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# Special Committee on the Canadian Mission in Afghanistan

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EVIDENCE

**Thursday, November 26, 2009**

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**Chair**

**Mr. Rick Casson**



## Special Committee on the Canadian Mission in Afghanistan

Thursday, November 26, 2009

• (1530)

[English]

**The Chair (Mr. Rick Casson (Lethbridge, CPC)):** We'll call the meeting to order.

This is meeting number 17 of the Special Committee on the Canadian Mission in Afghanistan. Today we're again under the order of reference from Tuesday, February 10, 2009, and the two motions adopted by the committee on Wednesday, October 28, 2009, that the committee resume its study of the transfer of Afghan detainees from the Canadian Forces to Afghan authorities as part of its consideration of the Canadian mission in Afghanistan.

Today we have one witness, committee, and we're here until five o'clock. We have, from the Embassy of Canada to the People's Republic of China, Mr. David Mulrone, Ambassador of Canada to the People's Republic of China.

**Mr. Paul Dewar (Ottawa Centre, NDP):** Mr. Chair, just before we start—my apologies to our guest—I just want to raise a point of order.

I actually want to go back to the motion that was passed yesterday with regard to documents and the requests that this committee put forward to the government and the requests for the documents. I want to first of all establish whether or not the documents arrived, if any documents arrived. Did you put the request forward, and did any documents arrive as to that request?

**The Chair:** Yes, that's correct, Mr. Dewar, that your motion indicated—the motion that passed—that the requests for these documents be put before Mr. Mulrone appear. That request went into the department last night at 8 o'clock, as information provided to me by the clerk, and I understand from officials today that the documents requested are at translation today.

**Mr. Paul Dewar:** Mr. Chair, in light of the fact that we haven't received documents and in light of the fact that this committee did request documents prior to Mr. Mulrone's attending committee, I just want to put forward this motion. It's a very quick one. It's regarding the documents, and we can get on to the business of the day.

Mr. Chair, I think it's important to establish, as I mentioned yesterday at committee, the importance of committees of Parliament being able to do their work, and to do that we need to have the same documents that are available to witnesses. We saw this yesterday. I mean, we had two retired members of the forces accessing documents that we couldn't access.

So I want to put forward the following motion, Chair, and I will distribute it:

That the committee report to the House that it believes a serious breach of privilege has occurred and members' rights have been violated; that the Government of Canada, particularly the Department of Justice and the Department of Foreign Affairs and International Trade, have intimidated a witness of this committee and obstructed and interfered with committee's work by withholding the papers requested by this committee. Therefore this committee reports the breach to the House so that it can consider the matter.

Mr. Chair, we have important business ahead of us, as I mentioned. This isn't an attempt to filibuster. This is a straightforward motion. I would like to have this committee consider it, vote on it, and move on.

And if I could just explain the words in the motion, we have asked for documents, and not just once. I asked when Mr. Colvin was here for his documents. He wasn't able to provide those documents. He was told that if he did provide those documents, there would be consequences for that. I think this is, to put it mildly, unfortunate that a committee of Parliament isn't able to have information to conduct its business. I believe that's a breach of privilege.

That's a straightforward motion, and I'll stop at that.

**The Chair:** Mr. Hawn.

**Mr. Laurie Hawn (Edmonton Centre, CPC):** Mr. Chair, I have several points.

First of all, beginning with the latter one, Mr. Colvin does not have authority to provide those documents to the committee even if he were to choose to. I believe, Mr. Chair, that the motion passed yesterday, the third motion, which was mine, as it was the last motion passed, takes precedence over other motions. If you want to split hairs, Mr. Dewar's motion was that documents be requested—I know this is really going to split a hair—before Mr. Mulrone appeared, not that they be delivered. That may be splitting a pretty fine hair, but it is literally true.

The other point, Mr. Chair, is that motions without unanimous consent require 48 hours' notice.

**The Chair:** That is the case if it's a motion to do with something the committee is not engaged in. Just to clarify the 48-hour rule, I'll read it here:

That 48 hours' notice be required for any substantive motion to be considered by the Committee, unless the substantive motion relates directly to business then under consideration; and that the notice of motion be filed with the Clerk of the Committee and distributed to members in both official languages.

This refers directly to the subject we have under discussion, so I believe it's in order.

Any further discussion?

**Mr. Laurie Hawn:** I request a ruling on my other point, that the third motion passed yesterday took precedence over Mr. Dewar's motion.

**The Chair:** I don't think the motion that Mr. Dewar has presented circumvents Mr. Mulroney from presenting today at all. He will present today.

Is there any further discussion?

(Motion agreed to)

**The Chair:** Mr. Mulroney, welcome. The floor is yours. You've been in front of us numerous times. You know the order of proceedings here. You have time to present, and then we'll turn it over to the committee for questions.

Go ahead, sir.

**His Excellency David Mulroney (Ambassador of Canada to the People's Republic of China, Embassy of Canada to the People's Republic of China):** Thank you very much, Chair. I'd like to thank the committee for this opportunity to share my experience and perspective on the Afghanistan mission and the important issue of Canadian-transferred detainees.

Recent testimony and media coverage have left the impression that I discouraged honest reporting about the situation in Afghanistan, and that I contributed to a situation in which detainees captured by the Canadian Forces were transferred to Afghan authorities without due regard to the risk of torture. This is simply not true.

Like so many others, I am proud of my work on Afghanistan and feel confident that I did my best to ensure that in everything we did we acted to conduct our operations effectively, save Afghan and Canadian lives, build stronger Afghan institutions, and meet our legal obligations as well as the high expectations of Canadians.

Let me start by explaining my own involvement in the evolution of the Afghan mission.

I had visited Afghanistan twice in my student days in the 1970s, and returned again much later in my capacity as assistant deputy minister, Asia Pacific, first with then Deputy Prime Minister John Manley in January of 2002 just after the fall of the Taliban, and in September 2003 with then Foreign Minister Bill Graham for the opening of our then new embassy in Kabul.

Later, as foreign and defence policy advisor to the Prime Minister from April 2006 to February 2007, I participated, when my presence in Ottawa would allow it, as an observer in the committee of deputy ministers that then oversaw the mission. Among the issues I followed closely at that time were efforts to have our civilian officials re-engage in Kandahar following the death of our colleague Glyn Berry on January 15, 2006.

In the aftermath of Operation Medusa that summer, which, as General Hillier described yesterday, was Canada's largest military engagement since Korea, I helped to secure the additional equipment that was needed to support our people in the field. I also worked on preparations for the NATO summit in Riga, in which the Prime Minister launched the diplomatic engagement that over time brought thousands of additional troops to southern Afghanistan. I also helped

to plan a visit to Afghanistan by the previous Clerk of the Privy Council—a visit that would make recommendations about how we managed Afghanistan, including having me return to the Department of Foreign Affairs to take up that challenge.

In February 2007 I was named Associate Deputy Minister of Foreign Affairs and was given lead responsibility to coordinate intergovernmental efforts on Afghanistan. With the exception of also being lead official for the G-8 in 2007, I would work almost exclusively on Afghanistan at the Department of Foreign Affairs and later at PCO until May 2009. I visited Afghanistan eleven more times in that period.

The mission I joined in February 2007 was characterized as 3-D, referring to the pillars of defence, diplomacy, and development all working together. But the effort was not as coordinated and coherent as it should have been and needed to be. The number of civilians deployed to the field was too few and they were too junior. Management structures defining who was accountable and responsible for what were too diffuse.

Most serious, in my view, was the lack of true coordination between headquarters and the field, between Kabul and Kandahar, and between the military and the civilians, which prevented us from delivering a truly whole-of-government effort.

I worked to change that with a growing team of talented people. We created a new Afghanistan task force in the Department of Foreign Affairs that brought all resources under my responsibility. We set to work to build a single coordinated plan that would allow us to align people, programs, and resources in support of a clearly defined set of Canadian objectives. This was a process that would not be complete until, thanks to the Manley panel, we had established coherence around six priorities and three signature projects.

We also began to build up civilian resources and, importantly, to bring more senior civilian resources into Afghanistan. This too took time. We needed to completely revamp how we identified, recruited, trained, deployed, and supported our people.

We grew our civilian presence from a handful in Kandahar in early 2006 to more than 120 civilians in Afghanistan today, including more than 80 in Kandahar. No other country has as many civilians in as difficult and dangerous a place as Canada does.

• (1535)

So my early focus, after making a quick initial visit to Afghanistan, was to bring greater coherence to our work, to create a more truly collaborative approach between headquarters and the field, and to begin assigning more civilians and more senior civilians to the field.

With regard to the specific issue of detainees, it was clear that here, too, greater coordination between government departments was required. As General Hillier indicated in his opening statement yesterday, reporting from respected international sources confirmed that the challenges faced by Afghanistan were enormous and that Canada's detainee policy had to be situated within that context.

It was precisely because of those challenges that the government had concluded the transfer arrangement in December 2005, which provided assurances from the Government of Afghanistan that detainees transferred by the Canadian Forces would be treated humanely and in accordance with Afghanistan's international legal obligations.

But as General Hillier also testified yesterday, we learned that in the face of an evolving insurgency and many other challenges, we needed to reinforce our work here as elsewhere, consistent with our objective to build Afghanistan's capacity to implement those obligations.

When I took up my responsibilities at DFAIT in February 2007, the department was already exploring ways to engage in monitoring and tracking detainees. At the same time, we had an exchange of letters with the Afghanistan Independent Human Rights Commission, an organization for which we are a major funder, in which the AIHRC agreed to notify Canada should it learn of any mistreatment of Canadian-transferred detainees.

In mid-March we began detailed work to create a contingency plan—a standard operating procedure—in the event of well-founded allegations of mistreatment. We did this not because of confirmed instances of real and substantial risk of torture or mistreatment of Canadian-transferred detainees but because it was clear that what we had in place at the time could and should be further reinforced. We needed to be far more engaged in terms of monitoring, training, and providing infrastructure and equipment.

We worked quickly and collaboratively to design a system that would require contributions from the Canadian Forces, the Department of National Defence, the Department of Foreign Affairs, Correctional Service of Canada, the RCMP, the Department of Justice, and several of our diplomatic posts. I spent hours talking with, and in many cases visiting, people involved in the intelligence work and the actual operations in the field. I walked through every step of the incarceration process at Kandahar airfield. I would later visit the NDS detention facility in Kandahar and sit in on an interview with a Canadian-transferred detainee.

We were very attuned to the many problems in the Afghan justice system. In a country so beset by poverty, illiteracy, insurgency, with a lack of public institutions, and suffering from decades of civil strife, the possibility of mistreatment could not be ignored. We did not ignore it.

A dedicated and experienced interdepartmental team talked with Afghan officials in Kabul and Kandahar, with allies and with informed people in the relevant international organizations—in short, everyone who had a stake in the issue—so that we could find out what they knew.

We reviewed all relevant reports and documents, took the time to consult, built a common sense of objectives and purpose and a clear understanding of roles and responsibilities, and marshalled the resources to ensure effective implementation. And we negotiated a new and better arrangement with the Afghans.

Throughout, we were clearly aware of our responsibilities under international law and were informed by a need to build capacity in Afghan institutions.

We in no way underestimated the challenges, but we had confidence in our people and in the array of tools that we could bring to the effort—training, monitoring, providing new infrastructure and equipment, engaging the Afghans at all levels to remind them of their obligations and commitments.

The issue was not theoretical. First, we had no doubt that the detainees captured by the Canadian Forces posed a real threat to Afghans, and more than that, in some cases had Canadian blood on their hands. Our inability to put into the Afghan justice system those who were captured on the battlefield or in operations against IED makers would have put Afghans and Canadians at more risk.

Second, a working correctional system and a working justice system are critical to governance, nowhere more so than in Afghanistan. If we gave up on that, it would be a terrible setback for the Afghan people. We believed that we needed to effect change and that we had the ability—and the obligation—to do so.

• (1540)

On May 3, 2007, our government signed a supplementary arrangement that enhanced the December 2005 arrangement in a number of important respects to make explicit Canada's expectations and Afghanistan's responsibilities. The supplementary arrangement provided us with unrestricted and private access to any person transferred by the Canadian Forces to Afghan authorities; acknowledged that the Afghanistan Independent Human Rights Commission and the International Committee of the Red Cross have the same unrestricted access; made clear that the Afghan government would investigate all allegations of abuse and mistreatment and prosecute offenders in accordance with national law and internationally applicable legal standards; and provided that Canadian-transferred detainees would only be held in a limited number of facilities, thereby facilitating access and monitoring. This was a major interdepartmental achievement, and remains, arguably, the strongest model for any NATO nation operating in Afghanistan.

Now let me say a few words about my management, not just at DFAIT or PCO, but of the broader interdepartmental team that I was asked to coordinate. The Afghanistan mission presented us with a number of challenges that none of us had ever faced before. We learned every single day, talked about how we could do better, integrated best practices into our work, and refined our policies and processes in the face of an evolving series of challenges. One of those challenges was how to move from policy discussion to policy formulation to implementation.

On detainees, as on all the files we were coming to terms with, I encouraged an open airing of views, opinions, and suggestions. But once the policy was decided, I made it clear that it was up to all officials to implement it with rigour, commitment, and discipline.

I have already observed that I felt we needed far more consultation and teamwork. I noticed that departments tended to report separately, in some cases only to their own people. And although I would certainly be considered an insider, when reading some of the field reporting it was not always clear whether what we were reading was based on first-hand experience or opinion; whether an author was speaking with the authority of his home department, the embassy, or even the Government of Canada, or offering an individual view.

Though there was a high volume of reporting, there was a lower volume of hard facts. I felt that it was my job to ensure that we were providing the best possible fact-based advice.

Allow me to say a few words about one member of our team. Richard Colvin willingly volunteered to go into a dangerous theatre of operations and undertook very challenging work at a time when there was not a long lineup of people willing to do so. He demonstrated bravery and dedication, and for that I am very grateful.

Richard was one of a very large number of people who brought ideas, suggestions, and recommendations to bear for consideration. I didn't always agree with him, but I always listened. The volume of reporting he did would alone suggest that he always had ample opportunity to express himself and have his views considered. In fact, the revised transfer arrangement addresses each of the shortcomings he spoke to in his testimony before this committee because of the collaborative interdepartmental work we did to get to that point. He acknowledged this.

The view that I muzzled him or any other official is wrong. The correspondence to which he has referred I believe is from April 24, 2007. We had written to provide our embassy in Kabul with our diplomatic contingency plan, the product of extensive interdepartmental consultation that had included the embassy. He wrote back with a message that appeared to reopen the debate based on no new information; to request that we take up a course of action that we were already taking; and to offer views about how the military should conduct its operations. This caused considerable confusion in Ottawa.

I made three points to him. First, I made it clear that the approach we had underlined represented interdepartmental consensus. Second, I made it clear that more detailed and specific tasking vis-à-vis the Government of Afghanistan and the AIHRC would follow. And third, I said that ideas, opinions, and strongly held views are often best first expressed by phone—first expressed.

Getting very different departments, agencies, and the Canadian Forces to agree, and much less do the same thing, was not easy. I insisted that we take the time to consult widely on all major issues. I asked people to talk through things, confer with colleagues, and to use the phone more.

You can't do work of this nature with officials in three continents and divided by several time zones exclusively through e-mail exchanges. We would bring all Ottawa players together into a single room, and connect them with key contacts in Kabul, Kandahar, and, where warranted, Brussels or New York. I made it clear that any and all views were welcome and that we were interested in seeing any new, relevant information.

● (1545)

I also said that I expected people to be clear about whether they were reporting based on direct experience and whether they were adding new information. Our ability to add facts and understanding grew with our deployment of civilian experts.

I asked that the ambassador be consulted on all important policy messages, a necessary fact of life in every mission and something that senior people in Canada assumed was happening. I asked for reporting from the field that was factual, objective, collaborative, and subject to rigorous assessment.

Finally, I made it clear that after those extensive consultations, once a policy direction was set, I did not expect people, in the absence of any new or relevant information, to reopen the debate. To do so would be to sow confusion in the system, to undermine effective implementation, and to demoralize those who were risking their lives to visit the prisons and meet the commitments that all departments and agencies had agreed on.

I'm also very proud of the fact that far from stifling opinion or hiding the truth, we built up the resources to report fully, bluntly, and transparently on the mission. In this respect, I point to the Manley panel report and to the quarterly reports we have published since June 2008.

No other country offers this level of transparency, but our ability to do this was linked to getting civilian resources into the field and shifting from opinion, circumstantial evidence, and allegation to fact.

● (1550)

[*Translation*]

I helped forge a strong interdepartmental team that was vastly devoted to the mission, but also vastly devoted to Canadian values, starting with a respect for the law.

[*English*]

I spent more than two years on the Afghanistan file. I served in DFAIT. I served as secretary to the Manley panel, and I served in PCO, where I directed the work that saw all of the panel's recommendations implemented.

I helped to forge a strong interdepartmental team that was fiercely devoted to the mission but also fiercely devoted to Canadian values, starting with respect for the law. I left behind some colleagues who I know felt frustrated, because once our own airing of views and opinions had concluded and all relevant consultations were completed, we moved decisively from debate to implementation. I am confident, though, that we did this carefully, effectively, and with total fidelity to the standards expected of us by the Canadian government, the international community, and most importantly, Canadians.

Thank you very much.

**The Chair:** Thank you, sir.

We'll open it up for questions. The first round of seven minutes is to the official opposition.

**Hon. Bob Rae (Toronto Centre, Lib.):** Thank you, Mr. Chairman.

I have to say that I've worked with Mr. Mulroney on a number of occasions in another life, and I'm glad to see him here and glad to have an opportunity to share some questions with him.

I hate the level of formality, Ambassador—

**His Excellency David Mulroney:** It's still David.

**Hon. Bob Rae:** I think you've given us some important background as to the difference of opinion between you and Mr. Colvin, evidently, with respect to what was actually happening in prisons, and secondly, how quickly Canada could move its policy from the agreement that was reached in December 2005 to the revised agreement in 2007.

But could you understand, from what you've said today, why Mr. Colvin could have said what he said last week with respect to his having sent in strong views with respect to what he was hearing about what was happening in prisons, and secondly, on the question of how welcome his additional comments and arguments would be, once, as you put it, a decision was made to go with a certain approach?

Is it possible to see this as a difference of opinion between the two of you with respect to what took place?

**His Excellency David Mulroney:** That, Mr. Rae, is one of the things that most surprised me about this exchange. Richard felt very strongly that because of the problems that everybody knew existed in the Afghan system we needed to do one of a number of things: we could stop transferring, we could build a prison, or we could set up a robust monitoring regime, for which we'd have to devote more resources. We opted for the third course. In fact, after that message, the exchange of April 24, he sent a message about a week later saying thank you for listening to my views.

He mentioned in committee that he had come to meetings in Ottawa. He didn't stumble into a meeting. These were very serious, high-level meetings on this file.

**Hon. Bob Rae:** At what date?

**His Excellency David Mulroney:** This was in March 2007, as we were beginning to think about how we would react, how we would build this system. Richard came to those meetings. He was consulted on the phone. He was a prolific writer. He wrote after the exchange about which I'm talking. He felt passionately about these views. He wanted us to move very quickly. We moved as quickly as we could, and a lot of his advice is incorporated in what we ended up doing.

**Hon. Bob Rae:** With respect to the first point, there really are two issues here. One of them is what were the conditions in Afghan prisons. The second is was there a culture of not wanting to listen and not wanting to get on with it.

With respect to the first point, there seems to be an awful lot of secondary information from the State Department, from the Afghanistan Independent Human Rights Commission, from the UN, from the Red Cross, which has now come out in the papers today, with respect to what the conditions in the prisons were. Do you think there was a legitimate concern on the part of those people that torture, abuse, harsh treatment were widespread in the Afghan prison and detention system?

•(1555)

**His Excellency David Mulroney:** I think there was very widespread and incredible understanding that there were lots of problems in the Afghan justice system and Afghan prisons with Afghan police, as there were many problems throughout the Afghan system. But the question is, how do we take that information and then relate it to the challenge we faced with the need to put people who we believed were a serious threat to Afghans and Canadians into the justice system?

This was an issue that faced all of our allies, and they worked on it in various ways. The Americans built their own prison at Bagram, but they were operating partly under NATO and partly independently. The British and the Dutch had set up monitoring regimes. We did not set up a monitoring regime in 2005, and it became very clear to us by the end of 2006 that we needed to move to do something along those lines.

We did not intend to be passive observers of the Afghan scene. What we wanted to do with our monitoring regime, and what we did do, was to include with it very clear expectations of the Afghan government, and to make explicit the right of the Red Cross and the Afghanistan Independent Human Rights Commission to go into the prisons. While we were doing this, we were beefing up the capability of the AIHRC.

In negotiating the four prisons to which Canadian-transferred detainees would go, this was important to us, because we were concerned about how we would track them through the system, so we knew exactly where they would go. Then we wanted to do the monitoring, we wanted to do the equipment, and we felt very confident that we could ensure that our detainees moved through the system without substantial risk of torture. We worked hard on how we would identify these people as Canadian-transferred detainees, how we'd ensure that at Kandahar airfield they understood their rights.

We were very committed as a team to doing everything we could to protect our Canadian-transferred detainees and to make the Afghan prison system better. I think we did both of those things.

**Hon. Bob Rae:** But could you understand that while...? I mean, in a sense, you have the agreement in place and we then start capturing detainees in large numbers in the winter and spring of 2006, and it was not until the fall of 2007 that we had the fully beefed up system you're talking about. So is it at least possible—

**His Excellency David Mulroney:** It was May of 2007.

**Hon. Bob Rae:** May 2007. In the course of that time, before we were able to get all these things in place, is it possible that in fact a number of detainees were subject to harsh treatment in prisons, simply because we were not in a position to monitor them?

**His Excellency David Mulroney:** There are a number of things I think we have to remember in terms of context. In December 2005, the Canadian Forces hadn't fully deployed to southern Afghanistan.

**Hon. Bob Rae:** Correct.

**His Excellency David Mulroney:** No, we did not anticipate the ferocity of the insurgency that we faced when we got there.

The death of Glyn Berry in January was a tragedy to all of us, but it also set back our efforts to deploy more civilians for many months as we looked at duty-of-care issues and how to deploy them safely.

By the summer of 2006, the Canadian Forces were facing the Taliban massed in the hundreds, and were fighting in some of the biggest engagements since Korea. So it was a very, very chaotic year. It was a terrible year. At the same time, DFAIT and DND were working out the delineation of responsibilities on detainees. DFAIT was engaging with the relevant international organizations. Correctional Service Canada had started to do its first visits into Afghan prisons to determine what they needed by way of additional capacity.

Should we have moved even faster in that period? Should we have put in place in 2006 the agreement we had in 2007? Afghanistan was an evolving theatre of war, and we realized in early 2007 that we needed to make changes. I arrived in late February, and by early May we had a new arrangement in place.

**The Chair:** I'm sorry, time's up. We're having to keep to a close schedule so everybody gets an opportunity here. I apologize for that.

Mr. Bachand, seven minutes.

[Translation]

**Mr. Claude Bachand (Saint-Jean, BQ):** Thank you, Mr. Chair.

Good afternoon, Mr. Mulroney.

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** Could you please share the time allotted to you?

**Mr. Claude Bachand:** Yes, I will be sharing my time with Ms. Lalonde.

Mr. Mulroney, I have two documents here. One was disclosed yesterday by the CBC network and the other is an excerpt from the Attaran vs Canada (Foreign Affairs) case. I will begin with the document reported on by CBC. I would like you to note my two questions and then answer afterward.

First, the document revealed by CBC yesterday is signed by Richard Colvin and Margaret Bloodworth, who I am sure you know. Do you know these two people?

[English]

**His Excellency David Mulroney:** I think it might have been signed by Richard Colvin and Catherine Bloodworth.

• (1600)

**Mr. Claude Bachand:** It's Mrs. Bloodworth.

**His Excellency David Mulroney:** No. Margaret Bloodworth is Catherine Bloodworth's mother. Margaret Bloodworth was the national security advisor; Catherine Bloodworth was an officer of the embassy in Kabul.

**Mr. Claude Bachand:** They say here "Colvin" and "Bloodworth", and you say it's Cathy.

**His Excellency David Mulroney:** It's the daughter of Margaret. It's Catherine Bloodworth.

[Translation]

**Mr. Claude Bachand:** Did Ms. Bloodworth report to you?

[English]

**His Excellency David Mulroney:** When is this document dated?

[Translation]

**Mr. Claude Bachand:** It is dated 2006.

[English]

**His Excellency David Mulroney:** At that time I was not responsible for Afghanistan. I was in PCO as foreign and defence policy advisor.

[Translation]

**Mr. Claude Bachand:** This document was cc'ed to David Mulroney. Were you with PCO at that time?

**His Excellency David Mulroney:** Exactly.

**Mr. Claude Bachand:** All the individuals and institutions whose names appear on this document: Ms. Swords, Mr. Laporte, CEFCOM, National Defence Headquarters, Sinclair, you know them all.

In this document, acts of torture are mentioned on several occasions. I will quote certain passages that I will have to interpret, because many of them are redacted. This is what the document says:

[English]

Of the...detainees we interviewed...said...had been whipped with cables, shocked with electricity and/or otherwise "hurt" while in NDS custody in Kandahar. This period of alleged abuse lasted from between....

They don't say here.

[Translation]

The document goes on like this and does contain complaints from prisoners, which were pointed out to you by Mr. Colvin and Ms. Bloodworth in a cc.

That's not all. It continues:

[English]

He said that, while being detained...he came and spoke with him once. He, and others, told the...that three fellow detainees had had their "fingers cut and burned with a lighter" while in NDS detention. ...

When we asked about his own treatment...he said that he was hit on his feet with a cable or "big wire" and forced to stand for two days, but "that's all".

[Translation]

Did you obtain a copy of the document that I am reading to you, as a cc, approved by Ambassador Lalani?

[English]

**His Excellency David Mulroney:** That document.... I believe that in 2006 Arif Lalani was not our ambassador; it would have been David Sproule. But I would have to see the document to see who approved it at the bottom.

**Mr. Claude Bachand:** It says here, "Approved: Lalani".

**His Excellency David Mulroney:** Is that 2006?

**Mr. Claude Bachand:** Yes.

**His Excellency David Mulroney:** Arif came in 2007.

**Mr. Claude Bachand:** I'm sorry. The date is even slashed.

**Hon. Bob Rae:** We don't know what the date is.



**Mr. Claude Bachand:** We don't know what the date is, but your name is on it, and you had a copy of this.

Have you seen this report?

**His Excellency David Mulroney:** I'd have to see it.

**Mr. Claude Bachand:** What is the procedure here? Can I give him the report?

**Hon. Bob Rae:** Give him the document that we can't see so that he can't see it either.

**Some hon. members:** Oh, oh!

**His Excellency David Mulroney:** I did see that document.

**Mr. Claude Bachand:** You did see it?

[*Translation*]

If you saw this document, then why is the Prime Minister telling us that no one was tortured, that nothing happened and that there were never any cases where the allegations were proven? You now have a report from two people you know very well. They sent this report to everyone I mentioned earlier, including yourself.

So please explain to me how you can argue that no one is being tortured in Afghan prisons and that no one was being tortured at that time?

**His Excellency David Mulroney:** With your permission, I will answer in English. I apologize.

[*English*]

This is reporting on a visit that Richard paid to a prison in Kabul, not to the NDS facility in Kandahar. He talked to people who made allegations of abuse, which we reported to the authorities. But what is important to note in this is that these were not, to our knowledge, Canadian-transferred detainees, and our primary focus has been whether there were any credible allegations of mistreatment of Canadian-transferred detainees. Our ability to make that determination improved enormously with the signing of the May agreement: our databases were improved; we tracked them through the system.

So the fact that there were allegations of mistreatment in Afghan prisons was known to us, and it was reported in international human rights journals, etc. What we were looking at was to create a system that would provide sufficient protection for Canadian-transferred detainees through the system, to ensure that Afghans met the obligations we expected of them.

This precedes the May arrangement. We did the May arrangement to deal with allegations and concerns of this sort.

[*Translation*]

**Mr. Claude Bachand:** Yes, but people were being tortured at that time, that's obvious.

Here is another piece of evidence. In Attaran vs Canada (Foreign Affairs), it says that in the 2006 report on human rights in Afghanistan—you read this report, you were the one in charge—there is a sentence that you tried to have removed...

• (1605)

[*English*]

**His Excellency David Mulroney:** In 2006 I was at the PCO; I wasn't in Afghanistan.

[*Translation*]

**Mr. Claude Bachand:** But you definitely read the report.

**His Excellency David Mulroney:** Yes.

**Mr. Claude Bachand:** It was written by Mr. Colvin and sent to Mr. Mulroney, that is, yourself. It says:

[*English*]

“Extrajudicial executions, disappearances, torture and detention without trial are all too common.”

[*Translation*]

Mr. Mulroney, the question is not whether Canadian soldiers transferred these prisoners; it is clear that they were everywhere. You should have told the Prime Minister at the time.

I personally think that you did. Did you speak to him about the conclusions drawn by these reports?

[*English*]

**His Excellency David Mulroney:** There was no doubt in anybody's mind that the Afghan system was riddled with problems. It was a developing country that had been devastated by 30 years of war. We knew that.

We had a problem, in that we had people captured on the battlefield who were a threat to Afghans and Canadians. We could either let them go or put them into the Afghan justice system. To do that, we would have to take steps to improve the Afghan justice system, and specifically the prisons. We worked interdepartmentally to come up with a program that would allow us to do that with a degree of confidence.

**The Chair:** Thank you, Mr. Bachand.

We'll go to the government side for seven minutes.

**Mr. Laurie Hawn:** Thank you, Mr. Chair.

Thank you, Ambassador Mulroney, for joining us.

To continue a point about the piece of paper that Mr. Bachand had, if that piece of paper was approved by Ambassador Lalani, then it must have been after April 2007, because that's when Ambassador Lalani arrived. So to suggest that it refers to something that happened in 2006 is patently false.

**His Excellency David Mulroney:** It is, if we have Ambassador Lalani's name on this. Actually, he arrived at the very end of April and within a week had negotiated the new arrangement.

**Mr. Laurie Hawn:** Thank you.

After Glyn Berry was unfortunately killed, was it very tough for the PRT—for civilian employees—to get outside the wire after that point, for the first period?

**His Excellency David Mulroney:** This was one of the big issues we struggled with, how to deploy civilians from the PRT or from Kandahar airfield into the Afghan prisons. That's one of the reasons I went to the NDS. I wanted to see for myself what it was like. These visits are unannounced; what they normally do is roll up to the prison in a convoy. There is a time limit for how long they can stay, because the longer those vehicles stay out there, the longer the insurgents have to plan attacks on the route back. The prisons themselves are dangerous; we had people in Sarposha hours before it was blown up.

We thought a lot about how to do this safely and carefully.

**Mr. Laurie Hawn:** So initially, after Glyn Berry's death, there were not many visits outside the wire by civilians.

**His Excellency David Mulroney:** There were not many visits. It took time to build up those—

**Mr. Laurie Hawn:** So any information would have been at least second-hand.

**His Excellency David Mulroney:** Yes.

**Mr. Laurie Hawn:** In 2006 there were some questions concerning inputs from the ICRC about concerns that the ICRC raised. Were those concerns about actual torture or allegations of torture, or were they more about process—record keeping, reporting, that sort of thing?

**His Excellency David Mulroney:** The concerns were primarily about notifications to the ICRC in Geneva. They felt that the system the forces had set up took too long to get the information to them. I know, and General Fraser I think referred to this, that people sat down after that report was received, and it was acted upon. We developed a system eventually whereby the Department of Foreign Affairs, through the PRT, the embassy in Kabul, and our embassy in Geneva, were reporting on those. I would see those notifications go out, and it was just a matter of a very few days. So that was corrected.

**Mr. Laurie Hawn:** It went from whatever—a month or two—to hours, to days.

**His Excellency David Mulroney:** That's correct.

**Mr. Laurie Hawn:** The process obviously was something that was also fixed or tidied up by the supplemental agreement. Is that a fair statement?

**His Excellency David Mulroney:** Well, one of things that happened and one of the things I worked on when I got to Foreign Affairs was to improve the capacity of civilians to play that role. What we began to see, and what my vision was, was a continuum that started with the forces—the people who actually went out and captured the IED makers and took the people on the battlefield—and went right through to the monitors from Foreign Affairs, Correctional Service Canada, the RCMP, the trainers, and the others, right through to the stage at which the detainee went into the Afghan justice system.

**Mr. Laurie Hawn:** Could you talk about the contact you had with government departments engaged in Afghanistan? You alluded to some of it. Was it by phone, by e-mail messages, by video conference? How often did it occur? During all of this, did you hear from anybody—in DND, DFAIT, RCMP, etc.—before 2007 that there was systematic torture occurring?

• (1610)

**His Excellency David Mulroney:** We were all aware through 2006. The reason we did the 2005 arrangement was because we wanted to be sure that we were avoiding, to the extent possible, any threat of mistreatment.

Our understanding of the situation on the ground in Afghanistan grew month by month. Certainly through 2006 people were looking at whether we could work in Afghan prisons and how we'd do it in terms of capacity building. We were working with the AIHRC and the Red Cross to see what they could do. DFAIT and National Defence were working to see how they would divide up the responsibility for this process.

The work picked up speed tremendously in 2007. We understood more. We developed new processes. What we would do is we'd get everybody in a single room. Sometimes this would take all weekend. We'd go through every part of the process. We'd look people in the eye and say, "Do you understand this? Do we have the right understanding of this? Is this how we should move forward?"

We would have Kabul and Kandahar on the line. When I say Kandahar, I mean we'd have civilians with the PRT, we'd have the commander or the deputy commander of Joint Task Force Afghanistan, and we might have some of the other units that were involved in capturing detainees, as well as people from the Judge Advocate General.

We went through this in painstaking detail because we had to figure things out. Is this acceptable to the RCMP? Have we met their standards? Is the Correctional Service of Canada in line with this? Can the Correctional Service of Canada and DFAIT develop a single template that will allow us, visit after visit, to ask the same detailed questions? How do we report this responsibly in the system?

We crunched this in a period from March through April 2007 because we wanted to get a better arrangement and put it in place.

**Mr. Laurie Hawn:** So it's safe to say, as the general said yesterday, that you're dealing with a mass of information from a wide variety of sources, national and international, of which Mr. Colvin was one source and one source only.

Could you talk about your contact with Ambassadors Sproule and Lalani? Was there a free flow of information there? Was there any substantive evidence of systematic torture coming from them or abuse of Canadian-transferred detainees?

**His Excellency David Mulroney:** There was no evidence of abuse of Canadian-transferred detainees, but one of the reasons we negotiated the new arrangement was so that we could develop a much better database and record system, and we'd have eyes on things through our monitoring. People had gone into the prisons, but it wasn't in terms of specific monitoring visits.

What we did with Arif's appointment was we made it very clear in the DFAIT system that he was the senior ambassador, as senior as our high commissioner in India or our ambassador to Germany. Under him, we then put a deputy head of mission. We put a senior civilian in the south.

We couldn't report if we didn't have the people and the systems in place to do that. We were steadily building up our resources so DFAIT could play a partnership role that was required of it with the forces. It didn't really have the resources in place to do that before then, and that was part of my job.

**Mr. Laurie Hawn:** With the amount of information that was coming in—and I go back a little bit to Mr. Colvin here—you mentioned volume versus fact. Is it fair to say that it's very important in that environment to have very disciplined, coherent, and verifiable reporting going on?

**His Excellency David Mulroney:** That was what was expected of us. Of course the particular focus was on our responsibilities toward Canadian-transferred detainees, but also through human rights reports we were looking at the larger human rights situation in Afghanistan.

**Mr. Laurie Hawn:** And you, as Mr. Colvin's superior, would probably have a better understanding of the broad aspects of all the sources of information and all the things that were being collected and would have a better understanding of where his information fits in all of that.

**The Chair:** A very short response, please, sir.

**His Excellency David Mulroney:** I made it my business to make sure that I talked to everybody in the system. I didn't think that had been done enough before.

**The Chair:** Thank you, Mr. Hawn.

Mr. Dewar, seven minutes, please.

**Mr. Paul Dewar:** Thank you.

Thank you, Mr. Mulroney.

I will just go over to Mr. Bachand's reference to a document where he was mentioning someone claiming to have been whipped with cable, shocked with electricity, kicked and beaten, sleep deprivation, etc. Would you consider that amalgamation of facts and descriptions to be torture, if someone was being whipped with cables, shocked with electricity?

**His Excellency David Mulroney:** Yes.

**Mr. Paul Dewar:** In that report, because I've read what I can, I don't think the word "torture" is written at all.

**His Excellency David Mulroney:** I'm sorry, in which report?

**Mr. Paul Dewar:** In the report you have in front of you.

**His Excellency David Mulroney:** In this report?

**Mr. Paul Dewar:** Yes. Is the word "torture" written?

**His Excellency David Mulroney:** I'd have to read it. If you don't see it...

**Mr. Paul Dewar:** I don't see it, but I only have what you have, and that's a lot of blacked-out words. The point is you could technically write a report like this one that you have without writing the word "torture", yet describe that torture is occurring, right?

•(1615)

**His Excellency David Mulroney:** I don't see your point.

**Mr. Paul Dewar:** You could write a report about going into a prison and someone having said, as we had evidence before, that there was evidence of a cable and whips.... Actually, the government acknowledged that was one of the reports, not by Mr. Colvin but one of his associates, that was enough to move them to change the agreement. But the report didn't say torture was being conducted; there was evidence of mistreatment. So you could write a whole report without writing the word "torture". Is that—

**His Excellency David Mulroney:** What you're talking about, I think, is the report from the November 5, 2007 business.

**Mr. Paul Dewar:** I'm just talking generally. You could write a report describing events that were either second-hand, from the person alleging it, or someone who was observing, right? We heard of one case where there was evidence of a cable and a rubber hose under a chair—

**His Excellency David Mulroney:** That was the case we identified through our monitoring and that led us to stop transferring detainees until we had conducted a thorough investigation over many months.

**Mr. Paul Dewar:** Right.

Was the word "torture" ever written in that document?

**His Excellency David Mulroney:** I'd have to go back to look at that document.

**Mr. Paul Dewar:** If you could provide that to us, that would be good.

**His Excellency David Mulroney:** What it was based on, though, Mr. Dewar, is that we developed, with Correctional Service, DFAIT, and the military, a template that allowed us to conduct rigorous and extensive questioning of Canadian-transferred detainees. These people were trained in torture awareness. They reported exactly and faithfully in terms of what—

**Mr. Paul Dewar:** I'm not questioning that. I'm questioning the word "torture" being in a document, that you could easily have a document written that describes torture with the word "torture" never appearing.

**His Excellency David Mulroney:** What the document was designed to do was not to offer impressions but to report on facts.

**Mr. Paul Dewar:** That's fair. We're good on that.

Before 2007 and amending the detainee agreement that you mentioned, did you ever brief the Prime Minister—I'm assuming you would have—on detainees?

**His Excellency David Mulroney:** In 2007 I was—

**Mr. Paul Dewar:** Before the amendment of the agreement of 2005.

**His Excellency David Mulroney:** In 2007 I was working in DFAIT and I would have briefed Minister MacKay.

**Mr. Paul Dewar:** And during the period before the 2005 detainee transfer agreement was amended, which was in 2007—

**His Excellency David Mulroney:** Correct.

**Mr. Paul Dewar:** —did you ever brief the Prime Minister on the detainee issue?

**His Excellency David Mulroney:** I briefed up through Minister MacKay. I was in DFAIT, as associate deputy minister.

**Mr. Paul Dewar:** Okay.

One of the documents I was able to get through the access to information process was from March 8, 2007, in which you were asked by PCO, Jill Sinclair:

...putting together a list of questions and issues that we want to address in our note to the pm today. Intention is to forward to you in advance of your meeting in order to help get all the issues on the table at noon.

There are a lot of things blacked out. The subject line is “RE: Detainees”. It's an e-mail exchange. I'm not sure if you might have seen that.

**His Excellency David Mulroney:** I worked very closely with PCO in those days, as part of the interdepartmental community.

**Mr. Paul Dewar:** That day, March 7, was the same date the Red Cross was publicly saying that the government was misstating the Red Cross role, so it is likely that you were briefing the PCO on the issue of detainees. Is that probably what that was about?

**His Excellency David Mulroney:** PCO was part of almost all of our interdepartmental meetings on that subject.

**Mr. Paul Dewar:** So you would have been briefing about the Red Cross and what you understood to be the role of... I mean, at that time we know Minister O'Connor had been under a lot of heat about what the arrangement was, and he misinformed the House that the Red Cross was informing the Government of Canada on what was happening to detainees. Do you recall that?

**His Excellency David Mulroney:** I can recall that, but I don't recall what this particular... We were talking to PCO on a daily basis on every aspect of the detainee issue.

**Mr. Paul Dewar:** Okay.

Do you remember concerns—and I asked one of the witnesses yesterday—about Governor Khalid? Were you aware of allegations regarding torture that Mr. Khalid was involved with? There were allegations about him having a dungeon. There were allegations of him involved in abuse: physical and otherwise. Were you aware of those allegations?

**His Excellency David Mulroney:** I was aware of those allegations. Those were fairly widespread in Afghanistan, and they were widespread about a lot of very senior people who had come out of 20 or 30 years of chaos.

With respect to those allegations, let me say a couple of things. We asked the PRT and others to investigate. People went to the governor's mansion and they in fact looked inside the governor's mansion. Despite those allegations, we could not find any evidence that we could bring to the Afghan government.

What was important, though, was that we were pushing very hard to ensure our relationship with the governor was based on expectations we expected him to meet in terms of his obligations to the Government of Afghanistan, its constitution, and international law.

● (1620)

**Mr. Paul Dewar:** Did you have access to his facility?

**His Excellency David Mulroney:** We visited his residence. We didn't see any facility—

**Mr. Paul Dewar:** Not the so-called dungeon.

**His Excellency David Mulroney:** We spoke to people at a very high level in Kabul to express our concerns about these allegations, but we were never able to find any specific item that we could point to.

**The Chair:** Thank you, Mr. Mulroney.

That concludes the opening round of seven minutes. We'll get quickly into the second round, which will be five minutes each. We start with the government and then go over to the official opposition.

**Mr. Laurie Hawn:** I will speak quickly and then pass off to Mr. Obhrai.

Mr. Mulroney, with respect to the meeting in March 2007 that Mr. Dewar alluded to, is it your understanding that it was about that time that the Red Cross was clarifying its role with respect to monitoring, and so on—

**His Excellency David Mulroney:** Correct.

**Mr. Laurie Hawn:** —and that the new arrangement was in the process of being amended at that point? Is that a fair statement?

**His Excellency David Mulroney:** That is correct.

**The Chair:** Mr. Obhrai.

**Mr. Deepak Obhrai (Calgary East, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Mulroney. Once again it is nice to have you here to explain the situation in Afghanistan, which is, as you explained, quite complex.

I want to bring into this two aspects and go to what your expertise is about distribution lists in DFAIT.

One of the aspects of what we are talking about here is the transfer of detainees captured by Canadian soldiers, the responsibility of the Canadian soldiers in terms of these detainees going across, and your responsibility and the subsequent agreement with you and the department to monitor that they were not being tortured, and if they were, what action was being taken. That is the first one.

But what I am hearing now coming from the opposition side is all this bigger issue, that you were hearing coming from the field that there was general torture taking place in the prisons and everywhere else, which, as you rightly pointed out, didn't have the capacity.

If there was general torture, that was part of your responsibility to create the institutions, the human rights and everything else. But we must be very clear here in terms of what was the responsibility of the Canadian soldiers to the detainees. That is the question we should be discussing, and not, as the opposition is saying, folding it into the bigger umbrella of human rights abuses as a whole.

Many questions have arisen here, such as on the C4 messages that come in here, the massive distribution list. With you being in DFAIT, can you perhaps guide us? If a C4 message arrived in the department, what would be the process? Would it go to everyone, or how would it reach the top portion? How would the information in a C4 message be disseminated to address your task force?

**His Excellency David Mulroney:** Thank you, Mr. Obhrai.

First, our primary focus was to ensure that Canadian-transferred detainees did not face a substantial risk of torture. Every Canadian soldier is trained and is instructed in the responsibilities under the Geneva Convention. We work very closely with all parts of the Canadian Forces that were involved in capturing and transferring detainees.

DFAIT was responsible for providing the other piece of the process—that is, once the detainee is transferred, organizing with the Correctional Service and the RCMP the monitoring, the diplomatic engagement with the Afghan government if we have any concerns that those needs are not being met, and all the capacity-building and training. So it was a partnership and a continuum.

It wasn't unrelated to that larger issue of human rights, because a lot of our funding through CIDA and other mechanisms was going to improve the justice sector—to train judges, to train lawyers, to improve prisons, etc. So all those things were happening.

In terms of the distribution of C4 messages, generally the more important the message the higher it goes up in the system and the fewer people it goes to, because they are often more sensitive topics that are going to directors general, assistant deputy ministers, deputy ministers, or above.

Generally the message goes to either a person or an office. If it goes to an office, it is then the responsibility of the head of that office or the person who manages the C4 account to determine where it goes and how high up it goes. In other cases, a message might go to someone at one level and be passed on because of the importance that person attaches to it.

What we tried to do on our messages with the detainee issue was that we found, in the early stages of our work, some would go to seven people, and sometimes the message would go to 75 people. The more people the message goes to the more diffused is the accountability, so we said every organization has to identify one person who is primarily responsible for the detainee file in the organization. They are then responsible for ensuring that it goes to whoever else needs to see it.

I was always on that traffic and I made sure that I reported faithfully on anything I saw coming from the reporting. So we had to bring discipline and accountability to the distribution line.

• (1625)

**Mr. Deepak Obhrai:** So if somebody from the field sent in a C4 and he had a distribution list of 70 or 80, once it arrived in the department it was narrowed down to a few very key individuals—that's what you've explained—so it would not mean that those who were listed as being on the C4 would get that—

**His Excellency David Mulroney:** No, it goes to your individual C4 account, so if it went to 78 people, 78 people would see it.

**Mr. Deepak Obhrai:** Would see it.

**His Excellency David Mulroney:** Yes.

**The Chair:** To the official opposition, Mr. Dosanjh.

**Hon. Ujjal Dosanjh (Vancouver South, Lib.):** Mr. Mulroney, thank you for being here.

I'm going to put my questions on the table, and then my colleague has a question, so he'll put it on the table and then you can answer them.

Mr. Mulroney, I find your evidence rather interesting, in the sense that Mr. Colvin told us the people he interviewed in Kabul were people who had been transferred from Kandahar after being detained in Kandahar at the NDS for a while, and you said they couldn't be our detainees.

You can't be certain, sir. I want you to answer that: how can you be so certain?

The Afghanistan Independent Human Rights Commission 2008 report essentially says that out of the 400 or so detainees they interviewed, 98.5% were tortured or abused or mistreated. How can you be so sure our detainees only fit the 1.5% who were never tortured? I want you to answer that to our satisfaction.

The other thing you say, sir, and I want you to answer this, is that the situation was so bad.... You said you knew there was torture: we had some bad people on our hands, and we had to get rid of them, so while we made changes we simply then put them into the system because we couldn't keep them around; they were dangerous people.

That's almost, sir, pleading a defence of necessity when you send people to risk of torture.

**His Excellency David Mulroney:** If that had been what I said.

**Hon. Ujjal Dosanjh:** No, that's what you said.

**His Excellency David Mulroney:** What I said was, and this is important, that there were problems in the Afghan system—

**Hon. Ujjal Dosanjh:** Let him add the question.

**His Excellency David Mulroney:** Okay, but that's an important assertion, and I have to address it right now.

**Hon. Ujjal Dosanjh:** You should.

**His Excellency David Mulroney:** We never, ever transferred anyone if we thought there was a substantial risk of torture. We knew there were problems in the Afghan system, but we developed a robust monitoring system. We intervened with training. We had every means of addressing the system from the very top, the president—and we intervened with the president—through the ministers, the director of the NDS, and on down.

That we knew there were problems in Afghanistan is one thing. We were very confident we could intervene in the system and create conditions for Canadian transfer of detainees where we would meet our obligations and we could be confident that Afghans were meeting their commitments, and the facts show that over time, we did 175 visits. While there were some early reports of mistreatment, many of which probably predated our arrangement, we went month after month, a visit every five days, and we could speak with confidence in a way that we could not before as to the treatment of Canadian-transferred detainees.

If we had not done this, we would not be able to do that. So that's a really important assertion. We would never have done that.

**Hon. Ujjal Dosanjh:** You can answer the other questions, but here is another. I want the others answered as well.

**His Excellency David Mulroney:** Sure.

**Hon. Bryon Wilfert (Richmond Hill, Lib.):** Mr. Mulroney, if I heard you correctly, you said you were talking to the PCO on a daily basis about every aspect of the detainees. Clearly then it begs the question, what about the Prime Minister's Office? Were you in touch with them, and what information and who in the Prime Minister's Office?

And also, very quickly, for reports that were judged by this government as supposedly not credible, who decided upon receipt that they weren't credible, and how was that determination made? And who again was the final arbitrator in determining whether a report was credible or not?

**His Excellency David Mulroney:** Okay, can I come back and try to answer those questions?

• (1630)

**The Chair:** You have two minutes, Mr. Mulroney.

**His Excellency David Mulroney:** Okay.

First, whether someone was or was not a Canadian-transferred detainee is a very important issue. We were not able to determine that. We had no way of believing that these people that Richard saw in Kabul were Canadian-transferred detainees, so as a result we worked on a database that started from any arrest of a detainee right through to his being placed in the Afghan justice system. We developed a database where we could speak with confidence.

The AIHRC report you speak to is a report on the causes of torture, and something like 300 and some people are identified. I think in the report you'll find they are self-identified victims of torture, so the high percentage is because they were self-identified. There were issues with the methodology of that report, but we've never disputed that there were significant problems in the Afghan system.

At PCO, the Foreign and Defence Policy Secretariat has an Afghanistan officer. They had one when I was there and they had one afterwards. They were part of a big interdepartmental community that consulted on these issues, but my dealings were with PCO.

Thank you.

**Hon. Bryon Wilfert:** On the issue of what's credible and what's not, who actually—

**His Excellency David Mulroney:** That's why moving to fact-based work was important. Actually going into the prisons with a standard template, asking the same questions, having a database where we could determine whether we were dealing with the same person—because many people have the same name in Afghanistan—through the system, where we had people who were trained in torture awareness in these interviews, that is when we could speak with authority on what was happening.

We could not do that before that. The fact that we put a system in place enabled us to meet our obligations. It's robust, and it has worked over time.

**The Chair:** Thank you.

Back over to the government, and then to the Bloc.

**Hon. Jim Abbott (Kootenay—Columbia, CPC):** Thank you, Mr. Chairman.

During the time that Mr. Colvin was making his testimony, I made an observation directly to him that I didn't question his observations. They were his observations, and I'm sure they were factually reported, and I'm sure he's an honourable gentleman.

Regrettably, the conclusions he arrived at I think are erroneous. That said, the fact that we have had only his testimony, of the 5,000 people involved in this issue so far, and we have had the testimony of three generals, who I have the utmost faith in, and you as well, sir, I'm finding it rather interesting where we are at this particular point. No matter what somebody says, it's still based on an erroneous, in my judgment, opinion that Mr. Colvin arrived at.

General Hillier said yesterday, with respect to Mr. Colvin's memos, that "there was no reason, based on what was in those reports, for anybody to bring it to my attention", when he was speaking of the reports that he may or may not have seen as they came up from Mr. Colvin. Would you agree with that assessment?

**His Excellency David Mulroney:** Yes, in that he never brought forward—and I think Richard would say this—any report alleging mistreatment of a Canadian-transferred detainee.

But let me say something about Richard's reporting. I didn't disagree with his fundamental issue, which was that we needed to develop a robust and better system. In fact, that is what we did. His advice was important. We considered it. We built a better system. I didn't agree with his assertion that everybody who went into the NDS was tortured, that the detainees were all farmers or probably all innocent. This is where I think he went from an observation to speculation. But at the end of the day, he was a believer in creating a robust monitoring system, which is what we did.

**Hon. Jim Abbott:** Mr. Mulroney, you have a tremendous amount of experience in the Privy Council Office, and many people in Canada probably are not aware of how it is in place to be able to protect the government not from the people of Canada but from the rest of the countries around the world, to keep our information intact, so that all of our armed forces and all Canadian interests are protected. So I think you're a very qualified person to ask what you think. Of the mass release of unredacted documents related to this, how much harm would it have the potential to cause? Can you paint us a bit of a picture? Because I have an idea that it could be pretty profound.

**His Excellency David Mulroney:** In general terms, I think there are a couple of concerns. This is true, and I am not speaking of the material that you discussed earlier.

Reporting from the field and reporting from Afghanistan often includes information provided to us by our military allies, who provide it in confidence, or by the Government of Afghanistan, who provide it in confidence.

It also includes, from time to time, information from international human rights organizations, who must operate in confidence. Their access, which is important to us, depends on their being able to deal with us in confidence. If we betray that, we run the risk of damaging their access to these institutions, because they're seen as honest, disinterested parties.

So these are areas where the disclosure of information either hurts us in terms of our access to important information, or damages the work of important international human rights organizations.

• (1635)

**Hon. Jim Abbott:** Okay. Thank you.

Mr. Kerr.

**Mr. Greg Kerr (West Nova, CPC):** Thank you, Mr. Mulroney. We know how difficult and complicated the issue is.

I would just like to go back, in referencing Richard Colvin. We know you were copied on a lot of his C4 mailings. Can you advise whether he or any DFAIT officer working in Afghanistan ever suggested that you stop the transfer of prisoners to the Afghan jails? If so, why was his advice taken or not taken? In other words, did you ever give that direct advice that transfers should stop, and if so, what was the reaction to it?

**His Excellency David Mulroney:** That advice would have come, and was built into our strategy, after we signed the arrangement. When in November 2007 we had credible evidence of mistreatment, we made the determination through our ambassador that we had lost confidence in Afghanistan's ability and willingness to live up to the arrangement we had set, and we ceased transfers. But prior to that, there was no such decision made based on any kind of credible evidence.

**The Chair:** Over to Madame Lalonde, and then back to government.

[Translation]

**Ms. Francine Lalonde:** Thank you.

Good afternoon, Mr. Mulroney.

I wonder how it is that the 2005 agreement came to be negotiated, with its inherent weaknesses, whereas you, who were already over there, had stated that you were aware of the problems within the Afghan prison system. I understand. We knew that the way Afghan prisoners were treated certainly did not correspond to the requirements of the Geneva Convention.

In these circumstances, and based on the knowledge, information and contacts, who negotiated this agreement in June 2005? Foreign Affairs? I don't know, but I would like to. You can answer me later.

Do you why the conditions called for in the agreement were not the ones put forward by the Dutch and the British in their agreement? These included free access, notice prior to transfer... There were several conditions, of which you are undoubtedly aware, that ensure that the Dutch and the British would not have the same unpleasant surprises as Canada.

I repeat that the negotiators should have known that they were required to comply with the Geneva Convention and that they could in no way run the risk that the prisoners they were transferring would be tortured.

You stated that when you arrived, you became aware of these problems, and that another agreement was negotiated. That certainly means that you kept the Prime Minister informed. When did you inform him of your observations?

And yet I am intrigued. I asked several questions repeatedly in the House of Commons, and my colleague could tell you the same thing. Up until May, we were told that they were very satisfied with the system, that there were no problems and that we were the ones who were creating problems.

I know that is a great many questions, but I am expecting a great many answers.

[English]

**His Excellency David Mulroney:** I did not negotiate the 2005 agreement, and I wasn't on the file at that time.

[Translation]

**Ms. Francine Lalonde:** I know.

[English]

**His Excellency David Mulroney:** However, it's important to remember the context. In 2005 the Canadian Forces had not yet even deployed to Kandahar. When they deployed to Kandahar they deployed in green uniforms with Iltis vehicles that were under-armed. We did not know the ferocity of the insurgency that we'd face.

So the agreement of 2005 importantly puts a responsibility on the Government of Afghanistan. That's not an unimportant issue, because at the end of the day we have to leave capacity in Afghanistan. It has to be Afghans who are responsible for their own institutions and for providing justice.

Through 2006, which was a terrible year, as I indicated, we gained more experience, and it was clear that we needed a much more robust agreement. That's the agreement that we got—

• (1640)

[Translation]

**Ms. Francine Lalonde:** But there was still the Geneva Convention. Canada had international responsibilities in 2005 as well.

[English]

**His Excellency David Mulroney:** The 2005 agreement is entirely in accord with the Geneva Convention, but we felt that we could do more, we could make it more robust, and we could make it better.

In 2007, when I came to DFAIT, I was working for Minister MacKay and my reporting went up through him.

**The Chair:** Mr. Bachand, you have just a little bit of time, less than a minute.

[Translation]

**Mr. Claude Bachand:** I only need 30 seconds.

Mr. Mulroney, you state that it is very important, when the Canadian soldiers transfer detainees to Afghan prisons. You attach importance to the fact that these detainees were not tortured.

However, that is not what the Geneva Convention says. Where there is a high risk of torture, you do not have the right to transfer these soldiers to the Afghan authorities. You have enough experience to know that this risk existed, because you told me so earlier.

Why, for a certain period—a long period—did you continue to transfer them to the Afghan authorities?

[English]

**The Chair:** A short response, please, sir.

**His Excellency David Mulroney:** We recognized in early 2007 that we needed a more robust arrangement. We needed a stronger arrangement. We put in place an arrangement that gave us unlimited access at any time, that gave the Afghan Independent Human Rights Commission and the Red Cross unlimited access at any time. We put in a place a program of training and capacity building, and a diplomatic strategy, that saw us working at every level of the Afghan government if we had any concerns about our detainees.

That is, by any standard in NATO, the most robust and best. Our visits are at a higher frequency than any other country in Afghanistan.

**The Chair:** Thank you.

Over to the government now, for five minutes.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Thank you, Mr. Chair.

If I have any extra time, I'd like to share it with Mr. Hawn.

Mr. Mulroney, we've heard from Generals Hillier, Gauthier, and Fraser, who've all confirmed that there was nothing in Mr. Colvin's memos prior to the spring of 2007 that would represent a substantial and credible risk of torture.

Mr. Colvin alleges that you were a recipient of these e-mails. Do you share in the generals' assessment?

**His Excellency David Mulroney:** I do.

**Mrs. Cheryl Gallant:** Thank you.

Mr. Mulroney, we heard from the generals yesterday that they looked at a totality of evidence from various sources when making decisions regarding Taliban prisoner transfers and policy. Did DFAIT and Joint Task Force Afghanistan have a similar process in place?

**His Excellency David Mulroney:** That was what we put in place in the spring of 2007. Joint Task Force Afghanistan was at the sharp end of things, actually capturing the detainees, but what we needed in order to really put this in place was much more participation from the civilian agencies, starting with DFAIT but including Correctional Service and the RCMP.

We had to put all of that in place, and we did. We went from having a handful of people in Kandahar in 2006 to more than 80 now. Doing that has enabled us to have the best system for detainee monitoring of any country in southern Afghanistan.

**Mrs. Cheryl Gallant:** Yesterday General Gauthier stated that the first time he heard of torture allegations was when the *Globe and Mail* published reports in April of 2007, and then the first field report in June citing credible allegations of torture. Is that your recollection as well?

**His Excellency David Mulroney:** Those were the first allegations of torture against Canadian-transferred detainees.

**Mrs. Cheryl Gallant:** Okay.

There has been considerable discussion about the numerous reports that were circulating about the potential for torture in Afghan prisons. Had you seen these reports, and if so, what did you see as Canada's obligations with respect to improving these prisons—beyond anything you've already told us today?

**His Excellency David Mulroney:** Well, it was as we suggested; we felt that with the resources we could bring to bear, with the combination of efforts by the Canadian Forces, DFAIT, Correctional Service, RCMP, connecting with our embassy in Kabul, and with lots of money spent on training, we could create, and have created, better conditions for detainees of all kinds, but particularly Canadian-transferred detainees, in the NDS facility and in other prisons in Afghanistan.

• (1645)

**Mrs. Cheryl Gallant:** If government officials from Canada see first-hand evidence of torture, what is the chain of command they should follow in order to make sure the right people are informed?

**His Excellency David Mulroney:** That was further clarified, in that there's a process that has them advising the Red Cross, the Afghanistan Independent Human Rights Commission, and the Government of Afghanistan. The reports then go back to Canada, where they go to the key departments. When I was in Foreign Affairs, I would also provide a copy of any such report to the minister.

**Mrs. Cheryl Gallant:** The 2005 transfer agreement does not specifically include full and unrestricted access to monitor. Is that to suggest that absolutely no monitoring whatsoever was being done between December 2005 and May 2007?



**His Excellency David Mulroney:** There were visits into Afghan prisons and there were interviews with prisoners, but there was no monitoring of specifically Canadian-transferred prisoners. That was a deficiency that we corrected.

**Mrs. Cheryl Gallant:** Thank you.

Mr. Hawn.

**Mr. Laurie Hawn:** Thank you.

I want to clear up one point that came up earlier and I forgot to address it. When we talk about Operation Medusa, which is really when we started taking a lot of prisoners, it was not in the winter and summer of 2006—

**His Excellency David Mulroney:** No, it was late summer—

**Mr. Laurie Hawn:** —it was in the second half of 2006, which was well into the time when we were starting to do things.

I want to talk a little bit about the original transfer agreement that was entered into in 2005. I know you weren't there, but that was entered into on behalf of—

**His Excellency David Mulroney:** The Government of Canada.

**Mr. Laurie Hawn:** —the Government of Canada by Liberal Ministers Pettigrew and Graham and by Prime Minister Martin. That was the Government of Canada at the time.

**His Excellency David Mulroney:** It was the Government of Canada at the time.

**Mr. Laurie Hawn:** Thank you.

The supplemental agreement, and obviously we've already talked about that, greatly improved the situation and so on, with paragraph 10 of that agreement saying that investigation, prosecution, and correction are the responsibility of the Government of Afghanistan. Can you comment on your working relationship with the Government of Afghanistan with respect to that agreement?

**The Chair:** Once again, a short response, please.

**His Excellency David Mulroney:** That was a tremendously important part of everything we did, to make sure that it was the Government of Afghanistan living up to its commitments. Part of that involved regular access to the NDS, the National Directorate of Security, at all levels, including the leader, training for them, training for other Afghan prison officials, regular interaction with the director and senior managers of the prison.

When we had our first credible allegation of mistreatment in November, we were in the prison 22 times in the space of two months, so we knew virtually every guard, everybody who conducted interviews in that prison. We did training. We followed up. They knew that Canada was present and would be present on a regular basis following up on our transfer of detainees, and I'm very proud of the system that was put in place.

**The Chair:** Thank you.

Over to the official opposition, then back to the government.

**Hon. Ujjal Dosanjh:** Thank you very much.

Mr. Mulroney, you indicated you briefed Mr. MacKay. When you were at the PCO, did you ever brief the Prime Minister himself?

**His Excellency David Mulroney:** We had briefings on Afghanistan, but not to my recollection on the subject of detainees in 2006.

**Hon. Ujjal Dosanjh:** But you were at PCO later on, as the head of whole of Afghanistan. During that period, did you ever brief him on the detainee issue?

**His Excellency David Mulroney:** We would provide regular updates to the Prime Minister on conditions across the board in Afghanistan, including the number of visits we were conducting—

**Hon. Ujjal Dosanjh:** Including the detainee issue?

**His Excellency David Mulroney:** Including the detainee issue.

**Hon. Ujjal Dosanjh:** So you would say that when you were working with Minister MacKay, he was regularly briefed on these issues as they arose.

**His Excellency David Mulroney:** Correct.

**Hon. Ujjal Dosanjh:** Then you would also brief the Prime Minister. Can you give us the dates of those briefings, please? There is absolutely no national security issue with that. If you don't have the dates today, I'd like you to send those dates to the committee.

Thank you very much.

I have another question. I want you to look at this document, if it can be passed on. It's approved by Lalani. I can't tell the date, but if you go to page 3 of this document... You were just testifying how NDS knew that you were visiting more often and they would be careful. Here, in this memo, they said:

The NDS seemed to do their best to identify "our" detainees, but in the result, we only have reasonable confidence that...of the...detainees we interviewed were in fact those detained by Canadian forces.

So you have the best evidence. NDS, under some pressure, knew that Canadians were coming, and would give them reliable information.

If you go to page 5 of that, it says, about five or six lines down from the top:

He said they also shocked him with electricity. He showed us a number of scars on his legs, which he said were caused by the beating.

Then he said it was a "very dangerous place", and he still had pain in his hands and fingers, and he said he was also blindfolded.

Can you tell me with any real degree of certainty that this was not a Canadian detainee tortured in 2007? Lalani was there in 2007, after the spring of 2007.

• (1650)

**His Excellency David Mulroney:** First of all, this predates the arrangement. So what we did when we heard about these allegations—

**Hon. Ujjal Dosanjh:** I don't know the date, sir. Do you know the date?

**His Excellency David Mulroney:** I remember the visit to Sederat prison in Kabul, and I believe it was before the arrangement. I can remember the visits that we conducted.

In any event, we would have reported these allegations to the appropriate Afghan authorities for follow-up. But with the arrangement that was signed in May, we began to develop a database where we could track....The problem we had with detainees was that there are many people with the same name in Afghanistan. The record-keeping was poor, and we improved that.

**Hon. Ujjal Dosanjh:** No, I understand, sir, but can you say with any degree of certainty that this was not a Canadian detainee?

**His Excellency David Mulroney:** We could not identify this detainee, but we reported the allegations to Afghan authorities.

**Hon. Ujjal Dosanjh:** Sir, you haven't answered the question. Can you say definitely that this was not a Canadian detainee we're talking about?

**His Excellency David Mulroney:** I can't say whether he was or wasn't.

**Hon. Ujjal Dosanjh:** Thank you.

**Hon. Bryon Wilfert:** Mr. Mulroney, Linda Garwood-Filbert, from CSC, accompanied Eric Laporte from your department on many occasions to Afghan prisons and also filed detainee reports. Is that correct?

**His Excellency David Mulroney:** That is correct.

**Hon. Bryon Wilfert:** I'd like to read the following interview that she made in April 2007: "There hasn't been any significant work done with the prisons." She added that it's too easy for the Canadian and Afghan authorities to forget about prisoners after they're thrown in jail. "It's out of sight, out of mind. We're just as happy that they went to jail." She said that allegations of torture in Afghan prisons wouldn't surprise her. She said this to CTV, and it was in *The Globe and Mail* on April 27, 2007.

Mr. Mulroney, can you explain why, unlike Ms. Garwood-Filbert and other officials who were drafting and forwarding these reports, Ottawa—to use her terms—kept the allegations of torture "out of sight, out of mind" and remained naive until November 5, 2007?

**His Excellency David Mulroney:** First of all, we were at that stage in the final stages of preparing our May 3 arrangement with the Afghans. It wasn't out of sight, out of mind. Within about a week or so of that report we were instituting a regular program of monitoring with detailed reporting of what we were doing. I can't explain why she said that, but I do know her to be a capable officer.

I visited an Afghan prison with her. I knew her views, and she was confident in the process we put in place. I have no doubt about that.

**The Chair:** Thank you, sir.

**Hon. Bryon Wilfert:** I was struck that she said the word "naive" until November 5.

**The Chair:** Thank you.

We have to move over to the government, and then back to Mr. Dewar to wrap up.

**Mr. Laurie Hawn:** Thank you, Mr. Chair. I'll just be very quick here.

First of all, I congratulate Mr. Dosanjh. He hasn't lost his Perry Mason courtroom skills.

Now, the people we're talking about are of course self-identified as victims of torture. Is that correct?

**His Excellency David Mulroney:** In the AIHRC study he referred to? I believe so.

**Mr. Laurie Hawn:** Thank you.

We know that the Taliban uses that as a tactic for information operations, that whenever they get captured they do claim torture, regardless. It's in their manual.

**His Excellency David Mulroney:** That is an insurgent tactic.

**Mr. Laurie Hawn:** I have to challenge another throw-away line that Mr. Dosanjh threw out, talking about you briefing Minister MacKay and also the Prime Minister, and he walked away from it.

Is that in fact the case, that every time you briefed Minister MacKay, you briefed the Prime Minister?

**His Excellency David Mulroney:** No.

**Mr. Deepak Obhrai:** Mr. Chair, I can see the opposition is fishing for something to find there, to throw things at us. It's quite evident from his question. Let's go back to the real thing.

You liaised with all the other NATO members on this. Can you say how our system was in keeping an eye on the detainees compared to the other NATO members?

**His Excellency David Mulroney:** There were comments, at the time that we briefed NATO on our new arrangement, that we had set a standard that would be hard for others to keep. We based that on what we knew of the pace of their visits. We knew that even those with detainee-monitoring systems in the south were visiting every six weeks, every couple of months.

When I look back at our pace now, it was approximately every five days. We were in those prisons an awful lot. We also combine it with training, capacity building, with the diplomatic strategy that I talked about, with physical infrastructure improvements, including improvements that I have seen at Sarposha prison.

I think our approach represents a best practice for NATO in Afghanistan.

• (1655)

**Mr. Deepak Obhrai:** Thank you, Mr. Mulroney. I hope the opposition will take that into account.

I will give my time to my friend.

**Mr. Greg Kerr:** Thank you.

Mr. Mulroney, I'll start with the general state of the conditions of the war that all of this is taking place in—the most unusual thing since the Korean War, and so on. What we didn't necessarily hear is what it actually meant to the non-military, those of you who had to work in those conditions. Can you explain what that did to your decision-making and the process you had to work in, please?

**His Excellency David Mulroney:** It was a major concern for me, because the prison visits were and remain extremely dangerous. It takes a high degree of training, and there is a significant degree of risk in deploying people through the streets of Kandahar and into prisons that just about anywhere can be dangerous places, but in Afghanistan are particularly dangerous, as we saw with the Sarposa incident.

We spent a lot of time on training. We spent a lot of time working out visit protocols with the Canadian Forces so that we could do it safely, and safely for the forces as well, because they have to stand out there in the prison yard when these visits are taking place. We worked up a whole series of protocols so that we could ensure that each department was comfortable, and that we had the capacity to get out there into the prisons on a regular basis.

It took an awful lot of work, but I have nothing but admiration for the people who do it. We have some very superior people conducting that force.

**Mr. Greg Kerr:** Thank you very much.

**The Chair:** Thank you.

Mr. Dewar.

**Mr. Paul Dewar:** Thank you, Mr. Chair.

Mr. Mulroney, when we talk about the transfer of detainees in the period Mr. Colvin was reporting on, he sent about six reports. He gave evidence to this committee that he was letting people know there were problems.

Now you say there were problems. He says there were problems. When we look at what the problems were—you used the word “problem” many times—can we not say that part of the problem was that there was widespread abuse in all of the jails across Afghanistan, including Kandahar? Was that not one of the problems?

**His Excellency David Mulroney:** The problem was that there was abuse reported in various institutions in Afghanistan. That possibility existed.

**Mr. Paul Dewar:** Including the jails.

**His Excellency David Mulroney:** Yes.

**Mr. Paul Dewar:** We've got that, so we agree on that. Mr. Colvin agrees. You agree.

I think you pointed out very well the problems with the process. We were handing over detainees and couldn't monitor them up until the new agreement. Is that true?

**His Excellency David Mulroney:** We had visited prisons, but we didn't have a monitoring regime in place.

**Mr. Paul Dewar:** Exactly. So we had no idea where they were going.

**His Excellency David Mulroney:** We had commitments in place from the Government of Afghanistan, and we had situations where the AIHRC and the ICRC went into the prisons.

**Mr. Paul Dewar:** Right, but they got in touch with us to say it wasn't a sufficient process, which is why we had to change it.

So I don't understand why there is this notion that everything was fine, when everyone agrees there were problems. We say it was

torture. We say that when you hit people with cables and use electric shock, that is torture. When you have problems like that you have to rectify them.

On what I have a problem with, if you're handing people over and you have no idea where they're going, how can you say they weren't being tortured? How can we sit here and say that from the period when Mr. Colvin was reporting and when they were being handed over.... Can you be 100% sure with absolute clarity that none of them were being tortured? Can you say that?

**His Excellency David Mulroney:** We established the new arrangement so we could speak with that degree of confidence.

**Mr. Paul Dewar:** But we can't say that prior to the arrangement.

**His Excellency David Mulroney:** We established the arrangement and everything that went with it—

**Mr. Paul Dewar:** I'm asking a different question. You can't say with 100% assurance that the detainees that were handed over during that period weren't tortured.

**His Excellency David Mulroney:** I can say we have no evidence that any Canadian-transferred detainees were mistreated.

**Mr. Paul Dewar:** But you couldn't tell because they weren't being monitored, correct?

**His Excellency David Mulroney:** We had no evidence that detainees were being mistreated.

**Mr. Paul Dewar:** But you had no process either.

**His Excellency David Mulroney:** We had reporting from the—

**Hon. Jim Abbott:** I think that's pretty well enough.

**Mr. Paul Dewar:** No, I'm just asking Mr. Mulroney if they'd had a hand-over process—

**His Excellency David Mulroney:** That's why we put in place a new arrangement—

● (1700)

**Mr. Paul Dewar:** If you couldn't monitor, how could you monitor if they were being tortured or not?

That's not your fault. You came in to fix it.

I'm establishing what Mr. Colvin was establishing—

**The Chair:** You'll have to give him a chance to answer soon.

**Mr. Paul Dewar:** I'm frustrated. I'm sorry, Mr. Chair.

**The Chair:** I can tell.

**Mr. Paul Dewar:** Is there any way you can tell us with 100% assuredness that prior to the transfer arrangement being changed, no Canadian-transferred detainees were tortured?

**His Excellency David Mulroney:** I can tell you that we put in place the December 2005 arrangement. At that time, with the information we knew, people worked through 2006 to improve the situation. By the time 2007 arrived and we had additional concerns reported, we moved very quickly to put a new arrangement in place.

**Mr. Paul Dewar:** Can I ask you a different question?

On June 29, 2007.... I have a document here about monitoring. It actually talks about the transfer of prisoners at the NDS. It's a prepared list of 12 prisoners recently transferred by Canada to the NDS. Some of the detainees here were aged 16, 75, 16, and 16.

Would you have considered the ages of some of these detainees a concern—as someone who is monitoring the transfer of detainees? Is that something that would have been flagged? Would you have considered some of them child combatants?

**His Excellency David Mulroney:** We did have protocols in place with the Afghans for the separate treatment of any under-aged people

found on the battlefield or collected. They were taken to separate facilities. They were not put in with the prison population, and they were dealt with by Afghanistan's Ministry of Justice.

**Mr. Paul Dewar:** Where did they go after that?

**His Excellency David Mulroney:** They went into the Afghan justice system and to halfway houses and correctional facilities for minors.

**The Chair:** Mr. Dewar, I'm sorry, your time is up.

Mr. Mulroney, Your Excellency—I guess that's how we address you these days—

**His Excellency David Mulroney:** David is the name.

**The Chair:** Thank you very much for your time with us today.

**His Excellency David Mulroney:** Thank you for this opportunity to come here.

**The Chair:** The meeting is adjourned.

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