long hours in that solitary confinement are mistreatment, and I believe the Red Cross expressed their concerns about this. I think after the first Red Cross visit some of the things did change, although I cannot guarantee that. After the second Red Cross visit, the head of JIDC said, ‘They are satisfied on some accounts.’ We never went into more detail about that.

Senator BARTLETT—You are saying that there are still prisoners there now? As I understand it, you said in your opening statement that today there are still some prisoners in Camp Cropper.

Mr Barton—I believe there are still prisoners in Camp Cropper. Whether they are still in solitary confinement or not, I do not know, but there are certainly prisoners still in Camp Cropper.

Senator BARTLETT—Your explanation of the advice, certainly from the UK, was their belief that that imprisonment is illegal?

Mr Barton—They did not specifically state that, but all their instructions to their interrogators seemed to be predicated on the belief that the status was illegal.

Senator BARTLETT—Or was it more a matter of playing it safe and just not running the risk?

Mr Barton—It may have been just playing it safe. I have to say that the prisoners seem to have a peculiar status. They are held by the Americans, but they are officially Iraqi prisoners.

Senator BARTLETT—You obviously would have contact with people in various places who have also been involved in this process in Iraq, post the most recent war. In your opening statement, you mentioned the conversation you had in Baghdad with the Australian ambassador where you were talking about the continuing detention of certain prisoners at Camp Cropper. Obviously, you also put in a written report which detailed your concerns about possible mistreatment. Based on your experience, knowledge and contacts, are you satisfied that any mistreatment that may have happened has stopped? Are you satisfied that the concerns about mistreatment were properly investigated?

Mr Barton—I cannot say I am satisfied on either account. I made reference to that document which indicated that abuse of prisoners associated with Cropper continued until at least June of last year. What was the other part of your question?

Senator BARTLETT—The question was whether your concerns were properly followed up or whether it was still happening.

Mr Barton—I do not know whether the concerns were followed up. In fact, as I mentioned, after I reported my suspicions about prisoner abuse I was interviewed by the American military police officer in August and then I was told, as I said in my opening statement, in November that because I was not a direct witness then the investigation could proceed no further. That was completely unsatisfactory, and I might add the departmental official who told me that also agreed that that was unsatisfactory and said he would refer the matter back. So I do not know whether there is any further investigation of the reported suspicions of abuse and this suspicious death in custody that I referred to. I do not know whether any further action has been taken on either of those.

Senator BARTLETT—It is that dreaded hearsay again—‘I heard somebody say it’ so it does not count. Is that basically the reason they rejected it—you did not see it with your own eyes?

Mr Barton—That is more or less it, as I understand it, and I was quoted that—and I think I read it out to you—‘I hadn’t seen it with my own eyes’ but, as I said to the departmental official: ‘These are suspicions. All I’m asking for is that they be investigated.’ I did not have proof that they had been abused but I had deep suspicions—I think fairly based—on what I had seen and heard. What I was requesting was that there be a proper investigation of this, and now I was being told it could not proceed any further because I did not see it with my own eyes. I thought that was unsatisfactory.

Senator BARTLETT—You would not normally get terribly far as an intelligence officer if you had to witness everything with your own eyes directly, would you?

Mr Barton—Absolutely.

Senator BARTLETT—Without suggesting you have been following them with a fine toothcomb, have you been generally following reports about investigations into the treatment of prisoners in Iraq? Have you been following them?

Mr Barton—Yes, I have followed them with interest.

Senator BARTLETT—I was just noting a recent report in the *New York Times* that stated:

... At least 26 prisoners have died in American custody in Iraq ... since 2002 in what Army and Navy investigators ... suspect were acts of criminal homicide—

That is according to evidence presented to the US Congress. When those sorts of facts are coming out—I think the US Congress actually do a lot better job of getting the facts from their military than we do, frankly—do you have any reason to believe your concerns or suspicions were not real or not soundly based?

Mr Barton—I think my suspicions were real. What I would like to say is about the death in custody. When I spoke to the departmental official about that, he said of the deaths in custody that were being investigated this individual was not on that list of suspicious deaths being investigated. I thought that was completely wrong. I am talking about Dr Azmerli now. I do not have proof that the man was beaten to death but he did die under suspicious circumstances and I believe that should be investigated. I think that calls for an investigation. I am just saying it is suspicious. But he was not on the list of those that were being investigated.

Senator BARTLETT—So just to ensure you do not get misrepresented by pseudolegal cross-examination: you are not alleging that he was definitely murdered; you are just saying that there are sufficiently reasonable grounds to require it to be investigated?

Mr Barton—That is correct. I have never alleged that he was bashed to death. What I am saying is that there are reasonable suspicions that he was and that all I am asking is that that be investigated.

Senator BARTLETT—And as far as you know it has not been?

Mr Barton—As far as I know, the investigation sort of started and finished with me and it was not followed up in the US.

Senator SANDY MACDONALD—I think the position is it is still ongoing. I think the United States have said that it is an ongoing investigation.

Senator CHRIS EVANS—Can you tell us where they have said that, Senator Macdonald?

Senator SANDY MACDONALD—I do not know exactly, Senator Evans, but in response—

Senator CHRIS EVANS—I thought the defence department advice was that it had been concluded, but anyway—

Senator SANDY MACDONALD—Sorry, I think the aspect that had been concluded was the fact that they said that the US investigator who spoke to Mr Barton said that the evidence provided by Mr Barton was concluded.

Mr Barton—If I could say so, that is a different thing to the investigation. As I mentioned to you before, I was called on 24 November and told that, since I was not a direct witness, the investigation could not proceed any further.

Senator SANDY MACDONALD—Perhaps with you, Mr Barton. But, as to whether the investigation is continuing, I think that is a question that is yet to be determined.

Senator FAULKNER—Can I come back to the issue of your resignation and that of your two colleagues, Mr Barton. Your resignation letter, as I understand it, has been tabled before this committee. I am not clear, Chair, but I assume that that is now a public document.

CHAIR—Yes, the letter of resignation is a public document before this committee. I understand it is on the web site.

Senator FAULKNER—What is the status of this info memo? Is that now a public document?

CHAIR—No, that is not a public document, because we are unable to establish that it was obtained through FOI. The secretariat have undertaken to make inquiries to ensure that it has properly been obtained by FOI. If it has been then it will become a public document, but until then it will not.

Senator FAULKNER—We have a situation, Mr Barton, where you and two colleagues in the ISG—one from Britain and one from Australia—resigned. That is correct, isn't it?

Mr Barton—That is correct.

Senator FAULKNER—I think in previous evidence you indicated to us that the three of you essentially resigned for similar reasons. I want you to make it clear to the committee whether that is the case, please.

Mr Barton—That is correct.

Senator FAULKNER—How do you know that, Mr Barton? I am well aware of why you resigned, and your letter of resignation has been provided to the committee. How can you assure the committee that these other two officials—were they senior officials?

Mr Barton—Yes, they were both senior officials. I would say that the UK person was the most experienced and senior investigator they had. The other Australian was doing a job similar to mine. In other words, we were the senior advisers to the head of the ISG.

Senator FAULKNER—So you and two senior officials resigned. How can you be so confident that they were resigning for similar reasons to those that you have provided to the committee?

Mr Barton—As I mentioned before, I discussed this with them, and I also saw their letters of resignation.

Senator FAULKNER—Firstly, could you be precise about the timing of this? With the benefit of the transcript of the *Four Corners* program, I assume you must have provided part of your diary to the ABC because the transcript says:

“J leaves tomorrow after explaining to Charles why he can’t stay.”

Is J the Australian or is J the British official?

Mr Barton—J is the Australian.

Senator FAULKNER—Is that accurately recorded as an extract from your diary? It says:

“J leaves tomorrow after explaining to Charles why he can’t stay.”

Mr Barton—Yes, that is an extract from my personal notes that I made in Baghdad at the time.

Senator FAULKNER—How do you know that the senior Australian, J, had discussions with senior officials in both DFAT and Defence?

Mr Barton—Because he sent me a series of emails after he got back saying what he had gone through when he got back.

Senator FAULKNER—Emails?

Mr Barton—Yes—which I received in Baghdad. Just to be precise—and I have a little crib sheet here about when things happened—he left on 8 March from Baghdad.

Senator FAULKNER—So, effectively, you have an electronic record of this?

Mr Barton—Yes, I do.

Senator FAULKNER—Do you actually have a record of the emails themselves? You have a record of the email transmission, but do you have the emails themselves?

Mr Barton—Yes, I do.

Senator FAULKNER—How many emails are we talking about?

Mr Barton—There were three critical ones that explained the process when he got back and who he spoke to.

Senator FAULKNER—In broad terms, can you tell us about the process? Does this go to discussions with officials?

Mr Barton—That is correct.

Senator FAULKNER—Are you able to share with the committee more detail about the process?

Mr Barton—It gets into divulging who he spoke to.

Senator FAULKNER—Of course it does, but that is standard fare, let me assure you, for committees like this. You do not want to give the individual's name; we will get to that. I am perplexed as to why you do not want to give the individual's name, but we are now talking about people in the bureaucracy—public servants, officials, whom someone has had contact with. I cannot see a problem there.

Senator JOHNSTON—I can.

Senator FAULKNER—You might be able to; I cannot see any problem with a name being provided.

Senator FERGUSON—The guy would have come forward if he had wanted his name put on paper.

Senator FAULKNER—We are not talking about his name; we are talking about officials' names at this stage.

CHAIR—Order! Let us not have a debate.

Senator FERGUSON—You were talking about J before.

CHAIR—Senator Faulkner, proceed with your question.

Senator FAULKNER—The officials may have come forward, but they have not. So I am asking, Mr Barton, can you please provide details of the officials with whom J has had contact with in the Department of Foreign Affairs and Trade and the Department of Defence? That is my question. You are not listening, Senator Ferguson.

Senator FERGUSON—Yes, I am.

Senator FAULKNER—No, you are not. Just concentrate. Mr Barton has copies of the material.

Senator FERGUSON—I am concentrating on what you are saying.

CHAIR—Mr Barton, can you answer the question with a yes or a no?

Senator FAULKNER—Wake up and concentrate, Senator Ferguson.

Senator FERGUSON—You ought to talk.

Mr Barton—I do have the names of the people he spoke with, and I have them on record because I have the emails which I mentioned. I am able to provide the names if the committee considers it appropriate.

Senator FAULKNER—Could you please provide those names?

CHAIR—The question has been asked by Senator Faulkner. I cannot answer the question for you, Mr Barton.

Mr Barton—He met some Foreign Affairs officials. I will have to refer to my emails.

Senator FAULKNER—Please do. Have you got the emails?

Mr Barton—I do have the emails.

Senator FAULKNER—Could you please refer to them?

Mr Barton—I will have to find them first.

Senator FAULKNER—Join the paper war on this side of the table.

Mr Barton—First of all, in Foreign Affairs he met with Paul O’Sullivan and he had, according to the email I have, 20 minutes with Mr Downer.

Senator FAULKNER—Mr Downer would be the Minister for Foreign Affairs.

Mr Barton—Yes, that is correct.

Senator FAULKNER—About his resignation?

Mr Barton—Yes. Mr Downer had seen his resignation letter and, according to this email, he referred to the letter and some of the judgments in it.

Senator FAULKNER—So J’s resignation letter goes to the Minister for Foreign Affairs.

Mr Barton—That is correct.

Senator FAULKNER—And to an official, Mr Paul O’Sullivan, in DFAT.

Mr Barton—Yes.

Senator FAULKNER—What about in Defence?

Mr Barton—In Defence he saw Mr Ric Smith.

Senator FAULKNER—Just to interpolate—seeing Mr Smith is pretty heavy, isn't it? He is the Secretary of the Department of Defence.

Mr Barton—He also saw the branch head responsible for this area.

Senator FAULKNER—Do we know who that is?

Mr Barton—He gives a name, which I am not quite sure is correct. But I think the surname is correct, and I can give you that. Her name is Foster.

Senator FAULKNER—Ms Foster?

Mr Barton—Yes.

Senator FAULKNER—What dates are we talking about here with these meetings? Can you assist us with that?

Mr Barton—With Foreign Affairs—his meeting there—the email is dated 19 March and he says 'on Tuesday', so I guess that refers to a day or two before. I guess you could check the date.

Senator FAULKNER—Yes. Which year—2004?

Mr Barton—Yes, 2004. And then the meeting in Foreign Affairs, 'I went to Defence this afternoon,' and so that meeting with Ric Smith was on 10 March. That is the date of the email.

Senator CHRIS EVANS—That is immediately after he returned to the country. He left Iraq on 8 March.

Mr Barton—That is right, yes. It would have been as soon as he got back.

Senator CHRIS EVANS—Do you know what Mr O'Sullivan's position was?

Mr Barton—Not at that time. I know Paul O'Sullivan quite well. He was formerly our Ambassador for Disarmament in Geneva. What position he held then I do not know.

Senator FAULKNER—Was there any further contact with J and Defence or Foreign Affairs that you can shed any light on?

Mr Barton—As I mentioned, we were at a meeting in Baghdad—a dinner party basically, but we had had a meeting before that—with the Ambassador, who at that time was Neil Mules—I think his official title then was Australian Representative, later to become Ambassador—the Foreign Affairs head of the Iraq Task Force, who at that time was John Quinn, and myself. At

that meeting, his resignation was discussed and subsequently the letter of resignation that J wrote was passed to John Quinn.

Senator FAULKNER—About these two officials—one UK, one Australian: you have discussed the reasons for their resignations with the individuals concerned?

Mr Barton—Yes.

Senator FAULKNER—Both of them would be close colleagues in the ISG?

Mr Barton—I had known both of them for many years and, yes, they were close colleagues within the ISG, because they were senior people within the ISG anyway.

Senator FAULKNER—I assume, in relation to the Australian official, that for you to even have this material that you have is an indication of that. Let me come back to this: how can you assure the committee that the resignations of these two individuals are effectively for the same reasons that you outlined to this committee your resignation was for and that also appear in your letter of resignation? How can you assure us that that is the case?

Mr Barton—All I can do is reassure you that I read their letters of resignation and I discussed this with them.

Senator FAULKNER—So you have actually read both their letters of resignation?

Mr Barton—Yes, I have read both their letters of resignation, and they were couched in similar terms to mine. They were different, but they were very, very similar at least in the thrust of them.

Senator FAULKNER—Do you have copies of either of their letters of resignation?

Mr Barton—I do not have a copy of my British colleague's. I believe he classified his letter when it went back to the UK government, so I do not have that. But, now you ask, I do have a copy of my Australian colleague's letter, yes.

Senator FAULKNER—Can you explain to the committee, Mr Barton, why you are so reluctant to mention J's name? Or his full name—he might not have just one initial in his name.

Mr Barton—I am reluctant because he has asked me not to. He is a colleague of mine and I am trying to respect his privacy. He has asked me not to do it and therefore I am trying to honour that.

Senator FAULKNER—Do you understand why he has asked you not to provide this sort of information? This is, after all, a committee of the Australian parliament inquiring into matters that some members of the committee—not, perhaps, all members of the committee but some, including myself—happen to think are pretty important. Do you understand why he would be reluctant, given his role in the ISG?

Mr Barton—I can only speculate. I do not really know why.

Senator FAULKNER—He has not told you.

Mr Barton—He has expressed some concerns about various things but, again, it is personal, what he has told me.

Senator FAULKNER—They are personal concerns. Really?

Mr Barton—Yes.

Senator FAULKNER—Personal concerns.

Mr Barton—I would categorise them as that, yes.

Senator FAULKNER—Are they related to employment?

Mr Barton—As I mentioned, he is a consultant to a government department.

Senator FAULKNER—In other words, it is the usual story, that the threat—

Senator FERGUSON—I heard no mention of threats, Senator.

Senator FAULKNER—No, I am about to mention one.

Senator FERGUSON—You are making a statement, not asking a question.

Senator FAULKNER—I am about to.

Senator FERGUSON—Then ask a question.

Senator FAULKNER—It is the usual threat, and standover tactics, that if someone comes forward and provides information—

Senator JOHNSTON—For which there is no evidence.

Senator FAULKNER—They will suffer financially. What is the relationship—a consultancy or a contract or something?

Mr Barton—It is a consultancy.

Senator FAULKNER—Yes—the usual threats, in other words, Senator Johnston. I am sure you will be well aware of them—standard operating procedure for the Howard government.

Senator JOHNSTON—Why not ask him a question: is he aware of any threats?

CHAIR—Order!

Senator FAULKNER—You are saying it is for those reasons that you will not provide J's name to this committee.

Mr Barton—I am not saying it is for those reasons; I am just saying that it is for personal reasons, or privacy reasons, that he would rather not have his name mentioned.

Senator FAULKNER—Would J's privacy be impinged, given that you have a copy of J's resignation letter, if that were provided to the committee without any identifiers, without identifying the individual?

Mr Barton—If his name was taken off that letter, then I do not think there would be a real problem.

Senator FAULKNER—Would you provide that, with the relevant deletions?

Mr Barton—Could I consider that for a moment or two? I need to go through the letter and see whether there are any identifiers.

Senator FAULKNER—By all means. Of course you can, Mr Barton. We all get a chance to consider things at these committees. You have offered to provide J's name to this committee in camera. I see little point to that. I appreciate the offer that is made, but I think there is real importance about the openness and transparency of the business of committees like this. It is something which I have spoken about at length in the past. I do not want to waste the time of the committee today addressing it again, although it is something this committee can consider, obviously, in private session later. It does not necessarily have to be addressed today. I appreciate the offer that is made, and we can look at that after this public hearing is concluded, either today or on some future occasion. I am sure all my colleagues would think that is a reasonable enough procedure in the circumstances.

Senator FERGUSON—Senator Faulkner, are you concerned about getting the contents of the letter before the committee or the name, or both?

Senator FAULKNER—What I have asked Mr Barton, which he is considering, is whether he will table the letter without the identifiers that would identify the individual who wrote the letter.

Senator FERGUSON—He may wish to consult with his friend first.

Senator FAULKNER—He might wish to do a whole lot of things, but that is what I have asked. Let me be frank about this: I think Mr Barton should provide the name to this committee so that this committee can call the witness. We now know the witness has spoken to the Secretary of the Department of Defence, the Minister for Foreign Affairs, the Deputy Secretary of the Department of Foreign Affairs and Trade, Mr O'Sullivan—very senior officials. I would prefer a situation where the individual was named and could be invited to attend so all of us at the committee would have an opportunity to ask the witness, if he were present, questions. At this stage we do not have that capacity.

Senator FERGUSON—I am sure if he had wanted to contribute he would have willingly offered his name already.

Senator FAULKNER—Not if he was going to lose his consultancy on the way through.

Senator FERGUSON—No, that is not his worry.

Senator FAULKNER—You know how it works. You know how the Howard government works.

Senator FERGUSON—I know how your government worked.

CHAIR—Let us return to questioning.

Senator FAULKNER—I would ask you to consider tabling that document.

Mr Barton—Yes, I will.

Senator FAULKNER—I appreciate that. In relation to the question of the early iteration of the Duelfer report—the one that you had serious concerns about—

Mr Barton—Are you referring to the March 2004 report?

Senator FAULKNER—Exactly—the March 2004 interim report. Is that the best way of describing it?

Mr Barton—Yes, it is.

Senator FAULKNER—Is that what it is formally described as?

Mr Barton—Yes, it is referred to as the interim report.

Senator FAULKNER—Something I am not clear on—and I wonder if you could explain it to me—is the interface of that March 2003 report with the issue of the mobile biological laboratories, if there was any interface.

Mr Barton—The mobile laboratories were something that we, the ISG, investigated very thoroughly throughout 2003. By the end of that year and certainly by early 2004, we had come to fairly firm conclusions on exactly what those trailers were. We call them trailers. There were two of them that we had in our camp, actually—at Camp Slayer. The evidence of all of the experts who went through those trailers was that those trailers were nothing to do with biology. In actual fact, they were hydrogen generators. That was an issue that I was told by a senior CIA official we could not discuss. In fact, that senior person—and I am not talking about Charles Duelfer; I am talking about his senior staff member—said that it did not matter what they were or what they were for, he did not want to know and we could not write about that. It was too politically difficult, he told me. I said: ‘How can we refer to these in the report? We need to make a reference. We have done all of this work and we have quite a thorough document on these trailers—as to what they are and what their purpose is.’ He said, ‘I don’t care—that can’t go in the report.’ I spoke to Charles Duelfer afterwards and he said, ‘I’m not interested in that.’ Therefore, in the report we put out in March, there was no reference to our findings about those trailers. I actually put it to Charles: ‘There are still members in your government—not in mine

anymore, but in yours—who are referring to those trailers as biological trailers. We know they are not and we are not telling them.’ He said, ‘I’m not interested in that. We’re not putting that in the report.’ And it did not go in.

Senator FAULKNER—So what did not go in the report was, effectively, if you like, the debunking of the claims about the mobile biological laboratories? You were in a position by then to say that they were not for that function at all?

Mr Barton—That is correct.

Senator FAULKNER—You could have debunked it? The ISG at that point could have said, ‘This is clearly not what is happening here’?

Mr Barton—Correct. Of course, that is eventually what we did in the October report.

Senator FAULKNER—Yes.

Mr Barton—In fact, that complete section in the October report was taken from what I had prepared in early 2004 because I was coordinating that work.

Senator FAULKNER—That was a key concern with the March 2003 report. What were the other key concerns?

Mr Barton—That was one of the concerns. It was the whole process, not just the report. As I have said, it was the whole process. There were other issues that we already knew about—things that debunked some of the other stuff that we knew about—that had been raised in Powell’s presentation to the United Nations Security Council the February before. There were quite a number of things in that that we could have debunked, as you put it, or overturned. There were things that we knew about and had reasonably firm conclusions about which we did not put in.

When I asked Charles Duelfer about this, his argument—and I take on a little bit of this—was ‘I have been here too short a period of time. You are trying to make me come to firm conclusions about things when I have only been here a short while.’ We argued a lot about that. But I said to him, ‘Look, by the time you report to congress, you will have been around for six or seven weeks, first of all. Secondly, you didn’t come here cold. You were the deputy executive chairman from UNSCOM. You have been a researcher, an academic, looking at all these issues. You were briefed in Washington before you came and we have briefed you now. So you are not starting off cold. I know it will be difficult.’ I felt that we should still say these things. To hide information that we knew about, I thought, was very wrong.

Senator FAULKNER—In relation to the alleged mobile biological labs, after Mr Downer had made incorrect statements in parliament—13 May, 2003 is a good example—you said on ABC television:

Back in the middle of 2003 I called a friend in the Government who is responsible in this area, and suggested to him that perhaps Downer should keep his mouth shut ...

I wondered who you called.

Mr Barton—I called an official within ONA.

Senator FAULKNER—Are you able to identify the official?

Mr Barton—I am not prepared to give his name.

Senator FAULKNER—After your call—it may or may not have been significant—you indicated that you noticed that Downer did not make any further reference to the claims.

Mr Barton—That is correct.

Senator FAULKNER—Do you know whether your call had any—

Mr Barton—No. I don't know what happened, but I was, I guess, reasonably well respected in this area, and I imagine that somehow it had been communicated to him—perhaps not directly—that 'Mr Barton says this'. Perhaps that organisation advised him, based upon what I had said. I don't know.

Senator CHRIS EVANS—Given ONA's penchant for relying on press reports, you would be regarded as a very superior source—sorry.

Senator FAULKNER—The visit of George Tenet, the then Director of the CIA, to Camp Slayer in February 2004 sounds like a bit of a doozy.

Mr Barton—That is a good way of expressing it, yes.

Senator FAULKNER—Could you outline to the committee his introduction of Charles Duelfer? How did Tenet introduce Duelfer to the assembled team there?

Mr Barton—This was inside what were our headquarters—the perfumed palace—at Camp Slayer. The phrase 'perfumed palace' is taken from a quotation relating to Saddam Hussein, apparently. So it was the headquarters staff that he was talking to, and I guess there would have been 100 or so people within the main hall of the palace. He called up Charlie, as he called him—Charles Duelfer—put his arm around him, and said, as you are apparently reading in the paper here—'This guy's as weird as shit, but he knows a hell of a lot.' And Charles looked embarrassed.

Senator FAULKNER—Was he the only one who was embarrassed? Did this make any sense to the people who were assembled there?

Mr Barton—I think it bewildered a few people.

Senator FAULKNER—Is it true that Tenet then addressed the headquarters staff there and said, 'Are we 85 per cent done?'

Mr Barton—Yes. As you may have read in the article, this came from something that David Kay used to say before he left—'We are 85 per cent done', meaning 'We are substantially finished in our investigations'. That was in November, or the beginning of December, 2003. This

'85 per cent' was often repeated, and denied. So it was a well-known statement. All the staff would have recognised what Tenet was referring to when he said, 'Are we 85 per cent done?' He got the response, 'No'. He repeated it, because he wanted to hear it louder, and they repeated, 'No' a bit louder.

Senator FAULKNER—Is it true that Mr Tenet went on to say, 'Then let's get out there and find the stuff—it's out there.'?

Mr Barton—He said something similar to that: 'It's out there and—'

Senator FAULKNER—This is in mid-February 2004?

Mr Barton—Yes, I think it was about 12 February or something like that.

Senator FAULKNER—Was this a bit bewildering to the people there in headquarters as well?

Mr Barton—I think they understood the message that we still had a long way to go. Of course, in fact we did not. I think most people realised we did not.

Senator FAULKNER—Do you think your view that you did not have a long way to go was shared by other senior officials and senior staff in the ISG?

Mr Barton—Absolutely. I think they understood it—I used to have meetings of all the team leaders and talk about where we were at. In some cases, they had almost finished. It was not quite so in some areas, particularly the chemical area—they still had some work to do—and to some degree in the biological area. But overall, you would say that, whatever '85 per cent done' means, we were '85 per cent done.' I agree with David Kay there in that that was the situation at the end of 2003 and by February 2004 that was certainly true.

In fact, if you read the report that was published in October—the so-called final report, or the substantive report, as I think we refer to it—basically a large part of it, except for the first chapter, was actually written during my early time there. In other words, by February of 2004 that report could have been produced.

Senator CHRIS EVANS—Can I take you back to J's departure? Was J the person on the other contract similar to yours?

Mr Barton—That is correct.

Senator CHRIS EVANS—So J was a non-ongoing public servant?

Mr Barton—That is correct.

Senator CHRIS EVANS—And he was at the same level of seniority as yourself?

Mr Barton—Absolutely. I think we were on the same salary scale and so on.

Senator CHRIS EVANS—So, when J returned to Australia after having written this resignation letter, he met the Secretary of the Department of Defence, a deputy secretary at Foreign Affairs and the Minister for Foreign Affairs? He was obviously treated fairly seriously when he returned.

Mr Barton—Yes.

Senator CHRIS EVANS—And Mr Downer discussed with him his resignation letter, which you say was prompted by his concerns about political interference in the work of the ISG. Is that fair?

Mr Barton—That is correct, yes.

Senator CHRIS EVANS—He resigned some weeks before you, is that right?

Mr Barton—Yes. I left on 23 March; he left on 8 March.

Senator CHRIS EVANS—So you put your resignation in some time after his departure—obviously not long after?

Mr Barton—The department was already aware that I was about to leave. I only revealed it to Charles Duelfer shortly before I left—I think it was the weekend before I left.

Senator CHRIS EVANS—I see. Is there any particular significance to that?

Mr Barton—I thought it would be easier to continue on writing that report if he did not know that I was leaving. I had given an undertaking that I would complete that report, which is what I did.

Senator CHRIS EVANS—But J left and wrote a letter which expressed his concerns about political interference and the work of the ISG. When he returned to Australia he obviously got first-class treatment: he met the minister and he met the Secretary of the Department of Defence et cetera. You got the first assistant secretary in Defence, with a bit of a debrief.

Mr Barton—Yes.

Senator CHRIS EVANS—What had changed? Why the difference in treatment? Do you understand?

Mr Barton—No, not really. I was a bit surprised that no-one at a more senior level wanted to talk to me. I was a bit surprised about that because when I was in Iraq I had a whole stream of senior officials coming out and meeting me and wanting to talk to me in my office in Baghdad. When I returned home I had an hour's meeting with the first assistant secretary and that was it, except for a later meeting in DIO with analysts, basically. That was it.

Senator CHRIS EVANS—In the intervening couple of weeks the interest in senior Australian officials posted in Iraq as part of the ISG had waned, it seems.

Mr Barton—I guess so.

Senator CHRIS EVANS—We know there was no serious follow-up to your debrief from Defence. I think they said in evidence that they had already taken a decision not to be involved in interviews or interrogations at that time. Was that made clear to you then?

Mr Barton—No, it was not made clear to me at all then. In fact, since I have read that statement, I do not know what they mean.

Senator CHRIS EVANS—Did J take part in interviews or interrogations?

Mr Barton—No, he did not. He did not do any while he was there.

Senator CHRIS EVANS—But he effectively had the same duty statement?

Mr Barton—Yes. If he had been asked, I guess he would have done it, but it really was not central to our duty statement. I know it is in our duty statement, but we were there as senior advisers. I tried not to get involved in the questioning of prisoners, because it would be a distraction from my main duties as I saw them.

Senator CHRIS EVANS—But obviously these people had been held for some time, and interviewed and interrogated previously. They were not newly captured persons, were they?

Mr Barton—That is true, but some issues were still being followed up when I arrived. There were a couple of times when I was asked whether I wanted to be involved, and I said, ‘No, not really. If you think that I can really help, sure.’ I did not volunteer myself—put it that way.

Senator CHRIS EVANS—Did J complete the Department of Defence pro forma about interviews et cetera?

Mr Barton—He has told me since that he did not. I asked him why not, and he said he did not do it because he did not do any questioning of prisoners. He said he did not have any contact with Cropper whatsoever.

Senator CHRIS EVANS—But my understanding from Defence is that they asked everyone who had been in Iraq to fill in the form, whatever their level of contact.

Mr Barton—Yes, but he told me he spoke to someone in Defence and explained to them that, since he had had no contact with Cropper or any of the prisoners there, he did not see a point in filling in the form.

Senator CHRIS EVANS—So he did not complete the form and therefore, I assume, he did not have an interview with the Pezzullo team investigating Australian involvement and contact?

Mr Barton—Now you are asking me what he did or did not do. I understand he was not interviewed by Pezzullo. He has not mentioned that to me.

Senator CHRIS EVANS—I would have thought that he would be someone who would have completed the form. I was just then interested in whether or not an interview was required, but you say he may not have completed the form. As far as you know, he was not involved in the interview process and therefore that was not a live issue. Do you have any knowledge of the other officer who contacted Defence on the day following the minister's statement to the Senate?

Mr Barton—No, I do not know who the individual is. I am not even sure whether I would know him. I certainly do not know who it is.

Senator CHRIS EVANS—He was described to us by Defence as a senior ADF officer, but you do not have any knowledge of his statement or concerns?

Mr Barton—No. If he was not an officer connected with the ISG, I probably would not have known him. I knew a few military officers over at Camp Victory, the Australian headquarters. I knew only very few people over there; I did not go there very often. If he was not an ISG officer, I probably would not have known him.

Senator CHRIS EVANS—So there was not necessarily a lot of interaction between the other Australians in Baghdad at the time and yourselves?

Mr Barton—No, we lived in a separate camp. I used to go over about once a week and occasionally I would talk to the Australian commandant there at Camp Victory. So I was on friendly relations with him, and I would chat to him occasionally.

Senator CHRIS EVANS—Were you interviewed by Mr Flood or his team as part of the Flood inquiry?

Mr Barton—No, I was not.

Senator CHRIS EVANS—They did not attempt to contact you?

Mr Barton—No.

Senator CHRIS EVANS—And you did not seek to contact them?

Mr Barton—No.

Senator CHRIS EVANS—Have you seen the Flood recommendations?

Mr Barton—I have read press reports of them.

Senator FAULKNER—Are you aware of any others who worked in the ISG who were contacted by Mr Flood?

Mr Barton—I would have to think about that. No, I am not aware of anyone from the ISG who gave evidence at that inquiry.

Senator CHRIS EVANS—All this happened in the June-July period: you were interviewed by Mr Pezzullo; you contacted the department, concerned about the minister's statement; you filed a record of interview, which contained serious concerns; the government treated this seriously and referred those concerns to the Americans; you were interviewed by the Americans. All this occurred, and subsequently you went back to Iraq in September—is that right?

Mr Barton—Yes. First of all, as I explained, I went to London to review the substantive report. They assembled a team in London, and I was asked to participate in that at a senior level.

Senator CHRIS EVANS—By whom?

Mr Barton—By Charles Duelfer, the head of the ISG.

Senator CHRIS EVANS—So this was not at the Australian government's request?

Mr Barton—It was at his request to the Australian government, but Charles Duelfer contacted me directly and asked me whether I would have the slightest interest in going back. I said: 'Well, it depends. You have to convince me first that the process is honest and objective.' That is when, as I mentioned, he said, 'Well, contact the others, but I assure you it is.' So I went at the end of August to London, first of all, for this review of the substantive report, which was being put together at that stage. Some of it had not even been written, as I discovered when I got to London, but quite a lot of it had been written.

Senator CHRIS EVANS—Who paid for that?

Mr Barton—I was on contract as a private contractor originally, when I went to London. When I got on the plane, I was a private contractor to the defence department. My status changed—

Senator CHRIS EVANS—To the Australian defence department?

Mr Barton—The Australian defence department, because the request came from Duelfer officially to the Australian defence department. Then the defence department asked me whether I would go, and they were going to send me as a private consultant. So, when I got on the plane to go to London, I was a private consultant, but then I was asked to go to Baghdad from London, so my status changed. I became a public servant again when I was in London, and I flew off down to Baghdad from London.

Senator CHRIS EVANS—So you were re-employed by the Australian defence department as a non-ongoing public servant?

Mr Barton—That is correct, yes.

Senator CHRIS EVANS—How long did you stay in that capacity?

Mr Barton—Until I left Baghdad. I would have to check my notes here, but it was about 17 September or something like that.

Senator CHRIS EVANS—So basically, after all this concern—the record of interview, the reference of your concerns to the Americans for investigation and the minister’s statement—Defence basically were prepared to re-employ you, and they employed you for a period while you were in Baghdad assisting with the final report?

Mr Barton—That is correct.

Senator CHRIS EVANS—And then you said you participated in some congressional hearings in America—is that right?

Mr Barton—That is correct. After I returned, I was asked by Charles Duelfer—because, again, I had been his special adviser—whether I would accompany him to the hearings in Washington. I agreed, so I became a non-ongoing public servant again in early October. I went to the US, first of all to help him prepare for the hearings, so we had a few days of that before the hearings started; and then I also attended the hearings, only really as an observer at that stage.

CHAIR—Senator Evans, I might just stop you there for a moment.

Senator CHRIS EVANS—I just have one more question and then I will finish. I just want to be clear.

CHAIR—All right.

Senator CHRIS EVANS—We discussed the alleged mobile biological laboratories.

Mr Barton—Yes.

Senator CHRIS EVANS—The other issue that was made great play of was the issue of these aluminium tubes.

Mr Barton—That is correct.

Senator CHRIS EVANS—Can you tell me what happened between the interim report and the final report with the treatment of the aluminium tubes issue? Was this one of the issues that was not discussed in the interim report?

Mr Barton—The tubes were mentioned but not our findings on the tubes. Our findings on the tubes at that stage were that they were for rockets—nothing to do with a nuclear program.

Senator CHRIS EVANS—So you had already found on that when the interim report was filed?

Mr Barton—That is correct. So, although the interim report actually did mention the tubes, it said something like we were doing further investigation, which of course we always were. But we had already come to conclusions. There were a few loose ends that had to be followed up, but basically we had our findings on that.

Senator CHRIS EVANS—Which were that they were not involved in any nuclear capability.

Mr Barton—No. They were not part of any nuclear enrichment program. They were for rockets.

Senator CHRIS EVANS—Does the final report confirm that?

Mr Barton—The final report says that, yes.

Senator FERGUSON—Mr Barton, I want to take you back to something you said earlier when we were dealing with the first two terms of reference on the treatment of Iraqi prisoners. During what was described as a ‘cordial interrogation’ of your acquaintance—who I think you said was a minister and a general—who else was present?

Mr Barton—The people who were present were the case officer, and the US interrogator, who was a military officer not in uniform. There was a British colleague who also attended and there was an American woman who I said could attend if she took the notes—she was my note taker. The only people who asked questions were me—and I did, I guess, 90 per cent of the questioning—and some came from my British colleague.

Senator FERGUSON—Was there a guard present?

Mr Barton—The guard stood outside the door.

Senator FERGUSON—How was the general dressed?

Mr Barton—He was dressed in an orange jumpsuit.

Senator FERGUSON—It is just that I asked you earlier whether you considered your so-called ‘cordial interview’ to be an abuse of prisoners, and you said no—if I remember rightly. Does that mean that you would consider any interview or interrogation, or whatever you would like to call it, where two or three people are present, the prisoner is dressed in an orange jumpsuit and—as I think you said in your interview with Liz Jackson—a guard with a gun is standing behind him not to be an abuse of a prisoner, if the circumstances were exactly the same? You said in your interview that you did not feel that the prisoner was abused.

Mr Barton—No, he was not.

Senator FERGUSON—If you had a like situation, where there was interviewing or interrogation and it was not you but somebody else, would you still consider that not to be abuse?

Mr Barton—Yes. It would not matter if I was there or not.

Senator FERGUSON—So, to the best of your knowledge, there has been no case in Camp Cropper, during either interrogation or interview—whichever you like to call it—of abuse?

Mr Barton—Not in Camp Cropper—I agree with that.

Senator FERGUSON—Not in Camp Cropper. I think it is very important that is on the record because, if one were to read the transcript of your interview with Liz Jackson, one would not have that impression.

Mr Barton—Yes, I have corrected that. It was loose words by me. I meant abuse associated with Camp Cropper. By that I meant the facility down the road, a few hundred metres away.

Senator FERGUSON—Which you had never been inside?

Mr Barton—Which I had never been inside.

Senator FERGUSON—And it is only circumstantial evidence, hearsay, deduction or all of the other words that you used as far as that facility is concerned?

Mr Barton—Yes, but I have seen photographic evidence that implies this. I reported what I considered to be suspicions. I do not know whether you are suggesting I should not have reported such suspicions.

Senator FERGUSON—No, I am not suggesting that all, as long as you reported them as suspicions and nothing else.

Mr Barton—I did exactly that.

Senator FERGUSON—So we can deduce from what you have said that, to the best of your knowledge, there has been no abuse of prisoners in Camp Cropper through the interrogation or interview process. But you do not believe the people in the photographs who said that it happened during the arrest, the capture or the transfer of these people and you believe that something else happened once they were in this other part aside from Camp Cropper.

Mr Barton—That is a reasonable summary, yes.

CHAIR—There being no further questions, thank you very much, Mr Barton, for appearing before the committee. If there are any matters the secretariat needs to clarify with you in regard to your evidence, they will do so.

Committee adjourned at 4.59 p.m.