



House of Commons
CANADA

Special Committee on the Canadian Mission in Afghanistan

AFGH • NUMBER 016 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Wednesday, November 25, 2009

—
Chair

Mr. Rick Casson

Special Committee on the Canadian Mission in Afghanistan

Wednesday, November 25, 2009

• (1530)

[English]

The Chair (Mr. Rick Casson (Lethbridge, CPC)): I call the meeting to order.

This is the 16th meeting of the Special Committee on the Canadian Mission in Afghanistan. Pursuant to the order of reference of Tuesday, February 10, 2009, and the two motions adopted by the committee on Wednesday, October 28, 2009, the committee resumes 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.

Committee members, today we have two parts to our meeting. We will receive witnesses and testimony, and then at five o'clock we will do some committee business.

Today we have before us General Rick Hillier, retired, former Chief of the Defence Staff. We have Lieutenant General Michel Gauthier, retired, former commander, Canadian Expeditionary Force Command. And from the Department of National Defence, we have Major General David Fraser, project director and commander designate, joint headquarters renewal project.

Gentlemen, it's good to have you here. I think you all have appeared before committee before. You understand the drill. We will hear opening statements, if you have them. And after that, we'll open it up to questions from the committee members.

Yes, sir?

[Translation]

Mr. Claude Bachand (Saint-Jean, BQ): A point of order, Mr. Chair.

I would like to remind the members of this committee that our witnesses have probably seen all the documents related to Richard Colvin's affidavit. They have probably looked at all the documents kept by the Department of Foreign Affairs which were written to answer Mr. Colvin, all the memos written for information or decision sent to the Minister of Foreign Affairs, all the documents tabled by Amnesty International about the Chief of Defence Staff. They have also probably looked at all the documents of the Military Police Complaints Commission as well as all the reports of Foreign Affairs relating to human rights in Afghanistan. Today's witnesses have probably had access to all those documents, which the members of the committee have not.

Therefore, I request that the committee not hear the witnesses until we get access to all of the documents that will allow us properly to

question them. Whether it be today, tomorrow or next week, until we get those documents, we will be relatively paralyzed, which is profoundly unfair.

[English]

The Chair: Go ahead, Mr. Hawn.

Mr. Laurie Hawn (Edmonton Centre, CPC): Mr. Chair, this is absolutely outrageous. We've heard four witnesses to this point, with no documents. This is simply a way to not hear another side of the story that they may be uncomfortable hearing because it's going to violate, potentially, what they have already made up their minds to be the case. This is absolutely outrageous. These gentlemen have been called to give evidence. Whether or not they've seen those documents is, frankly, irrelevant. They have a story to tell. We have questions to ask. This is simply political stalling and it's absolutely outrageous. If they carry on with this, this is not going to go anywhere.

The Chair: I appreciate those comments, Mr. Hawn and Mr. Bachand.

However, Mr. Bachand, to address your concerns, it's my belief as chair that over the history of this committee we have certainly received witnesses.... And we invite witnesses who have expertise in certain fields so we can ask the pertinent questions in order to get the knowledge they have in that area. It's my opinion that the three gentlemen we have here today can certainly shed some light on the issue, on the motions we are operating under.

I'll give the other parties a chance to comment, but it certainly is my opinion or my thought, sir, that this is why these people are here, for us to be able to extract from them the information we need in order to follow up on the mission of this committee.

Do we have somebody here?

Mr. Wilfert, and then Mr. Dewar.

Hon. Bryon Wilfert (Richmond Hill, Lib.): Mr. Chairman, it is our position that we would hear the three gentlemen. We would definitely like to see any documents, obviously. But at this point, these three gentlemen are here and they have statements to make. We would hear them.

The Chair: Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): I support the request to have documents. However, I think we have a motion coming before the committee requesting documents, so I would defer to that motion for the request and hear from the witnesses who are here today.

I'd like to request—and I've requested this before—that when we do get to committee business, we do it in public, not in camera.

Thank you.

• (1535)

The Chair: Well, I think, Mr. Bachand, we have an idea from the other parties that if this was forced to a vote—and I don't think we need to do that—we indeed would secure the witnesses.

Madam Lalonde, we're not going to spend too much time on this, but I'd like to hear what you have to say.

[*Translation*]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Thank you.

The aim of this motion is to make sure that Opposition members be able to carry out their work in the best possible manner. I am sure that my colleagues have spent a lot of time to prepare for this meeting but that, like myself, they have faced some difficulties. The witnesses are honourable gentlemen who have made an effort to be here today. If we receive the documents afterwards and that, after having read them, we find that we still have questions for them, would you agree to invite them again before the committee?

[*English*]

The Chair: Mr. Hillier. Or who wants to start?

Do you have a prepared statement, Mr. Hillier?

General (Retired) Rick Hillier (Former Chief of the Defence Staff, As an Individual): I have just a few words here, Mr. Chairman. I'm not going to speak very long, which is very unusual for me, I might add.

Can I say, sir, first of all, thank you for the invitation to be here. At least one good thing has come out of this from my perspective: I've had my first haircut in three months, triggered by my appearance here today because I didn't want to look unsoldierly, if you will.

Sir, I am happy to be here, and I am happy to say a few words and try to put some context into what has been discussed over these days and weeks. I truly did not initially believe that I could add anything of value to what was being discussed in the little bit that I did follow, but I must say that after sitting and watching TV for one 10-minute period in the afternoon and hearing myself described as both a liar and negligent in my duties, I felt that I really should come here and just offer from my perspective, as Chief of the Defence Staff, what occurred in and around these last two and a half to three years.

So I'm here to do it and delighted to be here today.

Let me, if I could, at the front end, put in context some of the work that we did—and the work that continues, obviously—from my perspective as Chief of the Defence Staff from February 4, 2005, until I retired on July 2, 2008.

Our task during that timeframe and my mission, as articulated by the Prime Minister and the Minister of National Defence in two subsequent governments, was daunting. It was to rebuild and transform the Canadian Forces, in essence. That meant several things to all of us.

One, it meant that we had to be engaged in helping to articulate a defence policy to guide the spending, the actions, and the changes,

and that certainly resulted in the defence policy statement of 2005 and, subsequently, a Conservative government defence vision.

Second, it meant transforming how we conducted our international operations against what were very new threats, based on stateless actors and failed and failing states; that is, conducting operations internationally by getting our army, our navy, and our air force working together effectively and efficiently under one commander and in one major focused mission at a time.

In the past, I used to joke that we had a great army that could work with anybody in the world, a great navy that could work with anybody in the world, and a great air force that could work with anybody in the world, but they couldn't work with each other. We set out to change that.

Third, we wanted to transform and reshape how we approached operations in Canada and our readiness to help Canadians in their time of greatest need. Whether it was a natural disaster, attack from without, or attack from within, we wanted to be as ready as possible, and we were going to transform how we approached operations in Canada—in essence, considering Canada a theatre of operations.

Last, and fourth, we wanted to handle, shape, and transform the programming for all of those things, that is to say, for the acquisition of equipment that we needed in this new environment, the changes in training, the revitalization of the leadership, and all of the other bits and pieces that would make us successful.

They were daunting tasks, without question, each of them on their own with tens of thousands of pieces, people, and activities just to get the momentum towards helping us achieve our goals. I say this because, despite our focus on Afghanistan, we had missions galore elsewhere.

We provided help to our American friends during Hurricane Katrina, as all of you will remember. We deployed the DART during the tsunami to help folks who were in desperate need following that terrible natural disaster. We deployed the DART again into Pakistan following the earthquake there, whilst, I might say, we were moving the mission from Kabul down to Kandahar itself, an incredible challenge indeed. We assisted in the evacuation of civilians from Lebanon in the summer of 2006. We participated in fighting forest fires and floods, helped the RCMP with drug seizures, did our air interdictions and our fishery and sovereignty patrols—in short, everything that our nation needed us to do. It was all part of what we did on a daily basis.

Despite my having said that, Afghanistan was a prime focus for us. We went by the first government decision back in the spring of 2005 to commit us from Kabul down to Kandahar as part of the mission there, with a view to working under the Americans initially and then helping the transition from the American command structure to a NATO mission throughout Afghanistan.

So our mission was shifted from Kabul to Kandahar by the previous government. We then had to move and establish our provincial reconstruction team from Kabul to Kandahar itself whilst we were closing out Camp Julien and getting rid of all the things that we had in Kabul. We had to prepare to deploy the battle group in 2006—almost 2,000 soldiers with all the supporting elements that were going in—and all the while we were doing that, we were expecting attacks against us.

We were very fortunate in moving the PRT in that we did not get attacked during that timeframe, but that only lasted until January 15, 2006, when the first attack in the south occurred for us since our battle group back in 2005. Unfortunately, we lost our diplomat, Glyn Berry, and we had Paul Franklin, Will Salikin, and Jeff Bailey, three incredible young men, three incredible young Canadians, severely wounded.

● (1540)

We then had to set ourselves up to take command of Regional Command South on March 1, 2006, and of course the gentleman sitting on the far left there, Brigadier-General David Fraser, at the time was our initial commander. We then had to work with him and all the other nations in NATO to start transitioning that mission from the U.S. command structure that I mentioned to the NATO mission itself.

All of a sudden, in 2006 we found ourselves in the middle of a war. We were in combat operations that were more intense than anything we had undergone since the Korean War. We found ourselves against a determined and tough enemy, with individuals who were well prepared, well trained, and committed to what they wanted to do. They weren't 10 feet tall, but they were bloody good fighters. The Taliban knew about the U.S. NATO transition that was coming up and perceived a lack of focus from the United States with the Iraqi operations they were conducting and were determined to take advantage of that transition. They masked fighters in and around Kandahar province, particularly in the districts of Zhari and Panjwayi, and aimed to take control of Kandahar city, if only psychologically. That is, if only they could make people believe that Kandahar city was isolated and under their control and at their mercy, they would have succeeded almost as well as if they had physically taken it. They believed they could mask the fighters around the city, disconnect it from the rest of the country. They believed they could discredit NATO, discredit Canada, and probably cause the fall of the Afghan government in Kabul itself.

We found ourselves in ambushes, direct firefights, encountering improvised explosive devices, dealing with the murders of civilians around those areas, and all taking place starting early in the spring of 2006. For example, we took four casualties in the spring of 2006, again on April 22. Four beautiful young Canadian boys—Matthew Dinning, Randy Payne, Myles Mansell, and Bill Turner—were killed on April 22.

We found ourselves in the middle of intense fighting throughout that spring and summer. We found ourselves in an area on a timeframe when the Taliban tactics changed, and in addition to the ambushes and the IEDs and the suicide bombers, they were now willing to take us on with some hundreds of fighters in direct combat. Hundreds of Taliban fighters, deploying in and around the

Zhari and Panjwayi area, were willing to fight, to pitch battles against us. That culminated in the last summer of 2006, in early fall, with Operation Medusa—from our perspective—when we found ourselves in serious combat operations against several thousand Taliban fighters who had masks. We took numerous casualties, killed and wounded. We started transforming how we looked after those casualties, both the bodies of those who had been killed and the wounded, transforming how we looked after their families and transforming how we looked after their battle buddies.

We also realized, after a decade of darkness that was the culmination of many, many years of lower funding and lack of support that we perceived, that some of our own kit was completely unsuitable for that environment. For example, we were much involved with getting rid of the oldest jeep at that point in time because it simply was no longer acceptable.

My focus during that timeframe was keeping our young soldiers, our sons and daughters, alive. That was my focus and it was the focus of my chain of command. I would not have had it any other way.

In the operations I mentioned, we also took detainees. Men who gave up after violent firefights where we had taken casualties.... After those fighters ran out of ammunition and could not escape, men with explosive residue—the level 3—on their hands which meant they were into sophisticated explosive devices and gunshot residue all over their bodies.... Men who violently and physically resisted their detention.... And all were treated professionally. It was a great credit and a great compliment to our Canadian soldiers and to their leadership, despite the emotion of grabbing somebody who had just shot your friend or just blown up the vehicle the rest of your buddies were in.

Even with all of that, we took actions to meet all of our responsibilities, including those concerning those detainees. We handled them professionally, and our soldiers did a magnificent job of that. Even when we had some complaints against them, we investigated those and found that they were groundless. We had a government agreement from our previous government with the Afghan government for the transfer, and with the responsibilities of the Afghan government clearly signed out first.

We provided the information necessary to the International Committee of the Red Cross so they could do what they wanted to do. When they indicated that the information was not sufficient or helpful to them, because in most cases Afghan men go by only one name and refused to give us anything more, that's all we could provide. We changed our process and changed the information we had so that we could make it better for them.

We supported the rest of the 3D team in their actions, including protection for the members of that 3D team. In other words, when Mr. Colvin went out to visit one of those prisons or any other site in Afghanistan, he could not have done that without the work, the support, and the protection of our soldiers.

● (1545)

We continue to work interdepartmentally to resolve problems that we might hear about. We instituted a board of inquiry and a military police investigation when claims, proven false against our handling of detainees, were made. We supported the development of the supplemental agreement. During that timeframe, just to make sure we were absolutely responsible, we decided that if we did take any more detainees during the immediate timeframe when the supplemental agreement was being negotiated and put in place, we would hold them until the supplemental agreement was finalized and agreed on and the supporting framework was there to ensure that it was followed. In short, we wanted to make sure that the capacity and the process in DFAIT were there, with the supporting departments, to handle that supplementary agreement. We stopped transfers completely from Nov. 5, 2007, until my commanders on the ground were comfortable that the process in place was going to work, that we were meeting our responsibilities, and that we were doing all that was right.

Based on all of our actions—on substantive evidence of mistreatment, that is—we stopped those transfers until things changed significantly in November 2007.

We didn't base it on hearsay, hypothesis, or second-hand information. We didn't base it on Taliban detainees saying things without corroborating evidence. My chain of command, augmented by my visits and video teleconferences with them in theatre, was my confidence factor, and they didn't let me down.

We didn't base our work on things like reports written in May and June of 2006, which said nothing about abuse and nothing about torture or anything else that would have caught my attention or, indeed, the attention of others.

I sat there for a while listening to some of the TV reports and listening to some of the comments of this committee, and I actually started to question myself. I wondered if I had really missed something as important as that. Was I indeed negligent in my duties?

Then I read the reports and I realized that no, I had not seen those reports. I seldom read C4 traffic. I didn't have immediate access to it unless somebody brought it to me, and there was no reason, based on what was in those reports, for anybody to bring it to my attention. After having read that, I am absolutely confident that was indeed the case. I also was completely comfortable that there was nothing in those reports that would have caused General Gauthier to come and brief me on something like that, again because there was simply nothing there. When the report talks about infrastructure and talks about the Sarposa Prison being better than the ones in Uruzgan and Helmand provinces and a few other things, there's nothing there to warrant the intervention of the Chief of the Defence Staff.

We also didn't base our actions on statements that said most or the vast majority—or words to that effect—of the detainees that we took and handed over to the Afghans were innocent farmers. Nothing could be further from the truth. We detained, under violent actions, people trying to kill our sons and daughters, people who had in some cases done that, had been successful at it, and were continuing to do it. People were blowing up vehicles and launching IEDs against us

and had either been caught in the act or with explosive residue at level 3 or gunshot residue on their hands.

Yes, we probably detained the occasional farmer. Whether they were farmers by day and Taliban by night, which is often the case, is something that's very difficult to discern. Innocent farmers were very rarely detained by us and were almost inevitably immediately let go.

We didn't base our actions upon people making statements such as “all detainees were tortured”. How ludicrous a statement is that from any one single individual who really has no knowledge to be able to say something like that? We certainly didn't see any substantive evidence that would indicate it was that way.

We certainly didn't base our actions upon somebody saying that DFAIT was telling DND something they didn't want to hear. My commanders can testify for themselves—every single one of them, not just the two guys here today—and they will say they wanted, asked, and needed to know what the real truth was, because that was the way we were going to do our job.

We also didn't base our activities upon somebody telling us that he knew General Hillier had known about this or had read this report. That's absolutely false. It was impossible for any individual, particularly one 12,000 kilometres away, who had written a report and shotgunned it to numerous addresses to be able to determine that I had seen it, which in fact I had not.

I would also go back and say that during the report dated 26 May and the one of 2 June, I was actually in the theatre of operations with General Fraser. I visited the provincial reconstruction team and talked to all the folks who were available there. I was back and forth throughout that timeframe many times and was never once pulled aside or grabbed by the ear. Nobody whispered in my ear, “We've got a problem, and I reported it in a report”.

Last, we didn't make our decisions based upon somebody saying that General Gauthier briefed General Hillier. Again, if you are 12,000 kilometres away from Canada, you don't know what our schedules are, where we are, or what we talked about. For somebody to say that is absolutely untrue and discredits that individual.

● (1550)

The only thing in the witness's statement that I heard that I would agree with was that General Gauthier was very difficult to deal with. He was; he was a pain in the butt most of the time, but I'll tell you this: I think he was a pain in the butt to me in the 20 years I've known him because he always demanded clear, unequivocal facts, he always demanded the logic of what we were trying to do to be based up by those facts, and he always held me accountable as his boss to make sure he had a clear, precise mission and the kind of support from me and from the rest of the structure to go off and do his job.

I think I'll stop right there, Mr. Chair. I'd be prepared to answer any questions you might like.

Thank you.

The Chair: Thank you, sir.

General Gauthier, do you have a statement? Go ahead, sir.

Lieutenant-General Michel Gauthier (Former Commander, Canadian Expeditionary Force Command, As an Individual): I do have a statement, yes.

[Translation]

Thank you, Mr. Chair and members of the committee.

[English]

Obviously I want to thank you for inviting me to provide a perspective on some of the important issues before you. These are serious matters, and I hope, Mr. Chairman, that you will give me just a little bit of leeway with the 10-minute limit, because I might actually go a little bit beyond that, with your permission. I have some important things to say, I believe.

The Chair: You get started and we'll see how we go.

LGen Michel Gauthier: Thank you.

[Translation]

I will make my statement in English but I am obviously ready to answer any questions in French.

[English]

Let me start with some context.

On February 1, 2006, I was given command of Canadian Expeditionary Force Command, based here in Ottawa, as its very first commander, and I became responsible to the CDS for all Canadian military operations overseas, including, of course, the mission in Afghanistan. I held these responsibilities for almost three and a half years. Over that timeframe, more than 24,000 men and women served under my command on 28 different missions around the globe.

I had a staff in my headquarters back here in Ottawa of more than 200 very capable civilian and military people. Many of these folks were Afghanistan veterans, and all, I can assure you, were completely devoted to listening to and supporting our people in the field, whether they were from the Canadian Forces, Foreign Affairs, CIDA, or wherever else.

I have just retired after 36 years of serving my country to what I consider to be the best of my ability, much of that in quite demanding appointments. I consider it an incredible honour to have been trusted with responsibility for some of the CF's most important, difficult, and dangerous endeavours—not just in Afghanistan, as you heard from General Hillier, but also at sea, with some very dynamic maritime security and counter-piracy missions that presented their own unique set of challenges.

I was reminded pretty starkly of the seriousness of my responsibilities, and of just what's at stake in Afghanistan, each and every time my phone rang in the middle of the night, as it did way too often, with Dave Fraser or others on the line with the sad details of another tough incident. Equally sobering and humbling for me, but always inspiring, were the many trips to Trenton with General Hillier or General Natynczyk to meet personally with the families of the fallen in the darkest hours of their lives.

I took my responsibility for the lives of our people and for mission success very much to heart. From the minute I became responsible

for these challenges in February 2006, I can say that the entire chain of command understood the detainee policy to be a tough and highly sensitive issue, for all of the reasons you understand today. It was my job to take that policy, along with any military guidance from the CDS, and to see to it that it was implemented as diligently as possible, of course in full compliance with international law by our commanders in the field. That's what I believe I did. And yes, from time to time, as General Hillier says, I was a pain in the ass.

With the full clarity of hindsight, it's easy to say now that the policy developed in December 2005 was not perfect. But based on what we understood at the time, I believe the policy was consistent with Canada's obligations and reflective of the situation on the ground.

In early 2006, the task force in Afghanistan worked closely with a very small number of DFAIT personnel available and, through them, with others to build a framework for detainee transfers that had not really existed prior to that time. General Fraser can give you a lot more detail on that, but from my perspective, in those early days, at every level, we were dealing with a level of complexity and ambiguity and at a pace that truly defied description. General Fraser had more decisions to make in five minutes over there—I saw him in action—than most normal people back in Canada make in a day or a week or a month.

Especially in those early days, with CEFCOM having just been created and the task force in Afghanistan literally getting their baptism of fire, there were no perfect solutions to be had in any of the hundreds of issues we collectively dealt with. We were at war, and sometimes it just wasn't very pretty.

All of this is to say that between February of 2006 and the spring of 2007, people on the ground built the detainee transfer framework in the midst of many other challenges and, in so doing, discovered and raised any number of issues that had to be worked. You heard some evidence of that last week.

By early 2007, I can say that at many levels, as we came to understand more clearly the capacity of agencies on the ground to monitor human rights in particular, we began to form a view that perhaps more needed to be done. By March of 2007, I can tell you—and you can ask others about this, of course—that a DFAIT-led interdepartmental process was fully engaged in looking at the detainee issue.

• (1555)

As we all know, in early May 2007 the government announced changes to the detainee transfer arrangement. With this new arrangement, Canadian civilian officials assumed responsibility for monitoring the status of our detainees rather than leaving that strictly to mandated independent agencies.

To take that one step further, beginning in June 2007, once DFAIT actually did begin monitoring, I believe a handful of complaints of abuse were received over a period of time, all of which were taken seriously and led to follow-up between our governments. None of the allegations were proven. But in November 2007, we received a report of physical evidence of torture during a monitoring visit. That clearly gave us substantial grounds to believe there was a real risk that our detainees would be in danger of torture and we stopped transferring, as you heard from General Hillier.

Almost three months later, after that great deal of work and further enhancements to whole-of-government practices on the ground, I was given an assessment in late January 2008, signed by Mr. David Mulroney on behalf of the departments involved, stating he believed "a context once again exists in which it could be appropriate to resume detainee transfers." That was in late January 2008. But General Laroche on the ground wasn't completely satisfied at that point, because he needed to see evidence that these new measures were working. And it wasn't until a month later, after we had received that assessment, that he made the judgment to go forward and resume transferring detainees to Afghan authorities.

All of this is to say that both policy and practices on the ground evolved continually, especially as whole-of-government capacity in theatre grew. That's no different from any other aspect of this enormously complex mission. As our understanding of the realities of southern Afghanistan grew, week by week and month by month, the whole-of-government team and the military within it learned and adapted constantly. There was no moss growing on anyone in theatre or anywhere else on this issue, I can assure you.

In CEFCOM, to give you a home perspective on this, and not a complete Ottawa perspective but the perspective of my headquarters, I personally was briefed on detainee matters every single day. It was built right into the structure of my daily briefing. I had designated individuals on my staff, a legal adviser, a military police adviser, a civilian policy adviser, and operations staff officers who very clearly understood that the detainee issue to be a hot-button issue and one to be watched extremely closely, among the many other important things they were doing. And these very professional and honest people were plugged into a larger network of folks in theatre, in National Defence Headquarters, and more so in other government departments, all of whom worked together and did their best to deliver sensible solutions to less than clear problems and issues.

I am certain that our commanders and people on the ground were equally attentive to the issue. Before each troop rotation after the first, I personally spoke with a hundred or so top leaders of each task force, and among the many issues discussed prior to their deployment, I explicitly highlighted detainees as one of three critically important issues all must pay careful attention to. To do otherwise could lead to strategic failure. It was that much of a concern to us.

Many people from different agencies had to be involved in this at all levels. Our soldiers are neither human rights experts nor human rights monitors, and it would be wrong to give them that responsibility. The military chain of command's role was to ensure that in our detainee handling, processing and transfer activities, our soldiers' actions were consistent with international law and with national policy. In everything that we did, commanders were directly

supported by legal advisers and plugged into the entire network of people in government with the expertise to watch this. I would not want you to think that I personally, notwithstanding General Hillier's comments about me, dealt with each and every detainee issue personally. Of course I didn't, but I certainly take full responsibility for any of the actions of my staff as well as those under my command, including the people in theatre. They understood what they had to do and they did it well, and they had my full support.

With the time I have remaining, I will now shift to the allegations heard last week and repeated so many times since then. Obviously I welcome the opportunity to set the record straight on behalf of the command I was responsible for. I find myself in a bit of an awkward box, as I can't reasonably address the issues at hand without reference to Mr. Colvin and his testimony. I'm not shooting the messenger. I barely know the man, and my focus will be on what I know in relation to what was alleged last week and what is stated in the related affidavit filed with the Military Police Complaints Commission.

• (1600)

I'd like to address just two of the most sweeping and important aspects of the evidence you heard last week. They were both addressed to some degree by General Hillier, but I'll be more specific, as is my nature.

The first big question seems to be when and how were we in Ottawa first warned of the risk of torture, the assertion being that for some 18 months, we "knew about the very high risk of torture" and continued to order our people to transfer detainees. This is a serious assertion, in fact, one that could suggest serious illegal activity. Believe me, from the outset we in the military chain of command have understood our legal liability in these matters with a very personal sense of clarity.

Beginning with what I know, to the very best of my recollection, the very first time any sort of allegation of torture was raised to me in my capacity as commander CEFCOM was in early April 2007. It did not come from field reporting. Rather, I and others were given a heads-up through military public affairs staff that a *Globe and Mail* journalist was working on a story, and he gave us some advance notice that he was working on the story. The story was published on April 23, 2007, and that it would be of great interest was the message I received, and of course it certainly was.

The first report from the field with a specific warning of possible abuse of a detainee transferred by Canada came to us on June 4, 2007, from Kandahar. A day later, a similar report came from Mr. Colvin in Kabul. Both of these reports resulted from the first of DFAIT's monitoring visits under the revised detainee arrangement. I believe these became public knowledge some time ago.

To be clear and precise about this, last week's evidence states categorically that the very high risk of torture in Afghan prisons was first made known to senior members of the Canadian Forces in May 2006 and repeatedly thereafter. In fact, I and others received such warnings in a substantial way for the first time more than a year later than that.

You heard last week that many reports were sent to CEFCOM and elsewhere. I've looked at them closely just in the past few days, and what they say is obviously key. I believe all the reports identified as sent to my headquarters were, in fact, received. I can't say that I saw all them or even any of them, quite frankly, but if they were important enough, my staff would certainly have briefed me. They understood. In any event, I take full responsibility for having received them.

I want to refer specifically to these reports in relation to what you heard last week. I can say to you directly that, contrary to assertions, there is no mention of the risk of torture or suspected torture anywhere in the May 26, 2006 report, nor is there in any of the other reports from 2006 listed in Mr. Colvin's sworn affidavit, namely those of June 2, 2006, August 28, 2006, September 19, 2006, or indeed September 28, 2006. The word "torture" in itself does appear once in the December 4, 2006, report, but this report could not reasonably be interpreted to be a warning of torture, nor does Mr. Colvin's affidavit suggest that it did.

Again, I can very safely say there is nothing in any of these 2006 reports that caused any of the subject matter experts on my staff or, by extension, me to be alerted either to the fact of torture or a very high risk of torture, nothing. Moreover, there was nothing in these documents that would have caused me to speak with the CDS or for him to speak with our minister. These reports also went to National Defence Headquarters, and I can't speak for what was done within National Defence Headquarters. I personally did not brief General Hillier.

Mr. Colvin told you last week that according to his information, "all Afghans we handed over were tortured". His reports, which I referred to, say no such thing. I heard those words as a statement of fact for the first time on national television last week.

• (1605)

Thereafter, between April 20, 2007, and the first alert on June 4, 2007, many of the reports received do in fact deal with issues of torture. This was at a time when DFAIT and the rest of us were completely engaged in reviewing our posture, and the reports were provided in a dynamic process between DFAIT in particular and the field.

Given what's at stake here, you can rest assured that I've read all of these many times, both the full classified versions and the recently redacted versions. There is, in my view, little room for interpretation. There was nothing in the reports that caused me or my staff to see in them serious, imminent, or alarming new warnings of torture before the June 2007 reports, and to suggest that senior military officials or commanders ignored these or covered them up is wrong.

The second point I want to address very briefly is the comment in last week's testimony that senior officials in DFAIT and the Canadian Forces did not welcome reports or advice from the field and that at

first they were mostly ignored. This criticism is just not supported by the facts. If or when you get the redacted version of the documents—and I sincerely hope you do, and soon—you will actually see helpful and positive responses not just from DFAIT but from my own staff direct to Mr. Colvin, with thanks at the beginning and at the end of the response.

In my own records, held by DND, I know there are actually references to questions that I asked of my staff and direction given to follow up on some of the issues raised in Mr. Colvin's reports. I know for a fact that there was follow-up, just as I know that I personally and those who work for me saw these issues as important. CEFCOM was created for the explicit purpose of being absolutely attentive to those deployed on operations, to make their jobs easier, and to make them look as good as we could.

You could not possibly imagine the crushing load our commanders—fellows like this gentleman on my left—carried on their shoulders on these missions. It was my job to do everything I could to lighten that load, and I think I did. I certainly tried at every opportunity. It's why we existed, and it's what we did 24 hours a day, seven days a week. It's why none of us would knowingly have ignored, disregarded, suppressed, covered up, or put a cloak of secrecy over anything that we received from the field, especially on something as important as the detainee issue. I say that as dispassionately as I can. I mean it absolutely sincerely.

I visited Afghanistan every two months when I was in command, so over a three-and-a-half-year period. So did the chief at separate times. On every one of those visits, I met with literally thousands of soldiers and dozens of civilians. I encouraged them to raise anything that was on their mind, and believe me, most were absolutely not shy to let me have it, sometimes with both barrels.

During these visits, to the very best of my recollection, not once did anyone raise with me what Mr. Colvin alleges concerning torture in Afghan jails, until the concerns that surfaced in April and more specifically in June 2007 and beyond. Then, of course, we were going back and forth discussing these things, because it was an issue that we understood to exist to some degree.

I should also add that on these visits, I often spent hours at a time with both of the ambassadors who served during Mr. Colvin's time in Afghanistan. I can assure you, if either they or Mr. Colvin had ever raised this issue with me, I would remember and I would have done something. None of them did.

In closing, this mission in Afghanistan has without question been the most demanding thing I have seen Canada take on in my 36 years of service. In all its complexity, it has been a challenge for us in the military, for Canada as a nation, and for the international community. It has been an honour for me to personally play a part in it.

•(1610)

If I could share one last personal thought with you, last week—and this gets back to the comment made by General Hillier—as we were sitting at home watching television, my wife and I were mortified to hear a member of this committee appear on a national news network, name me and three others by name, and state as fact that we had either been negligent or that we had lied, effectively branding us war criminals on national television. That damage to my reputation is done and I have to accept that as a consequence of being in a position of high command in one of Canada's national institutions, and I do accept that. But what I really ask you to consider is this.

In my headquarters alone, most of the reports would have been seen by as many as a dozen really smart and diligent people whose advice I trust implicitly. In a headquarters running a war for more than three years, they never let me down once. Easily 100 people around this town as well as in theatre must have also seen these reports at the time, and by now I suspect several hundred people across government have read them over, read them again, over and over, very carefully. Many of them are experts in international law and human rights.

I know most of these people, and they're good and honest people, civilian and military alike. They're terrific professionals motivated by a desire to make Canada look good. So with the greatest of respect, I ask each of you to keep that in mind as you draw your conclusions from what you hear and express those to our public. As you well know, our country's reputation is at stake.

I look forward to your questions, and I really appreciate your giving me the time to say what I just said. Thank you.

The Chair: Thank you, sir.

General Fraser.

Major-General David Fraser (Project Director and Commander Designate, Joint Headquarters Renewal Project, Department of National Defence): I want to thank the committee for the privilege of speaking to you today about this important issue.

From February to November 2006, I was the guy on the ground. I was the commander of both Task Force Afghanistan and Task Force AEGIS. I wore two hats, in essence: a Canadian commander's hat and a multinational commander's hat.

Task Force Afghanistan was the organization that represented all Canadian military in the Afghanistan theatre. As commander of Task Force Afghanistan, I was responsible for Canadian Forces operations conducted in Afghanistan. I reported to Lieutenant-General Gauthier, Commander of Canadian Expeditionary Force Command in Ottawa.

My multinational command was Task Force AEGIS, also known as Regional Command South. It was comprised of military forces from nine different nations that were spread between Uruzgan, Helmand, Zabul, and Kandahar Provinces. This area of operations covered over 200,000 square kilometres.

As commander of Task Force AEGIS, I was responsible for operations in Regional Command South, and I reported to the United States Commander of Combined Joint Task Force 76 located in Bagram.

The military forces of Regional Command South were part of the U.S.-led coalition mission called Operation Enduring Freedom until July 2006, after which time command was transferred to ISAF, which is the NATO-led coalition headquartered in Kabul.

In my opinion, Afghanistan is the most complex mission that Canada has conducted since perhaps the end of the Second World War. This mission was certainly the most complex mission that I, in my 29 years of experience, have ever commanded and operated.

The mandate given to me was to mount security-related operations in order to establish and maintain stability in order to assist Afghans in building their nation. We worked in support of Afghan authorities.

The objective of the Canadian Forces was to help create the conditions for longer-term reconstruction and development, as laid out in the Afghan Compact. The Canadian contingent in Afghanistan comprised numerous facets, including security forces, a provincial reconstruction team, and trainers for the Afghan Security Forces. The Canadian contingent was composed of military and civilian members.

Given the complexity of this task, I asked and received support in the form of a political adviser from Foreign Affairs—which I did not have, and when I asked, I received—and a development adviser from CIDA, in addition to other such members as the RCMP, who were located as part of the provincial reconstruction team in Kandahar City.

We went there with the idea that we would conduct operations designed to establish security and assist in the development of the Afghan capacity to govern. However, in 2006 we ended up in an armed conflict of a prolonged intensity unseen by Canadian Forces since Korea. We dealt with a level of operations that frequently exceeded 30 major operations and incidents a day. These events included combat in the form of direct or indirect attacks on Canadian and coalition soldiers, accidents, air crashes, and meetings in Kandahar and throughout Afghanistan in a multinational and high-paced environment. I have never, ever seen anything like it in my life.

Despite the complexity of this mission, this was the best-prepared and best-supported operation I have ever been involved in. Operational requirements were identified and satisfied through my time as commander, and when things changed I was able to adjust on the ground, meeting the needs of our soldiers and Afghans alike.

General Hillier, the Chief of the Defence Staff, provided me with his intent prior to my going to Afghanistan. His intent was clearly that Canada would assist Afghans in building their nation. There were three points he emphasized in order to meet Canada's strategic intent: Afghan casualties, Canadian casualties, and detainees. These were issues that he believed could seriously affect the outcome of this mission. We were constantly aware of these issues and we actively considered each of these strategic points in everything we did prior to arriving in Afghanistan, after arriving, and throughout my tour.

• (1615)

Every soldier received proper training on detainees. We developed a theatre standing order on how detainees would be processed. The direction was clear and in full compliance with the Government of Canada policy. Canadian Forces would hand over detainees to Afghan authorities. No detainee would be handed over to another nation, and we would not share information about our detainees with other nations. By way of information, other nations did not share the details of their detainees with us. Detainees were a national responsibility that nations dealt with themselves or with the Afghan authorities. Detainee policy was clearly articulated to our other coalition partners and to both the Operation Enduring Freedom chain of command and the ISAF chain of command. We took great efforts not to lose the support of the Afghan people. We did not arbitrarily detain Afghans.

The theatre standing order I have already mentioned described who could be detained. We detained those individuals who demonstrated either an actual hostile engagement against our soldiers or hostile intent toward Canadian or coalition soldiers. Those people who were involved in either direct or indirect attacks against Canadians or coalition forces could be detained. Afghan citizens not assessed as being involved in an attack on Canadian or coalition forces would not be detained.

The event of capturing a detainee during the course of operations would set into motion a detailed sequence of events, including immediate reporting of the event through the chain of command to my headquarters in Kandahar. Upon being notified of a detainee, my national contingent element headquarters followed my theatre standing order on detainees. This standing order included a direction to report the information to CEFCOM, General Gauthier's headquarters. If I was available, I would make the effort to phone General Gauthier, no matter what time of the day, to inform him that we had a detainee and that the process was being executed for the transfer of that detainee to the Afghan authorities.

As previously mentioned, detainees were a critical issue to my mission, and the direction given to me was to transfer detainees to Afghan authorities. Every day I reviewed documents and received intelligence briefings. Every morning at 7:30 I spoke to my political adviser, my development adviser, my Dutch deputy, my British chief of staff, and my American deputy. At no time did I receive information about torture or abuse of detainees. Had I received that information, I would have done something about it.

I was not made aware of any allegation or abuse, and I continued to transfer detainees to Afghan authorities pursuant to the 2005 transfer arrangement, in accordance with the Government of Canada

policy. It was a busy time for Canadians in 2006, climaxing with Operation Medusa. Ongoing operations throughout the region focused our efforts, and throughout my mission I was particularly proud of the work accomplished by Canadians and the standard at which Canadians conducted themselves. We all have something to be proud of.

With that, I look forward to answering your questions, subject to the obligations to protect classified information that is a matter of national security, and national security information.

Thank you very much, sir.

• (1620)

The Chair: Thank you very much, gentlemen.

We'll get started. This is a seven-minute round, and we'll start with Mr. Dosanjh.

Hon. Ujjal Dosanjh (Vancouver South, Lib.): Thank you, generals. Thank you very much for being here. We have the utmost respect for what you do and the sacrifices that Canadians are making.

I'm going to be very brief. I'm going to have two questions, and if there is time, then my colleague can ask questions.

I want to talk to you about the issues about law, the command responsibility. You know that better than anybody else. It requires no actual knowledge of the risk of torture. If the risk of torture is widely known, as it was to the U.S. State Department, UN reports, Afghan Independent Human Rights reports, Human Rights Watch, Amnesty International, our own human rights reports, their knowledge can be imputed. In fact, ignorance is not a defence either, for want of reports, and you know that better than I do.

Having said those two things, there is then a duty to prevent the transfers. You have outlined in great detail the steps that you took, and I was rather pleased.

I can't ask you any questions about Colvin's testimony since I don't have the benefit of having read any of the reports he sent to anyone, so I will not go there.

I will ask you two questions. One is about the command responsibility. Are you fully satisfied, generals, that we, as Canadians, in terms of the command responsibility, whether the military leadership or even the civilians, including the Prime Minister or the ministers, have not violated any domestic or international law? That's the one question.

The other is with respect to your book, General Hillier. On page 465 and 466 you talk about knowing, sort of: "I believed them, but, sadly, I was the only one in 89,000 men and women in uniform to do so!" You understood the risk and the problems.

You also, in the same area, talk about Guy Laroche. He resisted sending prisoners to Afghan jails because he was worried there wasn't enough infrastructure, and you, at the end, say there was "nuanced...pressure to restart before the changes were made". I want to know what that nuanced pressure was. I also want to know who was at the PCO meetings that you talk about there, where you said, "I, yet again, got shrieked at during PCO meetings as I backed [Guy Laroche]." I'd like to know who was at those meetings and who shrieked at you.

Thank you.

• (1625)

Gen Rick Hillier: Mr. Dosanjh, I'm sure the other gentlemen will want to talk to parts of this too, but let me just say in response to the question, was I satisfied that I had met my command responsibilities as a Canadian Chief of Defence Staff, that I was. If I questioned that myself, actually I was held accountable by an entire team that helped me get to that satisfaction. My judge advocate general, Brigadier-General Ken Watkins, who is internationally renowned for his knowledge of international law, held me accountable every single day. Even if I had been willing to round corners or smooth out warts, he would not have permitted me to do that.

So yes, I was accountable, I was comfortable, and I was satisfied. In a complex situation, Mr. Dosanjh, that was as difficult as anything we have faced in our history, I was satisfied. That doesn't mean it was perfect.

Secondly, from the point of view of knowing the risks, I articulated.... First of all, thank you very much for buying the book. I hope you bought one for your extended family for Christmas, and if not, you should. I can tell you that.

From the point of view of the risks, Mr. Dosanjh, I would simply say that my aim in Afghanistan was to, for one, enable our young men and women to do the job and be successful, make our country proud, and come home safely. Two, part of that coming home safely was to reduce the risks to them to the very lowest level we possibly could in a whole variety of ways, but you can never reduce the risk to zero.

So even in a perfectly functioning society like our great country, if you walk into Millhaven penitentiary and you ask half the inmates there whether anybody's abused them, they'll probably all say yes, because that is the nature of the beast. So there is always a risk that something can occur, and are you comfortable that there is a follow-up process that would recognize that. That was the key.

Guy Laroche is one of those incredible commanders. I said my chain of command had never let me down, and he and a guy like Dave Fraser, who's here today, working through Mike Gauthier, were exactly like that. I relied upon them.

A whole bunch of peripheral things would come to me and I'd hear things, whether it was about the Graeme Smith articles or whether it was about the litigation that was taking place here in Canada in the spring of 2007. I took all of those things into my grey matter, but what I really looked to was a clear, concise assessment of the situation from those commanders.

When we all felt in November 2007 particularly that now we had lost our confidence that we could be responsible—back to my first response here on being satisfied—and that we should stop transfers of the detainees, Guy Laroche was absolutely at mind. He, Mike Gauthier, and I spoke and we agreed that that was the right step to do, stop detainees. We of course continued the work that was going on around town.

When I say there was pressure that came, what I meant was this. In fact, I think General Gauthier referred to it when he said that he had a letter from David Mulroney on 29 January or thereabouts

saying, we think conditions have been reset. Everybody had a different view and we actually had a very high standard set.

So our view was different. Hence, it was going to take longer to get back to a level where we were comfortable to transfer, and that's the kind of pressures I referred to. People had a different view of what that comfort level was. We were the commanders, we had responsibility. I certainly didn't abrogate that responsibility. I didn't expect Mike Gauthier to do it and I certainly didn't expect Guy Laroche to do it, but the pressures were because everybody had a different view.

As for the people at that meeting, I think Margaret Bloodworth was there, I think Rob Fonberg was there, and I believe David Mulroney, who's ready to testify, was there, I was there, and there may have been one or two others, but I don't recall.

Hon. Ujjal Dosanjh: General, before the others answer, may I read from the decision of Justice Anne Mactavish in February 2008? She stated that: "Eight complaints of prisoner abuse were received by Canadian personnel conducting site visits in Afghan detention facilities between May 3, 2007 and November 5, 2007." Moreover, she noted that in some cases prisoners bore physical signs.

This is the judgment: "In Canada, there's no independent capacity to investigate allegations of mistreatment of detainees."

Then it goes on to say, sir: "the evidence adduced by the applicants clearly establishes the existence of real and very serious concerns as to the effectiveness of the steps that have been taken thus far to ensure" detainee safety.

Then in the judgment of March 2008 Justice Mactavish says: "Not only can Canadian military personnel face disciplinary sanctions and criminal prosecution under Canadian law should their actions in Afghanistan violate international humanitarian law standards, in addition, they could potentially face sanctions or prosecutions under international law." This is the judgment of Justice Anne Mactavish. She says there's clear evidence that there has been torture in Afghanistan, and this has not been overturned or appealed on those facts.

• (1630)

The Chair: We only have—

Gen Rick Hillier: Can I respond to that?

The Chair: For a very short period.

Gen Rick Hillier: It is almost a question.

What I would say is this. We had already started taking those actions when she issued that judgment. On November 5, 2007, we stopped the transfer of detainees because we no longer had the confidence that we could meet our command responsibilities. We were still continuing the cessation of those transfers up until that time, until we were all comfortable—starting with the guy on the ground who was in on a daily basis—that the regime to oversee, to train, to improve, to investigate, and follow up was in place on the ground. We weren't about to move ahead, despite letters from other people—which General Gauthier referred to—saying they thought it was good to go. We had a slightly higher standard, and I certainly wanted to protect the commanders on the ground and every single soldier that we deployed.

So, Mr. Dosanjh, those actions were already ongoing at that point in time.

The Chair: Thank you, sir.

Mr. Bachand.

[*Translation*]

Mr. Claude Bachand: Thank you, Mr. Chair.

I too want to welcome our witnesses. I will share my time with my colleague, Francine Lalonde.

First of all, I want to clarify something. The basic objective of this committee really is to try and protect our military since we might be actioned on the basis of the Geneva Convention. This is especially a responsibility for the people around this table and in the Canadian Parliament. We know that our military is under the authority of the civilian branch. What I mean is that even if members of the military were to be blamed, our civilian authorities would be painted with the same brush since they are the ones who are ultimately responsible for the conduct of our Forces.

Everyone here recognizes that the suspected torture we are dealing with has certainly not being inflicted by Canadian soldiers. What we are trying to find out is if Canadian soldiers like you, on the ground, knew that torture was being practiced and if, despite that, they still transferred detainees. That is our main concern.

I do not want to challenge your statements but I also know that there is a strong *esprit de corps* in the Canadian Forces. The military is an organization where it would be extremely rare that experienced leaders like you would contradict each other. As far as I am concerned, that is not conceivable. I congratulate you for the consistency of your statements, since no one contradicted the others, which is good.

That being said, we also have other information sources. Can you explain to me how you can state that absolutely nothing happened when Amnesty International, the Independent Afghanistan Human Rights Commission and the Red Cross all stated that torture was being practiced in the prisons? Even a guard in the Sarposa prison stated that torturing prisoners it was routine. International diplomats said the same thing. Today, a Canadian diplomat repeated statements made by Mr. Colvin as well as by many reporters. You referred to the *Globe and Mail* but I can also mention Mrs. Ouimet of *La Presse* who reported on what she saw there. All the Opposition parties believe that torture was being practiced. Why are you trying to convince us that it was not?

Mr. Gauthier, I want to ask you something because you have read the reports. You are lucky. We would like to see those reports. Did I understand correctly that you are recommending that the government provide us with the reports because that would be very helpful to us? Can you now convince members of the committee and members of the public that there was no torture, when all the organizations I just mentioned stated that there was?

•(1635)

[*English*]

The Chair: Mr. Gauthier, go ahead.

[*Translation*]

LGen Michel Gauthier: First of all, thank you for your question. You are referring to the original policy of 2005. I was not the commander at the time. That being said, this was not a military policy but a government policy. My suggestion would be that you put your question to the ministers of the day.

Mr. Claude Bachand: You claim that you did not see any torture when you were there. According to you, prisoners were not tortured, even though all the people I have just mentioned stated that they were. Why is there such a difference of opinion between military leaders and international organizations?

LGen Michel Gauthier: We are not referring to military leaders, Mr. Bachand, we are referring to the Afghan military and the chain of command. I talked regularly to soldiers in Afghanistan, once every two months. There is no need for me to repeat what I said in my preliminary statement, obviously.

You say that everyone knew. Someone on the ground will have to tell us, or someone tasked with interpreting strategic information—the experts, for a start—will have to inform us and to inform the government that there is a problem that we do not see, that we did not see and that was not reported between February 1, 2006 and January 4, 2007.

Ms. Francine Lalonde: Good afternoon.

I thank you for being here, in these important circumstances, even though they not be very enjoyable.

I am glad to have heard you because yours is the best testimony one may have about the consequences of having transformed a peacekeeping military in an army carrying out a dirty war.

My question is for General Hillier. The first problem is that there is a war, but the origin of the issue of torturing detainees is the 2005 agreement. General, your name is at the bottom of that agreement. At that time, the Dutch signed an agreement including the provisions that are in the 2007 agreement, such as full access at all times, in order to make sure that they could visit the prisons at any time even if the jailers claimed that there was no torture. Their agreement allowed the Red Cross to go there at any time and not only upon request as is stated in your 2005 agreement.

About the 2005 agreement, you were not the only one tasked with negotiating it. That was not your job. How did that happen? Who advised you?

[*English*]

Gen Rick Hillier: Thank you for the question, madame.

And let me say that I didn't negotiate any part of the 2005 agreement. I signed that agreement on behalf of the Government of Canada, with its full approval. It had been negotiated by experts from the Department of National Defence and the Department of Foreign Affairs, with input from international law experts. And if you want to listen, I'll be able to tell you, since you asked the question, that I was on my way into Kandahar in early December 2005 because we had established now the provincial reconstruction team on Kandahar airfield and were in the process of building up infrastructure to receive the battle group. I was going to visit Kabul, and one of the people I was going to visit was the minister of national defence, Minister Wardak, who I knew very well from our previous time working together when I was the commander of ISAF.

The agreement was then ready. The international experts, including the judge advocate general for the Canadian Forces, had given their opinions that this was a good agreement, well thought through—perhaps in hindsight, it could have been better—and that it was ready for signature; and Minister Wardak, knowing I was coming to Kabul, asked if I would sign it on behalf of the Government of Canada. Because he was signing on behalf of the Government of Afghanistan, I had no problem with that whatsoever.

Ambassador David Sproule, who I then spoke to before we went to the defence minister, said Foreign Affairs was very comfortable with this. The agreement was ready. It was a Government of Canada to a Government of Afghanistan agreement. We went to Minister Wardak's office, we had our coffee, we signed the document with Ambassador Sproule orchestrating, moving the papers around with little yellow stickies, and then, much to my embarrassment, Minister Wardak slipped outside for a cigarette and I slipped out for a cigar.

I signed that agreement at his request because I was in theatre. It was an agreement between the Government of Canada and Afghanistan.

• (1640)

The Chair: Thank you, sir.

Mr. Hawn.

[*Translation*]

Ms. Francine Lalonde: Thank you.

[*English*]

Mr. Laurie Hawn: Thank you.

Thank you, gentlemen, for coming.

General Hillier, I'm going to ask you some questions and I'd really appreciate a yes or no answer. I know that may be difficult.

General Gauthier, I'd like you to listen to those answers, because I'll ask you at the end whether any of your answers would have differed.

First of all, is it easy to not contradict each other when you're telling the truth?

Gen Rick Hillier: I can't give you a yes or no, Laurie.

Mr. Laurie Hawn: Make it real short, please.

Gen Rick Hillier: I apologize. My dad used to say, if you don't lie, you don't have to remember anything. That was pretty sage

advice from a Newfoundlander. I said what I had to say. The mere fact that there was no contradiction, I think, reflects a system that worked pretty well.

Mr. Laurie Hawn: Was the Afghan mission part of your daily brief?

Gen Rick Hillier: My daily brief?

Mr. Laurie Hawn: Yes.

Gen Rick Hillier: Yes, absolutely.

Mr. Laurie Hawn: When you visited Afghanistan the many times, did you normally talk to everybody at all levels in Afghanistan, from President Karzai on down to soldiers?

Gen Rick Hillier: I did, but I actually started with the latter almost always and worked through thousands of soldiers and civilians, upwards to and oftentimes with the President himself, although not always.

Mr. Laurie Hawn: Did you talk to representatives from the other ISAF countries normally when you went to Afghanistan?

Gen Rick Hillier: Almost always. Perhaps always.

Mr. Laurie Hawn: Were you in contact with the strategic advisory team, which was obviously in close contact with the Afghan government?

Gen Rick Hillier: Yes, I was. That was a routine visit, and I spent significant time with them each time.

Mr. Laurie Hawn: Would Admiral Davidson in NATO have been talking to senior NATO staff on a regular basis about Afghanistan?

Gen Rick Hillier: Hourly.

Mr. Laurie Hawn: Would you have verified all information that you received from these various sources? To the best of your...

Gen Rick Hillier: Yes, obviously. I balanced everything I got from one source or multiple sources against the other information I was getting, to try to find clear ground truth, as we call it.

Mr. Laurie Hawn: Did you at any time receive any specific information on the abuse of Canadian transferred detainees?

Gen Rick Hillier: No, not until spring of 2007. Then we actually made a decision to put a temporary pause on turning anybody over. It happened to coincide with a lull in operations, so we actually didn't have anybody to turn over, as I recall. So it was about that timeframe.

Mr. Laurie Hawn: On any serious issue such as detainee transfers and so on, would you ever depend solely on one source of information or would you balance all the information you got?

Gen Rick Hillier: In everything, I balanced all the information I got.

Mr. Laurie Hawn: The Dutch and the Brits apparently had a better transfer arrangement than we did, initially. Did you ever hear any concerns from them—

Gen Rick Hillier: None.

Mr. Laurie Hawn: General Gauthier, would you agree with all those answers or would you have answered in the same way?

An hon. member: Do you remember the questions?

LGen Michel Gauthier: I would say, as I said in my opening statement, what I heard from the troops: no indications of torture. And it was certainly the same thing in my meetings with various others. I regularly went to Kabul and elsewhere.

The only other point I'd raise here is that over the course of the three and a half years that I was involved in this—and I alluded to this in my opening remarks—from commander to commander to commander, from General Fraser to General Grant to General Laroche, from General Thompson to General Vance to now General Menon, we understand a lot more today than we understood three years ago.

As a result of the 2005 policy—early implementation days—our detainee policy was probably less robust in certain respects with respect to monitoring than that of our international partners. I think ours is the most robust now. So we've learned.

Mr. Laurie Hawn: General Fraser, I have a few questions again. Yes or no, if you can.

You were responsible for the transfer of detainees to the Afghan government and presumably reliant on Government of Canada civilian advisers to some degree for input. Is that correct?

MGen David Fraser: That is correct, and that included reading a report from the Correctional Service of Canada about the Sarposa Prison. They saw the prison in about the May-June period, and there was nothing in that prison report at all about torture or abuse.

•(1645)

Mr. Laurie Hawn: Did you have contact with the Canadian ambassador during your nine months in Kandahar?

MGen David Fraser: Yes, I did.

Mr. Laurie Hawn: Did the ambassador ever raise with you, in written or verbal form, any concerns about torture or abuse of detainees handed over to Afghan authorities?

MGen David Fraser: No.

Mr. Laurie Hawn: Did you have contact with civilian officials working in the PRT?

MGen David Fraser: Yes, I did.

Mr. Laurie Hawn: Did any of them ever raise—by any, I mean including Mr. Colvin—concerns or warn you about torture in Afghan prisons?

MGen David Fraser: No. Nobody raised a report to me.

Mr. Laurie Hawn: Did you work closely with the military commander of the PRT in Kandahar city?

MGen David Fraser: Yes. We had regular contact, and he never reported anything to me.

Mr. Laurie Hawn: And he would have been in a position to have some insight into that. Did any other Canadian civilian or military person raise with you concerns of torture or abuse during your nine or ten months' service in Afghanistan?

MGen David Fraser: I never received any reports about abuse or torture from any Canadian.

Mr. Laurie Hawn: Thank you very much.

I'll turn it over to my colleague Mr. Obhrai.

The Chair: You have two minutes.

Mr. Deepak Obhrai (Calgary East, CPC): Thank you for coming. I want to say at the outset that we really appreciate what you've done in Afghanistan and what our soldiers are doing.

The question I want to come back to is General Hillier's question about the agreement in 2005—the question that Madame Lalonde asked about your involvement in there, in which you very specifically and very clearly stated that this was done by the political masters.

At that time, it was Minister Graham of the Liberal government in charge. I go back to what Mr. Dosanjh said about holding the army in charge of breaking international law. If you are saying to me correctly that this agreement was signed by the political masters, who all came out with that, and you just were a signer, would that mean—and they're really asking you—that those individuals themselves, the political.... You were just following an agreement.

Am I understanding right that the involvement of the political leaders was very crucial in signing this agreement?

Gen Rick Hillier: Sir, what I would say is this. I wasn't in the habit either of negotiating agreements with foreign countries or then signing them of my own volition. I agreed to sign that thing, and I have to say in hindsight that it might have been a wise thing not to have agreed to that, because the ambassador could have easily signed it, as occurred in the supplementary agreement. But I agreed to sign it because Minister Wardak asked that I do that and because we had a joined-up Government of Canada approach to the agreement back in 2005.

So I'm not pointing a finger at individuals. I'm just saying this was a Government of Canada agreement between Canada and Afghanistan in 2005.

Mr. Deepak Obhrai: And you, the military, were just following the agreement?

Gen Rick Hillier: And my job after that was to implement the front-end piece of that, unless I was uncomfortable—I think back to Mr. Dosanjh's question—that my command responsibilities could not be met. That's what we did, and when I got uncomfortable, we stopped transferring. We continued that stoppage until we got the capacity to oversee and train and build and investigate and improve.

So I think I met my responsibilities that were my part of that agreement.

Mr. Deepak Obhrai: Very good. Thank you.

The Chair: Thank you.

Mr. Dewar.

Mr. Paul Dewar: Thank you, Mr. Chair, and thank you to our guests.

I would like to conduct my questions the way Mr. Hawn did and I hope the answers will be similar, if that's possible. I guess it depends on the question.

Were any of you aware of these independent groups' assessments on torture in Afghan prisons from 2005, 2006, and onwards? I guess by 2006 everyone knew, so were you aware of the independent assessments by other groups? They've all been listed: the Afghan Independent Human Rights Commission, the Red Cross, the State Department, etc. Were you aware of those reports about torture in Afghan prisons?

Gen Rick Hillier: How could you not be aware of individuals saying that everything was bad and the sky was falling? So yes, Mr. Dewar, absolutely. And then I'd just balance that against a comment I heard from somebody in the ICRC or read somewhere back in February 2007, saying there's no problem whatsoever with respect to detainees. So I tried to balance the specific against the generalities, which had no substance against specific—

Mr. Paul Dewar: Fair enough.

Gen Rick Hillier: So yes, absolutely. You could not not be aware.

• (1650)

Mr. Paul Dewar: And it was the same for everyone else? Okay.

Were there any site visits to NDS prison or to Sarposa Prison by Canadian officials during 2005 and 2006 to follow up as to what happened to the detainees at that point?

Gen Rick Hillier: I think you need to ask Mr. Mulroney that, not me.

Mr. Paul Dewar: Okay, but not by your—

Gen Rick Hillier: No, our part—

Mr. Paul Dewar: You hadn't directed forces to go in and to supervise—

Gen Rick Hillier: That's correct. That was not part of our mandate in the agreement.

LGen Michel Gauthier: Exactly right, and I made reference to that in my comments, that our soldiers weren't trained human rights monitors—

Mr. Paul Dewar: No, and that was clear—

LGen Michel Gauthier: We could not do that, but you could ask General Fraser if he's aware of others who went into—

Mr. Paul Dewar: I just wanted to know if he had or had directed anyone to go into the prisons to investigate what was going on there at the time.

MGen David Fraser: That wasn't part of our mandate to go and inspect prisons, but there was a Corrections Canada visit to Sarposa Prison in 2006. They wrote a report, and there was nothing in the report that raised any alarms or concerns.

Gen Rick Hillier: Could I make one short comment on that one?

Mr. Paul Dewar: Maybe later, I'm sorry. And I hate to say that to you. Trust me.

General Fraser.

Gen Rick Hillier: I don't make a lot of short comments, that's all.

Mr. Paul Dewar: I know. I want to come back to you, but I have so little time and I don't get to do this again.

General Fraser, it came up in testimony the other day. There were two avenues of concerns around torture that seemed to be outlined.

One was the handing over to the prisons and the reports we've referenced. I asked Mr. Colvin, the witness who was here at committee the other day, about this.

The other was with Governor Khalid, and I asked him questions about that. Were you aware of the allegations, not around the prisons because we've established that, but around Governor Khalid? Did you hear allegations around Governor Khalid's involvement in torture, and if so, how did you receive that information if that was the case?

MGen David Fraser: I didn't receive any information about that.

Mr. Paul Dewar: So you never received allegations about Governor Khalid's involvement in torture. That was the question I asked Mr. Colvin, because we have concerns obviously about Governor Khalid. But you never received information or allegations about torture with regard to Governor Khalid?

MGen David Fraser: Nothing came to my level.

Mr. Paul Dewar: Okay.

Obviously, people were concerned about his conduct. I mean, you had heard about that, about Governor Khalid's conduct.

MGen David Fraser: I dealt with the governors of the six southern provinces as part of my responsibility, including Khalid. He and I would meet several times a week.

Mr. Paul Dewar: General Gauthier, one of the things you're establishing is that from May 2006 and onward to when we first dealt with the issue of detainee transfer, you hadn't received or seen any reports on torture. However, what I understood from Mr. Colvin's testimony was that there were concerns around the process, and the process where we were handing over detainees who weren't being tracked. I'm wondering from you if your evidence is that, when we handed over detainees, you received reports about what happens to those detainees after they've been handed over to the Afghans, in terms of tracking and in terms of concerns around what happens to them when they leave and the process.

What we got from Mr. Colvin was that the process was such that the Canadian military police in Kandahar would inform the Canadian Forces at the Kandahar field, who would then tell the forces at CEFCOM in Ottawa. CEFCOM would eventually inform the Canadian embassy in Geneva and then inform the Red Cross in Geneva. What I got from his evidence was that there was a huge problem. How would you know what happens to the detainees? This process was extremely laborious. How would you know what happens to them with this kind of setup?

Was it your evidence that you had not heard any concerns about the process from May 2006 until later in 2007?

LGen Michel Gauthier: Can I give a longer answer to this, rather than a shorter answer?

Mr. Paul Dewar: It's up to you, but I know General Hillier wanted to make a comment too. So I'll leave it to the two of you.

LGen Michel Gauthier: You made reference to tracking. In 2006, tracking detainees after a transfer was an independent human rights agency responsibility, in our policy, signed between us and Afghans. It was up to the Afghan government to treat all detainees in accordance with the Geneva Convention and to allow full access to the Afghanistan Independent Human Rights Commission and the ICRC. Soldiers certainly had no role to play in tracking.

•(1655)

Mr. Paul Dewar: So we wouldn't know how many.

LGen Michel Gauthier: Soldiers would play no role in tracking. That is my answer to the question, Mr. Dewar.

Mr. Paul Dewar: But I'm saying that you wouldn't know how many.

LGen Michel Gauthier: I wouldn't know how many what?

Mr. Paul Dewar: How many detainees were transferred over to....

LGen Michel Gauthier: Of course we would.

Mr. Paul Dewar: Okay, I just want to establish that.

LGen Michel Gauthier: Absolutely, in great detail, on a day-to-day, week-to-week basis.

Mr. Paul Dewar: We've asked but we haven't been told. So I'm just asking, because we have never been told.

LGen Michel Gauthier: Certainly. That's for sure, and thanks for that clarification.

Tracking up to the point of transfer was absolutely our responsibility. There may have been issues with the detail of the specific information that was being kept and who it was provided to, and so on. General Fraser referred to that.

I saw some traffic on those issues, the C4 messages. They had nothing to do with torture. They did not say that all Afghans we had handed over were tortured. There was none of that in those reports. It referred to process, and there were many people engaged in the process.

If I can take issue with the specific issue you raised and the example you gave, I saw some great graphics on CBC the other day—can I mention CBC in here?—

Mr. Paul Dewar: It's a free country.

LGen Michel Gauthier: —of how complex this was, information going from one place to the next. I have to say, what was described was not close to the way the process actually worked. That's my first comment.

Secondly, Mr. Colvin, in his testimony, made reference to this being a military process. I'm surprised he didn't understand that these were human rights issues. They were Foreign Affairs and legal issues, above all. In fact, the dictates of the process were driven by the Department of Foreign Affairs.

The Chair: Thank you, sir.

Mr. Paul Dewar: Would it be possible for General Gauthier to provide the documents he was referring to? I think he would like that. Could he offer that to the committee?

LGen Michel Gauthier: I couldn't personally, but you can get them from the government.

The Chair: Get what you can, if you will.

Mr. Paul Dewar: Thank you.

The Chair: We're at kind of a crossroads here. We always run out of time at this committee. We have some future business to attend to. We indicated that we'd go to 5 p.m. It will take 40 minutes to get through the next round, and if we start, we're not going to get all the way through it.

What does the committee wish to do?

Mr. Laurie Hawn: Mr. Chair, we have important issues to discuss that really impact on what's going to happen with the committee down the road. We've all had one.

The Chair: To be fair, I indicated to Mr. Wilfert earlier that we might have a few minutes. I was quite lenient on the time in the first round because of the responses we were getting and because of the questions being posed.

I believe it would be best for the committee to go in camera.

Mr. Laurie Hawn: I have a point of order on that, Mr. Chair. I would support, and I believe the NDP would support, doing the motions in public.

The Chair: We usually deal with committee business in camera. Is there any objection to staying in public? We will stay in public, but we will suspend for one minute while we excuse our witnesses.

Thanks, gentlemen.

• _____ (Pause) _____

•

•(1700)

The Chair: Let's get the committee back to order. We have a couple of things to deal with here.

First I'd like to deal with a report from the steering committee that we didn't get to last week. It's been kind of carrying on. It's the fifth report of the subcommittee on agenda and procedure for this committee. Would somebody move that?

Mr. Laurie Hawn: I so move.

The Chair: Thank you very much.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: We have had notice of motion for four different motions. The clerk has compiled them and handed them out in the order in which they came in, from what I understand. She has the dates and times and everything, so we're squared away with that.

The first motion is from Mr. Dewar. Sir, I'll give you a few minutes to speak to your motion.

Mr. Paul Dewar: Thank you, Chair.

The motion, I think, is fairly straightforward: "That the Special Committee on the Canadian Mission in Afghanistan request the following documents prior to the appearance of Mr. David Mulrone", and then they're listed: "all documents referred to in the affidavit by Mr. Colvin; all documents with the Department of Foreign Affairs written in response to the documents referred to in the affidavit by Mr. Colvin and...".

Dispense? I will.

Mr. Chair, the documents that I have listed here—and in particular the last one—are at the dispense of the government. We've heard not only from Mr. Colvin about his desire to have those documents shared with the committee—and I asked him for those—but we also actually heard from General Gauthier and his desire to have the committee have these documents.

I think it's an entirely reasonable request. I don't think it's arduous. I know that we have a very sophisticated system of information dispensation in this city. I believe this could be done within a matter of hours, and it would allow us to do two things, Chair, and then I'll finish. It would allow us to have the information to have an informed discussion at committee in the area of detainee transfer, and it would also allow those of us who want to hear from Mr. Mulroney—of whom I am one—to be able to hear from Mr. Mulroney with information that he has access to. So it would essentially make it a more well-informed committee meeting.

So I ask this committee to request the following documents prior to the appearance of Mr. Mulroney.

I'll stop there, and thank you, Chair.

● (1705)

The Chair: Okay, are there any other comments?

Mr. Hawn.

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

The government members will support a request for any legally available documents.

I think Mr. Dewar is grossly underestimating the amount of time it would take to assemble the documents, and I'm really referring to all three similar motions across the floor. But we cannot support a motion that is impossible to fulfill within any reasonable time limits, especially if it's a precondition to hearing witnesses who have important testimony. As well, this committee, we believe, is not taking enough cognizance of security concerns on redactions and cabinet confidences. They are not the final arbiter on national security, and we will not violate laws passed by this House on national security.

This motion, we believe, is clearly aimed at preventing David Mulroney and others from testifying. We've already heard from eight witnesses, without documents. We're planning to hear currently from about another seven. There is no need for documents to hear Mr. Mulroney. We believe they are clearly not comfortable with what he's probably going to say, and frankly, we can call him back later if we need to. He is not on another planet.

I do find it a bit surprising the Bloc Québécois is ready to give up their rights to documents in French quite so easily. This government has a responsibility under the Official Languages Act and the Standing Orders of this House to produce bilingual documents. I think it's incumbent upon this committee to respect those long-standing traditions and laws.

For all those reasons, government members will abstain from votes on the motion. While we support requesting legally available documents, we cannot agree with impossible timelines, national

security violations, and clear attempts to muzzle testimony. So for that reason, Mr. Chair, we will not be voting against it, but we will be abstaining from those motions.

The Chair: Are there any other comments on this before I call the question?

Mr. Deepak Obhrai: I have a—

Mr. Laurie Hawn: No. Call the question.

The Chair: All those in favour of Mr. Dewar's motion, please signify in the usual manner.

Mr. Laurie Hawn: On a point of order, Mr. Chair, have all the subs been signed in?

The Chair: Yes, they have. The six who just raised their hands have.

Mr. Laurie Hawn: Okay.

(Motion agreed to)

Mr. Paul Dewar: Can I just clarify, Mr. Chair, that it is incumbent upon you to write to the government to request...? Is that your understanding of this motion as passed?

The Chair: It will be forwarded, yes.

Mr. Paul Dewar: Forthwith? Thank you, sir.

The Chair: Now we have a notice of motion from Mr. Dosanjh.

Mr. Deepak Obhrai: Mr. Chair, on a point of order, Mr. Dosanjh is not here. Is it relevant to discuss his motion when he is not here, or is it withdrawn until he comes forth? What is the procedure?

The Chair: I have to ask, can we deal with a motion presented by a member who's not present? If another member moves it, we're okay.

Does anybody want to move this motion?

Hon. Bryon Wilfert: Mr. Chairman, I'll move it.

The Chair: Okay, it's on the table for discussion. Does anybody want to speak to this motion?

Mr. Laurie Hawn: On a point of order, can Mr. Wilfert simply assume the authorship of that motion, Madam Clerk?

The Chair: Well, the clerk advised me that another member could move the motion, or anybody could move the motion. Mr. Dosanjh has presented a notice of motion and somebody else can move, but the clerk is going to double-check. We'll just hold on for a second.

● (1710)

Hon. Bryon Wilfert: Mr. Chairman, could I withdraw and ask Ms. Neville, since she's the substitute? Would that make it easier?

The Chair: It looks as if, from what we can find out in the orders here, that is the way to do it. If Mrs. Neville is substituted in for Mr. Dosanjh, she can move his motion.

Hon. Bryon Wilfert: All right, then I'll withdraw it and I'll turn it over to Ms. Neville.

Hon. Anita Neville (Winnipeg South Centre, Lib.): And Mr. Chair, accordingly, I will move Mr. Dosanjh's motion.

The Chair: Okay, the notice of motion that was presented by Mr. Dosanjh has been moved by Madam Neville. Any discussion?

All those in favour of this motion, please signify.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Now we have a motion that was first passed by Mr. Dewar. The second motion is exactly the same as Mr. Dewar's, but there are a couple of added clauses. So now we're dealing with two motions that have been passed.

Mr. Hawn, you have supplied a notice of motion.

Mr. Laurie Hawn: Thank you, Chair, and it's very simple: that notwithstanding any other motions, the special committee hear from David Mulroney on Thursday, November 26, 2009, from 3:30 p.m. to 5 p.m.

The Chair: You've heard the motion as read out by Mr. Hawn. Is there any discussion?

(Motion agreed to)

The Chair: Now we have another motion from Mr. Bachand.

Sir.

[*Translation*]

Mr. Claude Bachand: Mr. Chair, the two motions we have passed are quite sufficient to cover this matter. Therefore, I see no need to move our own motion. As far as language is concerned, I want to let Mr. Hawn know that I still wonder how I could have said such a thing. I promise that it will never happen again.

We withdraw our motion, Mr. Chair.

[*English*]

The Chair: Mr. Bachand is not proposing his motion, and he thanks you, Mr. Hawn, for your note.

Now we have three motions passed. Did they?

A voice: Yes.

The Chair: And they're somewhat contradictory.

Some hon. members: Oh, oh!

The Chair: So we're going to have to sort that out.

Go ahead, sir.

Hon. Jim Abbott (Kootenay—Columbia, CPC): If I may, I think the motion that we passed of Mr. Hawn's is notwithstanding, and so therefore it stands on its own. I don't think it has to be part of the discussion of the reconciliation of the motions. The reconciliation of the motions is between Mr. Dewar's motion and the motion moved by Ms. Neville.

The Chair: They aren't exactly the same.

It was just pointed out by the clerk, for clarification, that Mr. Dewar's motion indicates that the committee "requests the following documents prior to the appearance of Mr. David Mulroney". It does not say the committee "must have in its possession"; it just asks that they be requested before Mr. Mulroney comes.

Mr. Rae.

• (1715)

Hon. Bob Rae (Toronto Centre, Lib.): I just want to make two things clear to my colleagues.

First, a lot has been said about wanting to stop or block witnesses. Nothing would be further from our intentions or our interests as a party. We want to hear from everybody. But I hope that members of the committee would agree with me that it's a little odd for us to be hearing witnesses who have access to documents to which we do not have access. And we have had the absurd situation today where generals were referring to Mr. Colvin's memos, Mr. Colvin referred to his memos, and the only people who are completely in the dark with respect to what is in those memos are the people who are sitting around this table. You cannot have a serious determination of facts unless you can get access to the information.

So we'll be using every opportunity we can, whether it's in the House or whether it's here, to get access to the information. As a chairman, I hope you'll recognize that we've always tried to move along, to get to the business of the day, to get to the business of the committee, to hear from witnesses, and not use the committee as an opportunity to block any activity. We are really very troubled by this problem of having information.

In addition, the additional problem, which I raised today in the House, is the problem of the fact that Mr. Colvin has now received a legal opinion that is completely contrary to the legal option this committee has received with respect to the extent of parliamentary privilege when it comes to providing information to the House.

I'm not giving formal notice of anything, but I'm going to tell you that we have to get to the bottom of this. This committee has to be able to get to the bottom of things, and right now we're in a position where we simply can't get access to the memoranda. We'll see what happens with the motions that have been passed with respect to our request for information and to what extent the government indicates that they're going to be willing to give them to us.

[*Translation*]

Frankly, we have a problem. We will never refuse to hear a witness, especially on matters as important as those relating to Mr. Mulroney's role on this issue. We are absolutely ready to hear all witnesses. However, we have a problem in that we cannot see the documents. We will continue to demand the documents that we need and I hope we will be able to find the solution which has so far escaped us.

We have been in a rather strange position during the past two days. We have just heard the generals and, last week, Mr. Colvin referred to all kinds of documents and memos. However, none has been provided to the committee. We only have those documents that are public. Therefore, we are unable to put really valid questions to the witnesses. No judge would ever accept to hold such an inquiry if he did not have access to the basic information. That is the problem we are facing.

[*English*]

The Chair: Thank you, Mr. Rae.

Madam Gallant.

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

With all due respect to the member opposite, prior to his arrival on the Hill, when the Liberals were the governing party, on many occasions the defence committee requested documents, and one time we finally did get them after several months, and I believe they attributed three months of delay towards just translation, which is why I presume Mr. Bachand offered to receive the information in the original language that it was tabled in.

When we did receive that Chicoutimi report several months later, it was thoroughly redacted. So I can't accept the allegation that this government is willingly holding back any memos or any other documentation, that they have to be scrutinized for the purpose of national security.

Thank you.

The Chair: Thank you. A number of us were on the committee at that time.

Mr. Wilfert is next, and then Mr. Bachand.

Hon. Bryon Wilfert: Today we heard very direct and very sincere testimony from three generals. We heard very direct and very sincere testimony from a career civil servant. One of the generals, General Gauthier, indicated very clearly that he hopes we get these documents sooner than later.

I have to tell you, after 12 and a half years in this place, I find it reprehensible that we're asked to do our work to seek the truth—wherever that is and wherever that goes—yet obviously some witnesses have access to the documentation. I assume that nobody around this table has seen the documentation. But the point clearly is that we're presumably going to hear Mr. Mulroneu tomorrow, again without the documentation that was referred to.

In the jamming I see by the government, we have a witness coming tomorrow to an unscheduled meeting that we're now rescheduling, which I find quite bizarre. We have a situation today where people are referring to documents that we really cannot validate one way or the other. Both the witnesses today and the witness last week were very sincere and direct when you read the testimony. The truth must be somewhere in the middle—or one of them is obviously not telling the truth. If we're really sincere around the table—politics aside—and are all seeking the same end, which is to get to the bottom of the situation, we need these documents.

I trust that the government will be as forthcoming as it can, notwithstanding any comments we've already heard.

• (1720)

The Chair: Thank you for that.

Mr. Bachand is next, and then Mr. Dewar.

[*Translation*]

Mr. Claude Bachand: There is another basic issue that has not been resolved. When General Watkin appeared before the committee, he explained that his perspective on this matter was of a legal nature. I challenged him on this and said that my perspective was of a parliamentary nature.

Parliamentary committees possess specific rights. I even said that we could interpret laws according to the needs of the committee. And I remember very well, Mr. Chair, that I stated at the end of the

meeting that I strongly recommended to the general to go and meet with his client, the Government of Canada, to see if his client shared his perspective or ours. As long as we do not resolve this matter, as long as we have no guarantee of the primacy of Parliament's right over the legal right claimed by Mr. Watkin, the government will not feel compelled to table this type of document. I would like you to speak to the general.

Are we going to hear all the witnesses only to be told at the end that we will never see those documents? We can compel witnesses to appear but can a committee compel a government or anyone to provide documents? That is a very important matter. I think we will have to look at that. Otherwise, we risk having to hear witnesses without seeing certain documents. We would have a hand tied in our back.

I also want to react to Mrs. Gallant's statement. We have always requested that documents be provided in both official languages and our position has not changed. When we did our study on submarines, for example, we were frequently told that it would take more time because of documents having to be translated.

I am sure you will understand that this is a matter of principle for us and that we will always want to have documents in French. It is not true that it would be a huge task. As a matter of fact, whenever we ask for a translation, we are always told that it will be a huge task. We are told that the committee will be unable to do its work because we will have to wait for the translated documents. However, when it is urgent, the government always finds a solution. Today, I believe that the situation is urgent. The government will have to find a way to provide us with the documents in both official languages and we will have to get a definite statement on the primacy of Parliament's rights over the legal right claimed by the government's representative during our first meeting. I would like you to follow-up with General Watkin. I want to know his answer.

[*English*]

The Chair: Mr. Bachand, to that end, item number 4 in the report, which we just adopted today, was your intervention on that. That instructs that it happen, and it will happen.

Go ahead, Mr. Dewar.

Mr. Paul Dewar: Mr. Chair, the first motion we passed was very explicit: that we want the documents prior to Mr. Mulroneu coming to this committee. I'm just stating that as a fact.

I have to tell you there's a frustration for me, and I'm sure it's shared by members on this side. The idea in our system is that parliamentary committees are able to conduct business without interference from executives. What it feels like right now is that there's interference from the executives.

It's very easy to say, Mr. Mulroneu is here; let him speak. Well, why is it, Mr. Chairman, that the government didn't have Mr. Mulroneu on the list of witnesses while we were studying this motion? Why is it, Mr. Chairman, that when we were looking at this motion, the government didn't even want to study it? Why is it that when the MPCC was trying to do its work—and we've heard their version—the documents weren't forthcoming, and people weren't able to testify?

This committee should be independent. I'll tell you right now that it doesn't feel that way. I think that for a committee of Parliament—not a committee of the executive branch—this is a very important tenet. It's a very important parliamentary principle. I want to know, as a citizen, that my committee is independent from the executive branch and that when a committee asks for something, we will get it and not get excuses.

Put this in an American context. If this were an American committee and a chair was asked to get documents from government—I'm not saying this about you, Mr. Chairman; I'm just giving an example—it would be done immediately. I'm getting the sense from government that they're not ready to do that. I want to know why not, and I want to establish the fact that we want Mr. Mulroney here, but by golly, we also want the documents here, and that's our right.

I'll stop there.

• (1725)

The Chair: Mr. Dewar, I think the motions passed today, and the one in the fifth report, will do just that.

Mr. Paul Dewar: I know that you will.

The Chair: We were going to get Mr. Mulroney here.

However, and this is nitpicking, but the first line of your motion indicates that the documents be requested.

Mr. Paul Dewar: Yes, they will be, by a committee of Parliament independent from the executive. You're darn right.

The Chair: That's exactly what's going to happen.

Okay, we're going to have the bells here pretty quickly, so go ahead, Mr. Hawn.

Mr. Laurie Hawn: Really quickly, Mr. Chair, I sense the frustration, and it's understandable. We will be making the effort to

provide those documents. We will not violate the law, and we will not violate national security. It's as simple as that.

The Chair: Good, thank you.

We have a request for clarification. Go ahead, Ms. Neville.

Hon. Anita Neville: Just for clarification, there's been a sidebar discussion going on with the clerk here. My understanding from what I've just been advised is that by virtue of our passing this motion, the documents will come to this committee.

The Chair: That's what the motion indicated.

Hon. Bob Rae: The issue is the form in which they come.

The Chair: That's our understanding.

We'll have Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chair.

I just want to make a statement. I was kind of disturbed by something Mr. Wilfert said with respect to truth. I think today this committee was privileged to hear from three Canadian heroes who lead Canadian Forces, who are all heroes and serve our country with honour and distinction. I think we should always underline that. We should always appreciate it. We should always appreciate those who protect our freedom, and if there's a question of truth, I'm siding with them each and every day, because they stand for me.

The Chair: We'll have Mr. Abbott and Mr. Rae, and then we're done.

Hon. Jim Abbott: I'll pass.

The Chair: Mr. Abbott passes. Mr. Rae passes.

We'll see you tomorrow.

The meeting is adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:

Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

En cas de non-livraison,

retourner cette COUVERTURE SEULEMENT à :
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>