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Chair

Mr. Kevin Sorenson

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● (1530)

[*English*]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): *Bonjour, chers collègues*.

Good afternoon. Today is Wednesday, March 31, 2010, and this is meeting number four of the Special Committee on the Canadian Mission in Afghanistan.

I would remind everyone that today we are televised, and I would encourage you to turn off your communication devices, whether it's a telephone or a BlackBerry. Your chair is setting the example early, because it's usually he who ends up having a phone call in the middle of everything. We would encourage you to do that.

We are continuing our study of the transfer of Afghan detainees. Appearing as our first witness today is Cory Anderson, the political director in 2008-09 for Canada's provincial reconstruction team in Afghanistan. He is from the Department of Foreign Affairs and International Trade.

We welcome you here today, Mr. Anderson. We look forward to your comments. I have spoken with you previously and I believe your opening comments will be under ten minutes, which will encourage extra questions. I'm sure you've seen these proceedings and how that will go through each party.

Mr. Anderson, welcome to the Special Committee on the Canadian Mission in Afghanistan. We look forward to your opening comments.

Mr. Cory Anderson (Political Director (2008-2009), Provincial Reconstruction Team, Department of Foreign Affairs and International Trade): Thank you, Mr. Chair.

I'll endeavour to keep my comments brief, given the committee's extensive deliberations on this issue to date and to allow for sufficient time for questioning, as you just mentioned.

Members of the committee, my name is Cory Anderson and I am a DFAIT official who has been working on the issue of Canadian-transferred detainees since my arrival in Kandahar in October 2006 as a political adviser to Joint Task Force Afghanistan.

Over the past three years I have held various policy and management positions in Ottawa and in Kandahar. All are related to Canada's whole-of-government engagement in Afghanistan. I've recently completed an assignment as political director of the provincial reconstruction team in Kandahar City and served as a special adviser to the independent panel on Canada's future role in Afghanistan.

As of June 2009 I had spent 20 of the previous 36 months in Kandahar on assignment for the Government of Canada. I have visited the NDS facility and Sarposa prison on multiple occasions during that time.

I am proud to have served in Kandahar alongside the brave and professional men and women of the Canadian Forces, as well as numerous civilian officials. All of them put their lives on the line each and every day in the pursuit of the noble and just cause to bring peace, security, and stability to a land riddled with over 30 years of war and conflict.

Throughout my tenure, managing the difficult and often complicated issue of Canadian-transferred detainees in accordance with international humanitarian law and Canada's international obligations has been a pre-eminent area of concern. As you have already been made aware, beginning in 2007 and culminating with the supplemental arrangement in May of that year, a number of additional provisions were put in place that markedly improved our ability to track and monitor the welfare of Canadian-transferred detainees within the custody of the NDS and ministry of justice.

This was an important step forward, and not only for the well-being of those individuals in question. What distinguishes ISAF support for the current government from systemic abuse suffered under the Taliban and their adherents is not only the principles of rule of law, respect, and internationally recognized human rights, but just as significant is the notion that these values represent a progressive way forward from the fear and repression the overwhelming majority of the population has endured for more than a generation.

We cannot purport change on one hand and then knowingly turn a blind eye to abuse at the hands of Afghan officials on the other, because it undermines the very principles we have sent our men and women into harm's way to promote. It also erodes public confidence, further confusing and alienating a population that has been let down numerous times in the past. And it provides fodder for an insurgency well versed and experienced in the art of manipulation.

The supplemental arrangement and the detainee database established shortly thereafter were instrumental in improving our ability to track and monitor these individuals. Both had a tangible and immediate effect on the ground in Kandahar. David Mulroney, in particular, should be credited with providing the leadership necessary to implement these new provisions.

In my experience, the challenges we faced on the detainee file prior to the consummation of the supplemental arrangement were essentially a microcosm of two fundamental issues. The first is the endemic and systemic duplicity within the NDS, especially at the provincial level, which exists to this very day and renders it virtually impossible to have an open and transparent relationship with their officials on the ground in Kandahar on this issue. This was exacerbated by an initial transfer arrangement that was deficient, not only due to a lack of content, but also due to the fact that it was co-signed and endorsed by a Canadian general and the Afghan Minister of Defence, General Wardak. Both absolved their specific organizations of any direct responsibility for post-transfer follow-up or monitoring.

This means that prior to May 2007, this critical undertaking was left to the Afghanistan Independent Human Rights Commission, a fledgling organization that was essentially shut out by the Afghan security apparatus and the ICRC within the context of their broader monitoring of Afghan detention facilities in general. They, of course, do not report to us.

The Afghan Ministry of Defence has no authority over the NDS, and unlike Dutch and British forces operating in RC south, Canadian Forces made it clear from the outset that their oversight and responsibility for Canadian-captured detainees ceased upon transfer or release.

From my perspective, the time it took to draft and consummate the supplemental arrangement was not due to an unwillingness to improve upon the original transfer arrangement—far from it. We recognized its shortcomings almost from the moment I arrived in Kandahar. Nor was it the result of extensive negotiations with the Afghan government. Rather, it was a consequence of the fierce debate raging in Ottawa between military and civilian officials related to the exact nature of Canada's monitoring regime, given the very real concerns we as Canadian officials had regarding the willingness and intent of the NDS to legitimately abide by the stipulations of any new arrangement. This debate could not have occurred if senior Canadian officials were not fully aware of the plausible risk of abuse faced by Canadian transferred detainees at the hands of the NDS.

● (1535)

Almost from the outset, the supplemental arrangement resulted in what is essentially a two-tiered system, one where the Canadian Forces enjoy an intimate and comprehensive relationship with the NDS on a daily basis related to all aspects of military operations and intelligence gathering, but refuse to wade into the one facet of that relationship where adherence to our international obligations is most at risk, forcing civilian departments, namely DFAIT, to implement an extensive monitoring regime where the military's only role is that of providing transportation to and from the facility, along with the general security that that entails, thus giving the monumental task of monitoring within an inherently secretive institution such as the NDS to a handful of Canadian civilians who are viewed with suspicion and lack the comprehensive relationship with NDS officials that transcends detainee management and oversight.

As the committee has already heard, the creation of the associate deputy minister position at DFAIT responsible for coordinating the Afghan effort, then later moved to PCO upon the establishment of that Afghanistan task force following the Manley panel recommendations, was essential to mitigating many of the previous disconnects that were most evident on the ground in Kandahar in 2006-07, where the Canadian Forces were, and remain, the overwhelming face of our Afghan mission and individuals like myself were too few and often crowded out by the immensity of the task at hand.

The Chair: Excuse me, Mr. Anderson—

[*Translation*]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Is it possible to slow down a bit for the interpreters?

[*English*]

The Chair: Could we just encourage you to slow down a little bit? The translators are having a difficult time keeping up.

You don't have to go back.

[*Translation*]

Thank you very much, Ms. Lalonde.

[*English*]

Mr. Cory Anderson: As we increased the number of civilians and the seniority of our officials, this dichotomy began to change over time, but in my view, despite our best efforts to work collaboratively with the NDS in terms of offering human rights training and providing their facility with considerable infrastructure improvements, we have never fully nor adequately managed to address the inherent shortcomings of that institution as a viable partner working alongside our officials on a matter of this import.

Thank you for your attention.

The Chair: Thank you very much, Mr. Anderson.

We'll move to the first round. Mr. Dosanjh, you have seven minutes.

Hon. Ujjal Dosanjh (Vancouver South, Lib.): Thank you, Mr. Anderson.

I have a couple of questions, and if there is time left, maybe my colleague can share that with me.

Mr. Anderson, during your 20 months there out of the 36, did you have occasion to brief any ministers or the CDS?

Mr. Cory Anderson: I've had conversations with various ministers and senior military officials during their time in Kandahar when they would visit the PRT and CAF. We would brief them on a number of pertinent issues of the day related to all sorts of issues—rule of law, general operations. The detainee issue was generally one we would talk about, but it was not talked about, in my experience, at least, as a single, stand-alone item, but more broadly, as part of a larger discussion of the situation at the time they arrived.

● (1540)

Hon. Ujjal Dosanjh: Would that be in terms of how we were managing the detainee abuse situation?

Mr. Cory Anderson: I wouldn't characterize it as managing the abuse situation as much as managing the arrangement that we have in place with the NDS and with the officials at Sarposa Prison. There was a general consensus, obviously, that there were concerns, especially on the NDS side, with the people we were working with. So in the context of those discussions, we would raise certain issues related to detainees, which were one among a number usually.

Hon. Ujjal Dosanjh: On the NDS side, was that concern about the detainees shared, for instance, by General Hillier, to your knowledge? I'm assuming you met him during various briefings—

Mr. Cory Anderson: I have.

Hon. Ujjal Dosanjh: —and Minister MacKay. Was that concern shared by them, that they were concerned about abuse by the NDS?

Mr. Cory Anderson: I would characterize it more as a concern over the process by which we had initiated our transfers and an inherent concern with the NDS in particular, that they were a viable partner for us to work with, given the commander's responsibility on the ground to make a decision to transfer or release.

Hon. Ujjal Dosanjh: Were they a viable partner, in your opinion, when you were there?

Mr. Cory Anderson: No, they were not.

Hon. Ujjal Dosanjh: Are they a viable partner now, do you know?

Mr. Cory Anderson: In my personal experience, you need to separate the Ministry of Justice and NDS into two distinct groups. At Sarposa Prison we've had an opportunity to work quite closely with their officials, especially following the prison break. We initiated a number of different programs alongside them. We have Correctional Services Canada officials who mentor them, who are on the ground, spending day after day with them, trying to bring them up to a standard. We don't enjoy that same type of relationship with the NDS whatsoever.

So the difficulty I had as a political director of the PRT was having even a supplemental arrangement and a transfer arrangement, on one hand, that led us to have no other partner, other than the NDS, for at least the initial transfer stage, but on the other hand, lacking a lot of confidence in their officials' ability to play a role that was up to the standard that we expect. There are examples of where we would be frustrated at the PRT in terms of our relationship with the NDS.

Hon. Ujjal Dosanjh: Are you aware of any evidence of torture, at the NDS facilities, of the detainees who were being transferred?

Mr. Cory Anderson: The only ones I'm specifically aware of are the ones the committee has already been made aware of. In my experience and during the interviews and the visits I took at the NDS, we never uncovered a specific allegation of abuse.

I think what has to be taken into the broader context is that we spend about 15 minutes with these people, and we ask them a series of questions according to a template that we developed. It's very thorough, and it's not that we haven't done the due diligence in order to ensure that these people aren't in harm's way. However, if they don't have visible markings or unless they come forward to us and state that they have been abused, we don't have any broader or more specific knowledge of actual cases.

Hon. Ujjal Dosanjh: Whatever you knew about the NDS, you briefed at least General Hillier and Minister MacKay on various occasions.

Mr. Cory Anderson: I would brief people—not just ministers or senior military officials—who came to the PRT if they asked questions about the NDS, or I would often do so proactively. We had a variety of people who would come through Kandahar almost on a weekly basis: senior Canadian officials, ISAF, American... We would brief them on concerns we had with regard to our partnership with the NDS.

Hon. Ujjal Dosanjh: Do you recall briefing Minister MacKay?

Mr. Cory Anderson: I recall having conversations with Minister MacKay.

Hon. Ujjal Dosanjh: How many times?

Mr. Cory Anderson: I cannot say with any certainty, but I would say fewer than five.

Hon. Ujjal Dosanjh: It was fewer than five times? You talked about the detainee issue at least once or twice?

Mr. Cory Anderson: We would talk about issues we were concerned about, things we would characterize as “mission killers”.

Hon. Ujjal Dosanjh: This was one of those?

Mr. Cory Anderson: This was one of those.

Hon. Ujjal Dosanjh: With General Hillier, it was essentially the same? Okay.

I have a question about the JTF 2. Without endangering the troops and without breaching national security, is there anything you can tell us about the JTF 2 and its work with U.S. forces or otherwise? Did you have any concerns about it?

● (1545)

Mr. Cory Anderson: I don't have any specific concerns about the JTF 2 beyond the concerns that we all shared, I believe, with respect to the NDS.

My understanding—and it's certainly not thorough, and I didn't spend a lot of time with the JTF 2 while I was on the ground in Kandahar—is that they follow the same processes for transferring detainees over to the NDS that the battle group does, so that the commander at the time is still forced to make the decision of whether to transfer or release, whether someone was captured via special forces operations or via the general interaction with our battle group troops.

Hon. Ujjal Dosanjh: Your concern was that there was a risk of torture?

Mr. Cory Anderson: I have the same concern that we just spoke about right now regarding the NDS, regardless of how the people were picked up.

Hon. Ujjal Dosanjh: And that is that there was a serious risk of torture?

Mr. Cory Anderson: It is an institution built on secrecy, and it is not necessarily always the most transparent and willing to share information. That behaviour makes it difficult for us to have confidence.

Hon. Ujjal Dosanjh: Mr. Chair, how much time do I have left?

The Chair: You're over time.

Thank you very much, Mr. Anderson.

Madam Lalonde.

[*Translation*]

Ms. Francine Lalonde: Mr. Anderson, I want to get a better sense of some of the things you said in the beginning, when you talked about the difficult nature—that is how I took it—of your relationship with the NDS and detainees, with respect to the population. Where were you located when you were there? Were you in Kandahar?

[*English*]

Mr. Cory Anderson: I spent my entire time on assignment in Kandahar, not in Kabul. At the beginning, in 2006-07, I was based at Kandahar airfield. Then I made a variety of trips on behalf of the Government of Canada with the PRT. That culminated in a job as political director of the PRT in Kandahar City.

[*Translation*]

Ms. Francine Lalonde: As the political director of the PRT, were you in contact with the population?

[*English*]

Mr. Cory Anderson: Absolutely—almost every day.

[*Translation*]

Ms. Francine Lalonde: So then you were in a position to understand that the army's treatment of prisoners was important to the population, and that the population could have a negative view if it thought that prisoners were not being treated well.

[*English*]

Mr. Cory Anderson: Yes.

[*Translation*]

Ms. Francine Lalonde: Did you discuss the problem you described to us with General Hillier, for example?

[*English*]

Mr. Cory Anderson: I never discussed anything that specific with General Hillier. More of my contact with senior military officials was with individuals like General Gauthier and the specific commanders who were in charge of Joint Task Force Afghanistan during their time on the ground, starting with General Grant and going through General Laroche, General Thompson, and General Vance.

[*Translation*]

Ms. Francine Lalonde: At one point, you said that the problem was duplicity, and that you were never able to solve it but that you had tried.

● (1550)

[*English*]

Mr. Cory Anderson: Yes. On more than one occasion we tried to work with the NDS by offering them human rights training. We had a very substantive program established through the Global Peace and Security Fund to provide infrastructure improvements—a large wall on their compound. They were attacked twice during my time in Kandahar and suffered some damage.

We tried to initiate a more personal relationship with their senior officials on the civilian side. That was one of my priorities as political director. I endeavoured to spend more time with them on a personal basis to try to get to know them a little more so we didn't always just have to show up and meet them for detainee interviews. It was difficult. They were busy people themselves. They spent lots of time outside of the NDS compound and were not interested in coming to the PRT. In order to facilitate any type of relationship with them, we always had to go to them. There are inherent challenges with that, as I'm sure you're aware, travelling back and forth between the PRT and the NDS facility on a daily basis.

[*Translation*]

Ms. Francine Lalonde: Were you able to determine why the people at the NDS had that attitude and used violence and force? Did you try to figure it out, and did you come up with any answers or theories?

[*English*]

Mr. Cory Anderson: I would question the NDS on a weekly basis regarding some of their practices, some of the things I felt we could assist them with in professionalizing their personnel. We have a very robust civilian police contingent at the PRT that was willing to work with them on different types of interview tactics and other ways to act more professionally.

The NDS did not show much interest—often no interest—in developing any more of a substantive relationship with us, as civilians at the PRT, than what was required under the letter of our arrangement, which was to allow us access to the individuals they had who had been transferred over by the Canadian Forces.

[*Translation*]

Ms. Francine Lalonde: Did you come to the conclusion that for the good of the mission, detainees should no longer be transferred to the NDS but somewhere else instead? Did you discuss it with anyone in the military hierarchy?

[*English*]

Mr. Cory Anderson: I and others have raised with a number of different officials over the years the possibility of having other partners, in terms of who ultimately houses Canadian-transfered detainees. I do not report to the military. I have my own chain of command. We made it very clear during my time on the ground in Kandahar, but also during my time at headquarters, where I worked for the Afghanistan Task Force at Foreign Affairs, that the difficult challenge we faced on this issue was a lack of partners in order to transfer them over. There was also the fact that the precedent had been set through the original arrangement, and also via our allies, as the NDS as our partner, and the fact that the NDS ultimately is going to have their opportunity to interrogate, regardless of where the first point of contact originates in terms of our own transfer. They're ultimately the intelligence service in Afghanistan.

In hindsight, I wish I had been perhaps a bit more vociferous in terms of trying to come up with alternatives, given the knowledge that we had about the NDS as an institution. There were certain different alternatives on the table at various times—an ISAF facility that came and went that some of our allies in the south were interested in pursuing. I think we probably could have tried a bit harder back in 2006-07 to see if there was any capacity within the Afghan National Army to be that first point of contact. They are the most legitimate and well-respected aspect of the Afghan security apparatus. We could have done more there.

The Chair: Thank you, Mr. Anderson.

Mr. Obhrai, please, seven minutes.

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

I want to thank Mr. Anderson for coming and giving us his perspective, specifically the main perspective, because he is a very key player in coming out and working with the new enhanced agreement he's talking about. This was because the previous agreement, done in 2005 by the previous government—as you rightly pointed out—had a lot of flaws that created a lot of concerns with you, your officials, the department officials, and every one of the Canadians out there.

Well, let me just first go back and say that we are here in a theatre of war. We are not in a peaceful environment; we are in a theatre of war. So I want to commend you. I want to commend the people who have worked hard to ensure that humanitarian law and everything else that Canada is known for is done. You went there and recognized the deficiencies of the 2005 agreement. You diligently worked on that, so let me say to you this. After the 2007 agreement that you and the officials worked very hard on, are you satisfied that the overall situation, the work that you and the people of the department did, met Canada's international obligations?

● (1555)

Mr. Cory Anderson: I think we did as much as we could, given the context. With the benefit of hindsight, we could have spent more time coming up with an alternative to the NDS as such a substantive partner for us on the ground in Kandahar.

I think the 2007 arrangement would be recognized across the board by most officials as a vast improvement over the original transfer arrangement. The inherent challenge with the 2007 arrangement is not unlike the inherent challenge with the 2005 arrangement, though. That is, it doesn't change the partnership we have with the people on the ground in Kandahar whom we are bound to work with in the NDS, and we certainly had better insight into what was happening to the people we transferred. I do believe that had a tangible effect on their well-being, because we were able to get in, to interview them, and ensure that there was a level of transparency, at least with the people we handed over. But it doesn't change the inherent behaviour and organizational structure of the NDS itself. It's still guarded and shielded behind a wall of secrecy that I think should give us pause.

Mr. Deepak Obhrai: Let me just ask this question. While you are saying the NDS, in your view, is an organization that requires a lot of improvement, Canada will continue making those improvements in training and teaching there, but there's a lot of ground still to cover on that aspect, as you rightly pointed out. You and your colleagues—David Mulroney, with whom you worked, and Scott Proudfoot—have indicated that 2007 was a remarkable vast improvement regarding the transfer of detainees. They indicated this, and I want you to think about it and make a statement. They were not made aware of any first-hand allegations of torture. Would you agree with that, as you were on the ground?

Mr. Cory Anderson: Prior to the 2007 arrangement?

Mr. Deepak Obhrai: After 2007.

Mr. Cory Anderson: There were specific allegations of abuse after 2007. We uncovered them in October of that year and stopped transfers until February of 2008.

But my sense is the reason there were no specific allegations of abuse prior to May of 2007 is that we didn't have an instrument in place that would allow us the ability to find out, and we weren't doing any monitoring.

Mr. Deepak Obhrai: That was the previous agreement, but then you improved this agreement and then everyone came out here. After 2007 and after torture had come in front of the committee, when the transfers were stopped, and then were resumed by all these things, the situations were returning to normal and there was no credible evidence of torture, and whatever there was, you guys investigated.

Mr. Cory Anderson: We demanded an investigation by the Afghans into the allegations we uncovered in the fall of 2007. They did that investigation. It obviously satisfied the senior officials here in Ottawa, in DFAIT and in the Canadian Forces. My understanding from where I sit is that at least it gave the Canadian Forces the confidence to resume transfers, or else they would not have resumed them.

● (1600)

Mr. Deepak Obhrai: Right. So you were confident in the work you did.

You were the one who contributed immensely to the Manley panel report, and specifically the six priorities over there. And you have seen the latest reports on the development aspect in meeting the six priorities of the government. What's your view on that now?

Mr. Cory Anderson: In the context of my service as special adviser to the Manley panel, the report recommended that Canada develop priorities and streamline our approach so we could be better equipped to deliver on certain specifics, as opposed to the broad approach that preceded the Manley report.

Following the recommendations and the Manley panel's delivery of the report to the Prime Minister and subsequently to Parliament, the government developed the six priorities and the three signature projects. They weren't recommendations from the panel itself; the panel just recommended priorities and signature projects, and then it was up to the bureaucracy and the government to develop what those priorities and signature projects would be.

Mr. Deepak Obhrai: You must have read the last report that came out, just as a person who was on the ground, who was involved in a lot of these things. What do you feel? Are you satisfied with the development work that has been going on?

The Chair: Thank you, Mr. Obhrai.

Mr. Anderson, very quickly.

Mr. Cory Anderson: I am satisfied to the extent that I think it's as much as we can expect, given the security conditions on the ground.

The Chair: Thank you, Mr. Anderson.

Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair.

And thank you to our guest for appearing.

One of the things I think we've all been taken with is the fact that we've had people who have said they had concerns about the way the transfers were being monitored. And I think you've outlined clearly that there was a concern. We heard this when we had the generals in front of the committee, that the military's position was that once the detainees were handed over, their responsibility ended there. Is that your belief as well?

Mr. Cory Anderson: Yes, other than providing civilian officials with the transportation necessary to get to the NDS facility and back during the course of those monitoring visits.

Mr. Paul Dewar: So when the detainees were handed over before, at least before 2007—and I'll talk about after 2007, after the change in the agreement—it was handing over detainees and then it was very difficult to monitor. The military's position was that they didn't have any role in that.

And when we talked to people from DFAIT who were responsible for working with the Afghan Independent Human Rights Commission, they had a real problem—and Mr. Mulroney had to deal with this—in terms of knowing how many were transferred, where they were, or what the conditions were. So it would be nearly impossible to know if anyone was mistreated or abused. Is that the case?

Mr. Cory Anderson: I agree. In 2007 we had a terrible time trying to track down all the individuals who had been transferred prior to that.

Mr. Paul Dewar: Okay.

After the agreement, we were still handing over detainees to NDS facilities, correct?

Mr. Cory Anderson: Yes.

Mr. Paul Dewar: And we still are, correct?

● (1605)

Mr. Cory Anderson: Yes, to my knowledge.

Mr. Paul Dewar: Yes, to my knowledge as well.

I have an affidavit from a court case in the U.K., from someone who had a similar job to yours. The affidavit is quite revealing. It says a lot of the things that you're saying. It in fact says that the NDS does not appear to be of any ministry, nor does it appear to have to be overseen by any constitutional body. I'd suggest that it is not accountable to anyone, save the president. However, even this has been disputed.

There's further testimony going back to Amnesty International conclusions and Human Rights Watch that all say the same thing, that the NDS is implicated in torture, in human rights abuse. These reports were not state secrets. In fact, what this person who worked for the U.K. government and was in the region is saying is that in light of that, there's no way to work with the NDS; they can't be reformed. In other words, we should stop transferring detainees to NDS facilities.

Would you agree with that assessment that we should stop transferring detainees to the NDS facilities in light of the reports, that Human Rights Watch, Amnesty International, and many other institutions have stated that they just can't be trusted?

Mr. Cory Anderson: I would agree with the bulk of that statement. It's certainly no secret the way the NDS has behaved over time. In my view, they are not accountable to anyone, perhaps other than the president.

Mr. Saleh is considered a de facto cabinet minister himself. The people we worked with on the ground in Kandahar over my time, Mr. Quyaum and now Mr. Momin, sit at the governor's table for meetings not unlike this, almost independent of the rest of the Afghans they work with.

Mr. Paul Dewar: So it would be very hard for Canada to be saying it's following international law when it comes to human rights if we're in a partnership or have an agreement that relies upon the NDS?

Mr. Cory Anderson: I'm not so certain I would go that far, but I do believe there are inherent structural behavioural examples within the NDS that should give us pause, and that we as a community in Regional Command South, through ISAF, including our allies, should review, better now than never, whether they are a viable partner for the coalition going forward.

Mr. Paul Dewar: In your opinion, should we be transferring detainees over to NDS, then?

Mr. Cory Anderson: I don't see there being as much of a problem right now in us transferring detainees, because we have such a rigid oversight mechanism for the specific individuals we transfer over. We have, by and large, been able to get in and do interviews in a timely manner within, ideally, the 48-hour period in order to see them.

The challenge is how to reform the inherent structure of the NDS and how to change their behaviour. I do believe that Canada, through our history of promotion of human rights, should be concerned for all individuals who end up in the custody of an organization such as that, and not simply just the ones who we happen to transfer over ourselves.

Mr. Paul Dewar: If I may, Chair, I want to read a quick synopsis of a recent event that implicated the NDS. It's from a Human Rights Watch report dated December 21, 2009. It's about torture and death attributed to the NDS.

> ...was concerned that the marks on Basir's body may have been signs of torture. The family took the body of the forensic department of the health ministry where an autopsy was carried out. The findings have not been made public.
>
> The family reported that security agency officials later came to the house where the body was held and gave them the message to bury the body. When the family tried to take the body to Parliament, they said agency vehicles blocked their way, that the NDS basically inhibited their ability to bury the body, but also that their suggestions that the person was alleged to have committed suicide by the NDS, but in fact was tortured to death.

I have to say, with what I'm hearing from the U.K.—the U.K. has now stopped the transfer of detainees to NDS facilities—in light of the most recent reports and what you've told us, I believe it would be very difficult for me as a parliamentarian to have confidence in the NDS as a partner we can actually have trust in.

The Chair: Thank you, Mr. Dewar. Your time is up.

We'll come back to the government side.

Before we do, as a prerogative of the chair, I want to ask something. You mentioned the 15-minute visits you had with prisoners and that there really was no clear evidence of torture, although there may have been different allegations. Did you ever meet with prisoners prior to the 2007 new transfer agreement?

Mr. Cory Anderson: No, I did not.

The Chair: The old transfer agreement would not have permitted access, because that agreement didn't lay out access as a condition. Yet despite not seeing any prisoners, you were aware of the need to improve this based on what? Rumours? Allegations? And where were they coming from?

Mr. Cory Anderson: It was based on a multitude of factors. When I was in CAF in 2006-07, RC South was under Dutch command. The Dutch had very real and overt concerns. They didn't hesitate to share them. We, as Canadian officials, began to understand the situation on the ground, I think, a little better over time, and we started to realize that the NDS itself was in need of some reform. Our allies had more robust transfer arrangements at that time that allowed for monitoring and other aspects. We saw that we could benefit from their experience with NDS, specifically.

● (1610)

The Chair: So in spite of not really visiting with any of these prisoners, the recognition that we wanted to improve the transfer agreement was there. Since that point in time, in your visits, there has been no clear evidence of...

Mr. Paul Dewar: Point of order, please. I'm wondering why the chair is engaging in questioning.

The Chair: This time is coming off the government's side.

Mr. Paul Dewar: Okay, I just wanted to be clear, because I'm not used to this line of questioning.

Mr. Cory Anderson: We did not visit the NDS facility routinely as civilians prior to May 2007.

The Chair: Thank you.

We'll go to Mr. Hawn.

Mr. Laurie Hawn (Edmonton Centre, CPC): Thank you, Chair.

I'd like to quickly follow up on that. You did say, Mr. Anderson, and this is pretty much a quote, that in your visits you were very thorough, and you never uncovered a specific allegation of abuse. Earlier you said that the Afghans were well versed in the art of manipulation. That would be the Taliban, I'm guessing.

Mr. Cory Anderson: It would be the insurgency, yes.

Mr. Laurie Hawn: Were those statements accurate? Would someone be reluctant to say they'd been abused, do you think?

Mr. Cory Anderson: I think so. Again, that's conjecture on my part, without the benefit of specific signs of abuse on the body.

Mr. Laurie Hawn: That is even given the Taliban manual that basically says to allege abuse in all cases, no matter what?

Mr. Cory Anderson: I'm not aware of an example, when I interviewed people or was privy to conversations with people in the custody of the NDS or in Sarposa Prison, of their being briefed to charge...

Mr. Laurie Hawn: It's part of their training. It is part of the Taliban training.

I want to go to conversations you had or meetings you had with Minister MacKay. You mentioned that you'd met many times. It was really somewhere between one and five.

Mr. Cory Anderson: I'd say so.

Mr. Laurie Hawn: Were any of those meetings one-on-one, or were they always in groups?

Mr. Cory Anderson: The majority of them were in groups. We would chat, too. There were always conversations that would happen around the PRT or KAF, as well. But if you're talking formal briefings, of course there were other people in the room.

Mr. Laurie Hawn: You never had an occasion or took an occasion to speak to the minister one-on-one about concerns.

Mr. Cory Anderson: When he would come through, we would talk about the general situation on the ground in Kandahar. I think we had a very constructive relationship, and he was always interested in hearing from me and other civilians about issues and the state of play.

Mr. Laurie Hawn: There were no one-on-one conversations about specific concerns about prisoner abuse and so on.

Mr. Cory Anderson: We would talk occasionally about the NDS, in general terms.

Mr. Laurie Hawn: It was in general terms and in groups.

Mr. Cory Anderson: Yes.

Mr. Laurie Hawn: Thank you.

When you go to a place like Afghanistan, it's obviously natural to have concerns. You talked earlier about a standard we would expect from the NDS or from the Afghans. Of course, the Canadian standard and the standard in a place like Afghanistan will never be the same. Is that fair to say?

Mr. Cory Anderson: I believe that human rights standards apply whether you are in Somalia or Afghanistan or Ottawa.

Mr. Laurie Hawn: The standards apply, but would we expect the same level of performance, realistically, from a Canadian in Ottawa as we would in the boondocks in Afghanistan?

Mr. Cory Anderson: Yes, we would, because we have seen evidence of that behaviour in Sarposa Prison among officials. They have been mentored and trained by Canadian officials and have benefited.

Mr. Laurie Hawn: That's exactly my point. We work with what we have. When we go to a place like Afghanistan or Rwanda or Somalia or the Congo, we're going to expect to have concerns. Is that fair to say?

Mr. Cory Anderson: It's fair to say that it is not the environment of North America.

Mr. Laurie Hawn: Exactly, so we're always going to have concerns about places like that.

Is it also fair to say that one of our primary roles when we go to a place like that, in the context of human rights and so on, is working with the people who are there—in other words, playing the hand we are dealt with? I mean, you have to work with what's there, in this case the NDS.

Mr. Cory Anderson: You have to work with what's there, as long as you're aware of all of the details and the situation at hand. The United States, for all of its close and much more in-depth relationship with the NDS than ours, still has its own detention facilities in Afghanistan. They don't work with the NDS in the same way we do in terms of transferring detainees.

● (1615)

Mr. Laurie Hawn: That's absolutely true. The fact, though, is that Canada is there. As you said, and we know this to be true, we have worked very diligently with the NDS, the prison system, the Department of Justice to raise their level to as high as we can get it.

Do you think their level will ever be the same as the level in Canada?

Mr. Cory Anderson: I did not see an improvement in NDS behaviour throughout my time there. I have seen it at Sarposa Prison.

Mr. Laurie Hawn: Would you believe it if I told you that the people in charge of that now in Kandahar said at Christmas time there has been considerable improvement—not to where we would like it to be, but there has been improvement.

Mr. Cory Anderson: I would take your word for that, sure.

The Chair: Thank you, Mr. Anderson.

Mr. Rae.

Hon. Bob Rae (Toronto Centre, Lib.): This is really the critical point. Whatever improvements there may or may not have been, I hear your testimony saying two things: one, that we've had to be conscious all the way through of our obligations under international law with respect to torture; and two, that if we believe there is a risk of torture, we don't transfer prisoners. That's our obligation.

Would you agree with me?

Mr. Cory Anderson: Yes.

Hon. Bob Rae: There isn't a standard for Afghanistan that says, well, it's okay for that to happen in Afghanistan, because their country is at a lower level of development than somewhere else? That's not part of the Geneva Convention.

Mr. Cory Anderson: No, it's not.

Hon. Bob Rae: Okay, I asked just so we're clear on that.

What I also heard you say was that in your experience, while there was a receptivity to training within the prison system within Afghanistan and within policing, and so on, which we've been engaged in, you didn't find the same receptivity with respect to the NDS. Is that fair?

Mr. Cory Anderson: That's correct.

Hon. Bob Rae: In fact you describe the duplicity within the NDS as being endemic.

Mr. Cory Anderson: Yes.

Hon. Bob Rae: What do you mean by that? Give me some examples. Give me a specific example that lets me understand what that means, when you say so as an official who's been there for nearly two years.

Mr. Cory Anderson: I am aware of the public setting we are currently in, which makes answering a question such as that a little bit difficult.

We have uncovered numerous examples in our time working with the NDS where not only were they not receptive to additional training, as you mentioned, but also were subject to different pressures and behaviour that not only gave me pause, in terms of having them as a viable institution, but also the Canadian Forces and ISAF writ large. It could be anything from bribery to pressure, including tribal pressure and pressure from specific individuals in Kandahar, the power players within the community who may or may not have liked the fact that Canada had picked up, by way of hypothetical example, an individual in Panjwai and transferred him to the NDS, but who happened to be the brother or cousin of someone of influence in Kandahar, and lo and behold a few days later he would be back out on the street. That happened with regularity.

Hon. Bob Rae: I understand the pressures you're under, and nobody's trying to put you on the spot. I assume you have discussed your presence here and your testimony with your colleagues at the foreign affairs department—

Mr. Cory Anderson: I have.

Hon. Bob Rae: And with your superiors?

Mr. Cory Anderson: I have.

Hon. Bob Rae: As well as with officials from the Ministry of Justice?

Mr. Cory Anderson: I have.

Hon. Bob Rae: And what have they told you?

Mr. Cory Anderson: They have told me that my responsibilities as a public servant are not to be admonished during the committee hearings. So the ability to speak frankly in a setting like this is made more difficult by interpretations by the Ministry of Justice on what actually pertains to be national security and operational imperatives.

Hon. Bob Rae: So you've been told there are certain things you can't tell us.

Mr. Cory Anderson: I haven't been told there are certain specific things I can't tell you. What I've been told is that I as a public servant am still under the terms of any public servant, and those are defined by the Ministry of Justice, in my view, quite rigidly.

Hon. Bob Rae: Have you sought any independent counsel?

Mr. Cory Anderson: I've had conversations with individuals who have approached me proactively offering their services.

Hon. Bob Rae: When you said you talked to the minister about NDS, did you share with any minister or with anyone in a position of responsibility what you've described today as a pattern of duplicity with respect to NDS?

● (1620)

Mr. Cory Anderson: I didn't have to. We have had these conversations in large groups all across the board in Kandahar and in Ottawa. The behaviour of the NDS, when it comes to how they react to certain pressures placed upon them by tribal elders or people of influence throughout Kandahar, has been common knowledge among senior officials, civilian and military.

Hon. Bob Rae: Do I also hear you saying in your evidence that, contrary to what some people who've spoken out recently have said, you believe that in fact there was an alternative and there is an alternative to transferring to NDS?

The Chair: Thank you, Mr. Rae.

Mr. Cory Anderson: I think it's never too late to investigate those possibilities. As I said in my earlier testimony, in hindsight I wish we would have pursued those other two tracks a little bit more vociferously, the ISAF facility and potentially another Afghan agency, such as the ANA.

The Chair: Thank you, Mr. Anderson.

Mr. Abbott.

Hon. Jim Abbott (Kootenay—Columbia, CPC): I would like just a little more clarification on the questions my colleague was asking you about the expectation of performance. Is it responsible or reasonable that we, sitting here in Ottawa, should expect that the NDS, using Afghan standards, would come up to the standards we would expect of our professional bureaucrats and soldiers?

Mr. Cory Anderson: It is reasonable, because the Afghan constitution is based on those very principles themselves, and the officials I was involved with at the NDS were as aware of the Geneva protocols and other international human rights legislation as we were. It's not through a lack of knowledge or understanding.

Hon. Jim Abbott: I don't want to get into a debate with you. I'm just wondering how realistic that is, but I'll leave that.

In the time you have been involved on this file, either in Afghanistan or in Ottawa, have you ever been aware that although you or somebody else in a position like yours has offered considered professional advice to the government on issues, it has just arbitrarily decided to go in an opposite direction?

Mr. Cory Anderson: Sorry, but I'm not sure I understand the question.

Hon. Jim Abbott: In the relationship between the civil service and the elected government, there is a responsible dynamic tension when the elected officials on behalf of the government say, “Let's go to point A”, and the professional civil service, for whatever reason, with other insight, perhaps, or other judgment says, “Let's go to point B”. That is common, whether we're talking about the department of health or the army.

Mr. Cory Anderson: Oh, sure.

Hon. Jim Abbott: My question is whether, in particular, you yourself have ever had it happen that when you offered your professional advice or watched other people offer their professional advice to the government, the government has just arbitrarily gone in a different direction?

Mr. Cory Anderson: Yes. To say the government went in a drastically different direction is a bit of an overstatement, because there's such a large bureaucracy in operation. I have certainly offered advice and have seen colleagues of mine feed different ideas and initiatives up the chain of our command to greater or lesser success, depending on the issue.

Hon. Jim Abbott: I apologize for putting you on the spot, but the opposition consistently tries to make out that somehow the Government of Canada is responsible for activity that may border on or actually be accused of being war crimes, and yet we—this is the purpose of my question—to the best of my knowledge have consistently... Whether it's been DFAIT or the army, whoever has been offering us their professional advice has been joined at the hip in this operation, where the Government of Canada has followed it. To say that the Government of Canada somehow is guilty of war crimes is to say you're guilty of war crimes.

The Chair: Mr. Anderson.

Mr. Cory Anderson: I fail to see the connection between all of those blocks. But at the same time, if we have an open and honest debate about this issue in particular, we should be able to learn certain principles, behaviour, and practices that we could then employ on further international engagements we're going to find ourselves in down the road. To think that officers and diplomats should be worried about the prospect of being accused of war crimes, for me, at least, is a little bit much.

● (1625)

Hon. Jim Abbott: I agree with you.

The Chair: Thank you very much, Mr. Abbott.

Madam Lalonde.

[*Translation*]

Ms. Francine Lalonde: Thank you.

That is very interesting.

A few times, you have said that we needed to ask ourselves whether the NDS was a good partner for the future and how it could be reformed. Are you referring to a specific situation, such as the negotiations that seem to be going on now, or some other situation where Canada would work with NATO on a mission similar to the one in Afghanistan?

[*English*]

Mr. Cory Anderson: I'm not certain that there are any other ways we could potentially try to reform the NDS that haven't already been attempted. Given its track record over the past three years, in my specific experience, and from what I've learned from some of our allies, the prospects of the NDS being significantly reformed in one way or another is probably very slim. So given that, I think it is important for us to look at other alternatives.

[*Translation*]

Ms. Francine Lalonde: So in response to the question of whether the NDS is a good partner for the future, what you are really saying is that you do not believe so and that, given all our efforts, we need to find another solution.

[*English*]

Mr. Cory Anderson: I think the NDS can be a good partner for us in terms of generic intelligence gathering and the role it plays as an intelligence agency.

What I am concerned about—and I shared this with the committee today—is when that intelligence gathering oversteps its bounds into a realm where it is breaching its obligations under international standards.

[*Translation*]

Ms. Francine Lalonde: According to you, when Canadians appear to be involved in this situation, it can only leave the population with a negative impression when they hear about it. That is where you say it is harmful to the mission.

[*English*]

Mr. Cory Anderson: I don't think it helps our cause to be so closely associated with the NDS in a very overt fashion because of the specific reputation it has among the population for its behaviour.

One of the challenges we had at the PRT was when we would meet with Afghans, they would give us specific points about what they were concerned about or what their major issues were, and more often than not they were related to situations like this. They weren't necessarily always related to development assistance or general security concerns. What they were concerned about was what happened to their cousin who went missing a year and a half ago, or why some people have been in NDS custody for months at a time without having any charges laid against them, and were they Canadian transferred detainees or were they not? Those were the types of questions we got. They would come to us hoping for and expecting some sort of answer, and more often than not we were unable to provide that because we were only responsible for those individuals who were transferred over by our Canadian Forces.

The Chair: Thank you very much, Mr. Anderson.

We want to thank you for your testimony today. I should tell the committee that I have encouraged Mr. Anderson, as I encourage all witnesses who appear before our committee, that if he would like to expand on his answers to some of the questions that have been brought forward today, he can supply this committee with that written testimony. We would make certain it would be circulated.

We will suspend for one or two minutes and we will ask our next guest to have a seat.

Once again, thank you very much, Mr. Anderson.

● _____ (Pause) _____

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● (1630)

The Chair: Welcome back, everyone.

In our second hour today we will continue our study on the transfer of Afghan detainees. We have testifying before us today Brigadier General Denis William Thompson, the chief of staff of land operations for the Department of National Defence.

General Thompson, we look forward to your opening statement. You were present through the first hour, and you saw how this committee works. We look forward to your statement and then to taking questions from the committee members.

I see Madame Lalonde on a point of order.

[*Translation*]

Ms. Francine Lalonde: Mr. Chair, I have just seen General Thompson. He is certainly an interesting witness. But, according to the committee's planned discussions, he is not the person who should be here, and he is not one of the nine—at least, not to my knowledge. So I just wanted to point out that we agreed on how we would proceed and that we should follow that procedure. I am sorry, but it seems to me that we should stick to the rules we set for ourselves.

[*English*]

The Chair: Yes. Thank you.

The rules basically were that I had requested a number of witnesses be put on the short list so that we could get to our business on this first week very quickly, on very short notice.

General Thompson's name was not on that short list, but was on the broader list. When the others were unavailable, we then went to that broader list. It was on the list of witnesses that had been supplied, so I don't want General Thompson to think that he is our second choice to anyone. But we thought there would be other generals available.

We're very pleased that you're able to be here today and provide testimony, and we look forward to your comments.

Thank you, Madame Lalonde.

Brigadier-General Denis William Thompson (Chief of Staff, Land Operations, Department of National Defence): I'll certainly take that as a compliment. I don't feel like I'm on the B-team.

If I could compliment the committee members on their ties and scarves they're wearing for prostate cancer today, I would have dressed up my uniform with one, but I think the sergeant-major would have had another thing to say about that.

[*Translation*]

Mr. Chair, thank you for inviting me here this afternoon. I am pleased to be here with you today to talk about my experience in Afghanistan.

During my last appearance, we talked about our efforts to build the capacity of the Afghan forces—meaning the Afghan police and army. Since that time, I have held the position of chief of staff of land operations. I am the officer who manages the army's business on a daily basis. It is important for me to say that because, although I work in the heart of our Canadian Forces, I am not involved in the Afghanistan file at this time.

● (1635)

[*English*]

I thought I would cut to the chase and speak directly to the issue of detainees from my time as commander of Task Force Kandahar from 14 May 2008 until 19 February 2009.

Let me state up front that I made certain that my commanding officers and my headquarters clearly understood that from my point of view there were three principal risks of strategic failure. When I speak of strategic failure, I'm talking about matters that if left unaddressed could very well result in defeat. I share these three risks with you cognizant of General Leslie's words to me prior to departing for Kandahar, when he said, and I quote: "Denis, you won't win this war in nine months, but you can certainly lose it." We did neither.

So with respect to those three strategic risks, first and foremost, large friendly force casualties—and by that I mean Canadian and U. S. casualties, because I did have U.S. soldiers under command—would be seen as a point of strategic failure. That doesn't mean that we avoided the fight by sitting inside our forward operating bases—quite the contrary. It does mean that mitigating tactics needed to be disseminated and practised conscientiously, such as those to counter the ever present improvised explosive devices. Nevertheless, we were at war, and during my command tour the mission suffered 25 who were killed in action and numerous wounded. There isn't a day that passes that I don't think of the real soldiers behind those numbers.

Second were civilian casualties. These are often referred to, antiseptically, as collateral damage. Obviously civilian casualties are to be avoided by relying on the considerable discipline and judgment of our Canadian soldiers—discipline and judgment that they apply day in and day out in Kandahar. Here, too, we were not without incidents, due to the complex nature of the environment. It saddened me deeply to learn of the deaths of innocents in Kandahar province. In each of these circumstances the incidents resulting in civilian deaths were investigated by the Canadian Forces National Investigation Service in concert with the Afghan National Police. Bereaved family members were always handled with respect.

The third strategic risk, and that of most interest to the committee today, is the matter of detainees. By the time I arrived in Kandahar as commander, the detainee process was a well-developed, mature system. The tactics, techniques, and procedures for the taking of detainees were well understood at the soldier level, and they were well rehearsed during our work-up training. There was, and is, a task force standing order that covers the handling and transfer of detainees. From the point of capture to their arrival at the detainee transfer facility in Kandahar airfield, the care and movement of detainees was handled in strict adherence with the standards required for prisoners of war under the third Geneva Convention.

I believe the procedure of interest to this committee is under what conditions detainees were transferred to Afghan authorities, in this case the NDS or National Directorate of Security. Within my headquarters there was a committee entitled the commander's advisory group on detainees, which was made up of four Canadian Forces officers and one DFAIT officer. Those Canadian Forces officers were my chief of operations, chief of intelligence, Afghanistan detainee officer, and they were all advised by the task force legal officer. The DFAIT officer was my political adviser. They would see me, or my deputy if I was not in camp, in order to have the file reviewed and to determine if the detainee should be retained, released, or transferred within the next 24 hours. It was a daily process.

The decision to transfer to the NDS was based on whether or not I believed, first of all, that there was sufficient evidence to link the detainee to the insurgency. If the detainee was to be transferred, it would only occur if I was satisfied that, quote, "there are not substantial grounds for believing that there exists a real risk the detainee would be in danger of being subjected to torture or other forms of mistreatment if transferred".

This judgment was based on a review of current reports completed by the responsible DFAIT officer based at the PRT. You just heard from Cory Anderson on how that mechanism worked.

● (1640)

In my time there were no negative reports about the NDS facility in Kandahar City. In general, we tried to not hold on to detainees beyond 96 hours, and were sure to inform Canadian Expeditionary Force Command if that were the case. Nevertheless there were always exceptions.

We had two cases of detainees who were suffering from limited mental capacity. The challenge was to find someone responsible to take care of them, because neither of them met the test for transfer. In one case we found the man's family, and in the other case we asked the International Committee of the Red Cross to look after him.

If a detainee was wounded he was accorded the same medical care as our soldiers. If he was identified as an insurgent and was therefore an eventual transfer case, he remained in the transfer facility while he convalesced. In one case a detainee convalesced in our care for four months.

During my command tour we took a number of detainees, released three-quarters of them, and transferred about a quarter of them to the NDS. In each case I was convinced that the transfer occurred after appropriate due diligence had been exercised to ensure detainees were not entering a facility where they would be subject to abuse or torture.

[*Translation*]

I hope I have been able to answer your questions on the detainees. If not, I would be happy to answer any further questions you might have, keeping in mind that I left Kandahar 13 months ago.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you very much.

We'll move to our first round of questioning with Mr. Wilfert, please, for seven minutes.

Hon. Bryon Wilfert (Richmond Hill, Lib.): Thank you, Mr. Chairman.

General, it's good to see you again. I remember seeing you in Kandahar just a few days after you had arrived. I appreciated the time we spent together there.

You heard the testimony of Cory Anderson, particularly his assessment of the NDS. What are your comments on his testimony? Do you agree with his assessment?

BGen Denis William Thompson: I'm not going to comment on his entire testimony, but I'll certainly speak to the NDS, if that's what you're asking.

Hon. Bryon Wilfert: Yes.

BGen Denis William Thompson: I had a relationship with General Quyaum and, following him, with General Momin. I went every week to what was called the weekly provincial security meeting. It was chaired by the governor and attended by General Quyaum, or whoever the NDS commander was; the Afghan brigade commander; the police commander; the prosecutor; and the general from the Afghan National Civil Order Police. There were six generals and a governor sitting around the table. Clearly, we had a close personal relationship because we were trying to fight the insurgency across the whole province.

My assessment of the NDS in terms of fighting the insurgency was that they were a very valuable partner. We acted on the intelligence we received from the NDS.

Hon. Bryon Wilfert: You arrived in May 2008. There are reports that Brigadier General Laroche, who commanded the Joint Task Force Afghanistan in November 2007, stopped the transfer, and that Colonel Juneau, who was deputy commander at the time, had concerns, particularly about the lack of information they were getting concerning these transfers.

You have indicated that during your time there were no negative reports. What changed that would account for that?

BGen Denis William Thompson: Remember, this is a whole-of-government team. We can't look at the detainee problem as “this is what the army did”, or “this is what the other government department did”. We were working hand-in-hand throughout this whole mission.

● (1645)

Hon. Bryon Wilfert: You had a political adviser.

BGen Denis William Thompson: Not only that, but my partner was the representative of Canada in Kandahar, Madam Elissa Golberg. These are issues we played with all the time. I would say that as an organization, the whole-of-government team together is a learning institution.

So the allegations of torture that came out in November 2007, which resulted in the halting of detainee transfers until February 2008, and all of the activity that went on behind the scenes—which I wasn't present for, but certainly was briefed on by General Laroche—were exactly the sorts of mitigating actions you want to take to learn from the past, ameliorate the conditions for the future, and make sure the transfers can carry on, which they did. I believe the transfers recommenced in late February 2008, and by the time I got there the situation had been fixed to the satisfaction of the whole-of-government team, not just the general.

Hon. Bryon Wilfert: On the transfer of one quarter of the detainees to the NDS, what follow-up was done to ensure there was no abuse?

BGen Denis William Thompson: It's precisely as you heard from Mr. Anderson. As frequently as they wished—but generally speaking, because there wasn't a set schedule—there was a visit to the NDS facility by the DFAIT author responsible for the file, who was based in the provincial reconstruction team in Kandahar City. That visit, as Mr. Anderson pointed out, was facilitated by the Canadian Forces because we're the only guys who can manoeuvre in that space, due to the threat level.

Hon. Bryon Wilfert: In terms of the information you received after the fact, you followed up on that, and obviously your political adviser followed up, and at no time was any information relayed back to Ottawa to suggest anything other than that things were fine on the ground?

BGen Denis William Thompson: During my command tour, there were no reports. I'm responsible, so if some do surface, then I'll take it on the chin; but to my knowledge, there are no reports of any breakdown in the transfer system that we had in place.

Hon. Bryon Wilfert: As you know, General, we're having this issue with regard to redacted documents. Have you seen those documents unredacted?

BGen Denis William Thompson: I have the redacted task force standing order in front of me right here. This was passed on to you. I just wanted to make sure I was reading the same thing, or at least had reference to the same documents you did. It's my signature block on the bottom.

The unredacted version of this does not remove the substance of the document. If you read this, you'll understand the transfer process I just described. I think it's pretty black and white in here. The redacted bits refer to third parties, who we're not supposed to mention for access to information reasons.

Hon. Bryon Wilfert: We know it's pretty black, General.

Obviously what we're looking for is not intelligence information or information that would harm our allies in the operation in any way, but simply whether or not there were any signs of torture. If there were, how were they dealt with and who knew about that torture?

BGen Denis William Thompson: Right. Again, as I tried to make as clear as possible, between May 14, 2008, and February 19, 2009, there were no reports, no cases that were brought to my attention.

Hon. Bryon Wilfert: My final question is what do you attribute that change to—from there being reports prior to your command to absolutely no reports during your command?

BGen Denis William Thompson: As I said, things evolve and people learn. There's no doubt that the system needed to be tweaked as we went along. Those tweaks and those changes were made, and the visit regime tightened up, so we could assure Canadians that the people we were transferring into the custody of the NDS were not going to be subjected to torture or abuse, as outlined in the TFSO. The task force standing order is very clear on that.

The Chair: You have about 15 seconds.

Hon. Bryon Wilfert: This is a hypothetical question, but since that time there have been other reports of abuse that have come out. Would that be a fair statement?

BGen Denis William Thompson: I don't know.

I'm not trying to be coy here. I stepped away from the Afghan file and took up my post as the chief of staff of land operations, which generate forces for Afghanistan, and passed on the lessons I had learned to the next generation of soldiers that would go over there. However, I do not have any special insights into the Afghan file from the day I left, and that's the way it is. I don't have access to the classified system. And frankly, I think it's better for my mental health to step away from the whole thing. That's just me.

The Chair: Thank you very much, General.

Madam Lalonde.

[*Translation*]

Ms. Francine Lalonde: Welcome, brigadier-general.

BGen Denis William Thompson: Yes, that is correct. The same rank as our friend, Guy Laroche.

Ms. Francine Lalonde: There is a military base in my riding, but I have never learned how to decipher the decorations, the stripes, so I say "Mr."

I found your presentation particularly interesting. I would like you to explain what you say on page 2, where it reads:

> The decision to transfer to the National Directorate of Security was based on whether or not I believed there was sufficient evidence to link the detainee to the insurgency. I want to know why say that.

You go on to say:

> If the detainee was to be transferred it would only occur if I was satisfied that "there are not substantial grounds for believing that there exists a real risk the detainee would be in danger of being subjected to torture or other forms of mistreatment if transferred."

I am eager to hear what you have to say about that.

● (1650)

BGen Denis William Thompson: No problem. If you do not mind, I will switch to English.

Ms. Francine Lalonde: Of course, that is why we have simultaneous interpretation. We have excellent, charming interpreters.

BGen Denis William Thompson: That is very kind. Thank you.

[*English*]

Again, there are really two conditions.

First, if there isn't sufficient evidence to link a guy to the insurgency, then there's no point hanging on to him. You have to remember that the conditions under which people are taken off the battlefield are not exactly black and white. It isn't like making an arrest here in Ottawa or something. In the hurly-burly of combat, when you pick somebody up, you may detain a guy because he has gunshot residue on his hands or something of that nature. Then, when he comes back to the transfer facility and he's interviewed by the military police, we determine whether or not there's any evidence that would link him to the insurgency. That's the crime, if you would. That's what we're trying to root out.

The NDS, based on that evidence, will prosecute him inside of the Afghan justice system. If he ends up being a long-term prisoner, he ends up, as was the case for many of our people, in Sarposa prison. I haven't spoken about that because that's a completely different project.

It's almost like you have the county jail—that being the NDS facility in Kandahar City—and then down the street you have the prison, which is where you go after you have been prosecuted if you're found guilty.

So that's number one. If there isn't enough evidence, there's no point in turning the guy over.

I can talk about these poor folks of limited mental capacity. These are people who get wired up by the Taliban—who aren't nice, I think we all appreciate that—with bombs. The Taliban will wire up a guy who happens to be not completely with it and then walk him toward you so that they can detonate him by remote control. When we happen to defuse the thing, we take the guy in as a detainee. We have no idea who he is until we get him back and question him.

We realized, in at least two of these cases, that these guys weren't entirely with it and that they needed to be turned back to their families.

Point number one, then, is that if there is no evidence to link to him to the insurgency, there is no point transferring him—or keeping him, for that matter.

The second element is that of course we wouldn't transfer people if we knowingly knew that there would be—

[*Translation*]

Ms. Francine Lalonde: Excuse me.

You said you do not keep them. You release them?

BGen Denis William Thompson: Yes, absolutely.

[*English*]

Three-quarters of them are given their affairs, which are all catalogued to the Canadian standard. They are driven to the front gate and given taxi fare, more than enough taxi fare to get them back to where they go. Oftentimes—this means telling tales out of school—they hitchhike so that they can pocket the fare. That's not unusual, but that's fine; we're not making anybody rich by doing that.

[*Translation*]

Ms. Francine Lalonde: In the second case, you believe he is linked to the insurgency. So he would be the equivalent of a prisoner of war in this phoney Afghan war. In that case, you transfer him?

BGen Denis William Thompson: Absolutely. There has to be a chance that the insurgent will be convicted in an Afghan court.

Ms. Francine Lalonde: Do you follow him afterwards? You are not talking about following up, just categorizing, I would say.

BGen Denis William Thompson: Yes.

[*English*]

But now I'm talking about the whole-of-government team. It is Canada's responsibility to follow the prisoners through the Afghan system. I would assist, as much as possible, with my whole-of-government partners.

In the case of following the detainee, at least where we were in the south, that meant providing the transportation in this hostile environment to my colleagues from Foreign Affairs so that they could get to these places to visit them—including the Sarposa prison, by the way, which hasn't really been discussed. We facilitated the movement of correction services officers to the Sarposa prison, CIDA folks to rebuild the walls, and that kind of thing.

So while it wasn't people in uniform physically doing the *suivi*, it was members of this whole-of-government team.

● (1655)

[*Translation*]

Ms. Francine Lalonde: If there were signs that a prisoner you had transferred was forced, through violence, to talk...

[*English*]

BGen Denis William Thompson: That's it: we would have cut the transfer and we would have pulled them back.

[*Translation*]

Ms. Francine Lalonde: Would you have known?

[*English*]

Would you have known it?

BGen Denis William Thompson: We'd have been informed by these government officials, yes.

Can I tell you with 100% certitude that I had 100% knowledge of everything that was going on in that prison? You need only look up the date—13 June 2008—and you know darn well that I didn't know what was going on inside Sarposa prison, because it exploded and we lost 900 prisoners. And remember, only a third of those were insurgents; 600 of them were just common criminals.

It's impossible to know everything everywhere in a war. There's just too much friction. But we do the best we can with the resources we're given. Frankly, my whole-of-government partners did the best they could with the resources they had at their disposal.

The Chair: Thank you very much, General Thompson.

We'll now come back to the government side. Mr. Hawn.

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

Thank you for being here again, General Thompson.

General Thompson, you talk a lot about the whole-of-government approach, which obviously is the approach. How would you describe the relationship within that, and not just within our whole-of-government approach but with outside agencies such as the International Committee of the Red Cross? I know you can't get too specific with them.

BGen Denis William Thompson: Again, I restrict my comments to the time I was in command.

I went out of my way to cultivate a positive environment, and so did Elissa Golberg. We created an integrated headquarters and an integrated team. I can't speak for what went on prior to me or what came after. I can tell you that although it wasn't always sweetness and light, there were certainly lots of heated discussions about the way things could go. We always arrived at a compromise that worked for both of us, so I think the relationship wasn't just cordial, it was warm.

With other outside agencies, without telling tales out of school here, just as I had a weekly provincial security meeting with the governor and all the relevant Afghan security actors, at the regional level I would meet with my general, General de Kruif, the Dutch commander. Elissa would be there because we were a team. On several occasions the United Nations representative would be there and the guy who ran the office of the International Committee of the Red Cross. I knew who he was and I had an open-door policy to him. That's all I can say, because they need to protect their neutrality.

Mr. Laurie Hawn: I understand.

Can you say whether at any time the International Committee of the Red Cross expressed any concerns to you?

BGen Denis William Thompson: I can't, no. I can't share that with you, and that's because of the relationship with that organization.

Mr. Laurie Hawn: No. I understand.

Would you say the enhanced arrangement works?

BGen Denis William Thompson: I believe it does. Can it be fixed or ameliorated? Everything can be. Anybody who thinks they have the perfect document is in the wrong business.

Mr. Laurie Hawn: If something goes wrong under that arrangement, it's one of two things: either the arrangement is flawed or the people are flawed in some way. If somebody in the NDS broke down, didn't perform to the standard we expected them to perform to, what would we do about that?

BGen Denis William Thompson: We would inform the commander. I would tell my counterpart if that were the case, but if it was to do with his detainee facility—the prison belongs to a different service—then he would be told by the representative of Canada in Kandahar at that weekly security provincial meeting, if it needed to be said, that General Karimi had better look into this because it's a bit of a mess. But that didn't happen.

Mr. Laurie Hawn: Not while you were there, but we talked about the halting in October-November of the previous year. Obviously, in the extreme case you would halt transfers, as was done.

BGen Denis William Thompson: Right. Not only did they halt transfers, but as I understand it they provided them with training. I think Cory Anderson referred to that. To use that great government buzzword, they did some capacity building to make sure they understood what their responsibilities were as people running what amounts to a county jail.

● (1700)

Mr. Laurie Hawn: So we had a good arrangement. We had a problem with some of the people. We stopped. We helped the people get better.

BGen Denis William Thompson: I believe, yes, and by the time I arrived there the system worked.

Mr. Laurie Hawn: We talked with Mr. Anderson about the standards of international human rights and so on. Obviously, everybody in the world who signs on to it, and that includes Afghanistan, operates to the same standards. Perhaps I didn't phrase it properly with Mr. Anderson, but can we realistically expect the same performance from a country like Canada as from a country like Afghanistan with the people we're dealing with?

BGen Denis William Thompson: I don't know. It's an opinion, but I know there is a UN standard for prisons and jails, and that's what our colleagues, part of the whole-of-government team from Correctional Service Canada, have been working toward. That's the standard they're trying to hit.

Mr. Laurie Hawn: Yes, absolutely. Would that be easier to do in a country like Canada or easier to do in a country like Afghanistan or Somalia or Rwanda or the Congo?

BGen Denis William Thompson: Clearly it's more difficult in the third world; otherwise we wouldn't be there helping them.

Mr. Laurie Hawn: Exactly. Thank you.

To get to a more general question, and this is going to be pretty subjective and it may be indelicate—and you'll tell me if it is. In the kind of environment we're in in Afghanistan, can you accuse a minister or the government of things up to and including war crimes—because that has been alluded to by others—without some of that rubbing off onto the Canadian Forces? I understand why you may not want to answer.

BGen Denis William Thompson: I don't know. The bottom line is if there is a war criminal here, there's only one, and it's me. Read the TFSO. Read the arrangement. It is the commander of Task Force Kandahar, or Joint Task Force Afghanistan, which is the Canadian name, who is personally responsible for the condition of detainees' transfer and their subsequent care, feeding, etc. It is nobody else. It is not a minister. It is the commander. So for the period of time I mentioned, if something went awry, I was responsible, period.

Mr. Laurie Hawn: I don't think anybody in this room would disagree that we support the decisions you've made. We support the work the military has done, and the civilians over there, under incredibly difficult circumstances.

The reason for my question is obvious. It goes to the politics of this whole situation, which, of course, is not your concern, so you don't need to respond to that.

During your time there—

The Chair: Very quickly.

Mr. Laurie Hawn: —we talked about visits, and the DFAIT chap mentioned, of course, that there was no military assistance other than transport. Were there visits, other than DFAIT, to the prison by civilian police, military police, Corrections Canada, in your recollection?

BGen Denis William Thompson: Do you mean the NDS facility?

Mr. Laurie Hawn: In any facility, NDS or Sarposa.

BGen Denis William Thompson: Certainly Correctional Service of Canada went to Sarposa prison on a regular basis. I am aware that the CIVPOL, the civilian police, went to the NDS facility, or maybe the NDS went to them to give them some assistance in what are called “interview techniques”.

We're talking at a level of detail that as a task force commander I'm peripherally interested, but frankly I had a war to fight, so this thing isn't really on my blotter.

The Chair: Thank you very much, Mr. Hawn and Mr. Thompson.

Mr. Dewar.

Mr. Paul Dewar: Thank you, Chair.

Thank you to our guests for appearing again. It's good to see you again.

One of the things I want to establish is that when you were there it was after Governor Khalid had been replaced. Is that right?

BGen Denis William Thompson: No, I dealt with Governor Khalid up until his removal in, I believe, August 2008.

Mr. Paul Dewar: That's right. I'm sorry, I should remember that, because I was in Kandahar when you were there. You had just arrived.

One of the things we raised concerns about at this committee was around Governor Khalid and about the reports around his conduct, because of course he was key to what was happening on the ground, and certainly there were allegations of Governor Khalid being involved in human rights abuse and torture. Were you hearing that kind of reportage in the field about Governor Khalid?

BGen Denis William Thompson: I can't say that I could point out a specific report about Governor Khalid, but it has to be understood that he is a character. He got around the province and he made things happen. I doubt that we had 100% visibility over what he was up to either, but he was not the guy I was transferring detainees to.

● (1705)

Mr. Paul Dewar: Okay, so there was an understanding that you probably want to avoid him in terms of handing over detainees.

BGen Denis William Thompson: No, to be frank, I dealt with this guy on a weekly basis, often more frequently than that. I can certainly tell you that after the Sarposa prison break and following the Taliban taking of the Arghandab district, there was a big battle. We literally planned that battle around his pool table, a billiards table in the basement of the governor's palace. This guy got it. He knew how his province ran, and I made sure that I was as close to him as I could possibly be, because he had his levers on all the controls. Whether he was involved in the torture of detainees or not, I have no specific evidence that would suggest that.

Mr. Paul Dewar: There have been, I'll put it this way, comments about that, because certainly we heard at committee some witnesses who suggested that they had heard about their being involved—

BGen Denis William Thompson: Right, and if you read some of Graeme Smith's stuff from *The Globe and Mail*, he may allude to it as well, but at some point you can only act on the information that is provided to you. At least, in our case I know there are a sea of reports out there, whether they're from Amnesty International or whoever it happens to be. I work for the Government of Canada and I respond to and react to reports that I receive from Government of Canada officials.

Mr. Paul Dewar: On that, Mr. Anderson stated just before that he had never spoken with General Hillier of his concerns and he shared his concerns about NDS, and you heard it. Did he ever share his concerns with you directly about NDS?

BGen Denis William Thompson: Not directly, but remember, Cory Anderson was in the provincial reconstruction team—

Mr. Paul Dewar: I understand the difference.

BGen Denis William Thompson: —and in my travels across the province I might hit the provincial reconstruction team once every fortnight, and I would be briefed. My principal interlocutor, to use that great expression, was Elissa Golberg, and that's where I would get the information upon which—

Mr. Paul Dewar: So she might have gotten it from Mr. Anderson and he might have passed it on—

BGen Denis William Thompson: Absolutely. He was her subordinate.

Mr. Paul Dewar: So did you hear similar things, and did you have similar concerns as Mr. Anderson? You heard him. He was concerned about NDS as a place where we should be transferring detainees. He certainly had read the reports that people had access to, be it international organizations or others. Did you share the concern he has put forward at committee just in this past hour about transferring detainees to NDS facilities?

BGen Denis William Thompson: No, and the information that he introduced here at committee was in some ways new to me. But I didn't hear him specifically say that they feared transferring detainees to the NDS. What he seemed to say to me was they had trouble having them accept capacity-building efforts or training efforts—

Mr. Paul Dewar: Or listening.

● (1710)

BGen Denis William Thompson: —and that they would do things such as react to tribal pressures. Well, my answer to that is, welcome to Afghanistan. It's a bloody complex place and it's full of tribes, and if you don't understand those links, you ain't ever going to make them—

Mr. Paul Dewar: I'm actually putting forward the point that many have suggested, and still suggest, that NDS isn't accountable within the constitution—

BGen Denis William Thompson: I met Minister Saleh, who is the minister responsible for the NDS, and when he came to see me—and this was at Masum Gar, out on a forward operating base—and we discussed how to sort out Bazar-e Panjwai and Panjwai, I didn't get the impression that I was talking to a weak minister who didn't have a grip on his ministry.

Mr. Paul Dewar: No. They're very strong. I wasn't concerned about their strength; I'm concerned about the accountability of the NDS, as has been suggested, to actually be accountable to anyone other than themselves or to a minister who isn't really accountable constitutionally.

The government will have everyone believe that we're trying to set up an equal equation between Canada and Afghanistan. Please. We don't go there. What we do need to know, though, is that when people come forward and say they have concerns about NDS, and when we look at NDS' track record when it comes to detainees—and I understand what you're saying about all the other information and working with them in partnership, but on detainees there seems to be a picture being painted, not just by Mr. Anderson but by others, that when it comes to detainees and the NDS, it's not a great combination.

I'm just wondering if you had heard that, and if you have, if you decided this was something that government should know about, to say, you know what, this agreement doesn't really work when it comes to our handing over detainees to the NDS.

BGen Denis William Thompson: I think I can say categorically no. Otherwise I'd be putting myself... I mean, you might as well lock me up and drag me away right now. Clearly, I was comfortable transferring detainees to the NDS or I wouldn't have done it.

What I find interesting is that Minister Saleh is a civilian. He's not a uniformed member of the NDS. I don't understand how that equates to somebody who's not responsible to civil authority. So I have a little problem with that. But I have to confess, I don't know the inner workings of the Afghan government at the Kabul level. I do know that Minister Saleh was regularly visited...maybe not regularly, but he was certainly one of the principal ministers that our ambassador, Ron Hoffmann, engaged in Kabul, and he was very receptive.

Mr. Paul Dewar: I was just talking about where NDS fits in with the accountability, and not individuals. But my time is up.

The Chair: Thank you, Mr. Dewar. Thank you, General.

We'll come back to the government side.

Mr. Dechert, please.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

General Thompson, it's good to meet you. Thank you for your service to Canada and for the service of the people under your command.

I'd like to ask you about your understanding of applicable international law. What is your understanding of the Canadian Forces' international obligations under applicable international law with respect to the treatment and care of detainees?

BGen Denis William Thompson: Again, I'm not a legal expert. I can just tell you that what we train on is the third Geneva convention. We make sure we handle all detainees in accordance with the regulations that are laid out there, in terms of looking after them, providing them shelter, feeding them, giving them the privacy they require, access to the Koran, if they happen to be Muslim—all of that is adequately looked after, and they're treated with respect.

Mr. Bob Dechert: Did you at any time ever receive any instructions from anyone with respect to the handling of detainees that were contradictory to your understanding of applicable international law?

BGen Denis William Thompson: Never.

Mr. Bob Dechert: Do you believe that any of your predecessors or successors ever received any contradictory instructions or failed to follow applicable international law?

BGen Denis William Thompson: Again, you're asking me to express an opinion. I can't imagine it, because we're trained right from day one that you only obey lawful commands. If somebody sent me a command and said, okay, commit some travesty against this detainee, I would just refuse it because it's not a lawful command.

Mr. Bob Dechert: Thank you.

I'd like to share my time with Ms. Gallant.

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

General Thompson, let's talk about training a bit. Prior to deployment, would you please describe the training that the soldiers would get on the ground with respect to the treatment of prisoners?

BGen Denis William Thompson: They will receive an entire package on PW, or prisoner-of-war handling, because this is part of general training. It's not something that you just tack on because you're going to Afghanistan.

The training would go through all the rights that a prisoner of war has under the laws of armed conflict and the third Geneva Convention, and then how you handle them, how you actually restrain them with flexicuffs, all of that technical stuff. Detainees are introduced at every step of the training when you're doing your collective training. When you start to move from your platoon, company, battalion, brigade training, there are always prisoners—as we call them, "PWs", or "detainees" in the Afghan context—introduced in the scenarios, in order to practise not just the point of capture stuff, but how to take that guy and move him all the way back through that long logistics train and get him to what in a general war setting is the brigade prisoner cage, but in an Afghan setting is the detainee transfer facility at Kandahar airfield.

There are a lot of parallels between our general training and what we had to do for Afghanistan, and from a soldier's perspective, they're almost identical. The wrinkle comes in what do you do with the guy after he's in that detainee transfer facility?

Mrs. Cheryl Gallant: When the prisoners were under your authority at Kandahar airfield within the 96 hours before a decision had to be made, what precautions, if any, were taken in terms of ensuring that the prisoners didn't try to hurt themselves or hurt their fellow prisoners?

● (1715)

BGen Denis William Thompson: Regarding the detainee transfer facility, to be frank, I'm not certain how much detail I can give you on it other than to say it is established by military policemen in accordance with international norms, or certainly Canadian norms, and the detainees are not left unsupervised so that they can harm themselves. The tools for them to commit suicide aren't at hand, if that's what your concern is.

Mrs. Cheryl Gallant: Going back to the release, when they were not deemed to be part of the insurgency, were precautions taken also to ensure that they did get safely on their way, besides cab fare? For example, if a prisoner was concerned that the NDS might try to scoop them up, or the Taliban pick them up, were precautions taken?

BGen Denis William Thompson: Yes, insofar as that the place where they picked the taxi up wasn't a busy bazaar where somebody could intercept them.

The Chair: Thank you, General.

Mr. Rae, for five minutes.

Hon. Bob Rae: General, I'm trying to put together your testimony and Mr. Anderson's and trying to be absolutely fair to both of you.

As I take it, your relationship with NDS would have been one of them acting as an intelligence agency and intelligence service that would be giving you and others advice with respect to activity of insurgents of various kinds, just general information as to what's going on and what one would expect from an intelligence agency providing you with information. Is that right?

BGen Denis William Thompson: That's fair. I don't know that I would characterize them as an intelligence agency, but more as a federal bureau of investigation. I don't think we have a Canadian equivalent—well, I'm pretty sure we don't.

But yes, you're right. As you know, Mr. Rae, there's a whole number of ways we collect intelligence, but if you want human intelligence, which is actually the most valuable in an insurgency, you have to get it from people like the NDS.

Hon. Bob Rae: You get it from them.

BGen Denis William Thompson: Right.

Hon. Bob Rae: What we're trying to figure out is how they get some of their information. Presumably they get some of the information they get from people who have been detained and who are in their facility.

BGen Denis William Thompson: I can't comment on that. I can tell you that there are NDS agents in every district at that level, and they're listening to the jungle drums, as it were, and they're picking up all that stuff, and they're just casually questioning people as any sort of intelligence operative would. They pick up all sorts of stuff, and frankly, because it's their country, they pay people to provide them with information. Money goes a long way in a place like Afghanistan.

Hon. Bob Rae: That's totally understood.

I'm trying to understand something. The detainees you would give to or hand over to NDS would go into the NDS facility?

BGen Denis William Thompson: Yes.

Hon. Bob Rae: The critical question is what would happen to them as well as to other people who would be detained there. There were a lot of other people being picked up and being given over to NDS who didn't come from the Canadian Forces.

BGen Denis William Thompson: Certainly. We can use the same analogy of the county jail. If you go to the county jail, you're going to be interviewed at some point. That's why the police, in one of the capacity-building measures that I can recall, gave instruction to the NDS on techniques for police interviewing, so they could use it in their facility in Kandahar. So, absolutely, I would have expected them to question their detainees in order to help build their case against them and also to gather intelligence. We do the same thing here. There's no way to break down a bike gang unless you interview people you've arrested.

Hon. Bob Rae: That's right, but we also have certain very strict laws and various ways to ensure that certain techniques of interrogation are permitted and others are not, and we draw the line very clearly.

BGen Denis William Thompson: I agree absolutely.

Hon. Bob Rae: What I'm trying to get at is that you wouldn't necessarily have first-hand information and the army wouldn't have first-hand information with respect to what particular techniques were used by NDS to get information from the detainees who were held by them.

● (1720)

BGen Denis William Thompson: No, I wouldn't. As I mentioned, as part of this whole-of-government team, neither I personally nor my soldiers were engaged in that aspect of capacity building. But we mixed with the NDS freely in the field, out in the box, as it were.

Hon. Bob Rae: That's understood. It seems to me that one of the things we're trying to get at—and I know it's difficult—is what took place in those facilities, how prisoners were mistreated, that would lead to such widespread allegations, by a number of agencies and a number of sources, of breaches of the Geneva Convention.

BGen Denis William Thompson: I don't know that I can help you there, other than to say that I relied on the reports of other government departments to form my judgment of what state that transfer facility—and frankly Sarposa, since it was in my patch—was in to form my opinion on whether or not folks were being subjected to torture inside there.

Hon. Bob Rae: Were you aware of the....

Am I done?

The Chair: You're done.

Hon. Bob Rae: Geez, Perry Mason was just getting to the bottom of it.

The Chair: I'm sorry about that, Mr. Rae. Thank you.

We will now come back to Mr. Hawn.

Mr. Laurie Hawn: I have a couple of quick ones, and then I'll share with Mr. Abbott.

I just want to go back to what we were just talking about. You mentioned earlier that you would be taken away to prison or whatever if you obeyed an order to commit a travesty against a detainee. Is that correct? You would disobey an order to commit a travesty against a detainee.

BGen Denis William Thompson: Well, yes, any Canadian soldier will not obey an unlawful command.

Mr. Laurie Hawn: Would it be as serious to ignore a travesty if you knowingly—

BGen Denis William Thompson: Absolutely, we intervene. If you see a serious crime in progress in a theatre of operations, any rule of engagement I've read, regardless of which operations I've been on, obliges you as a Canadian soldier to act.

Mr. Laurie Hawn: Absolutely. Thank you.

You mentioned that the army had no knowledge of techniques that might or might not have been used by the NDS. If the army had no knowledge of those techniques, and, as you said, you were with them constantly in the box, would you expect government to have any knowledge of those techniques if you didn't?

BGen Denis William Thompson: The army's not the only source the government has, but I hate to be the devil's advocate.

Now we're splitting hairs.

As I mentioned, it's the whole-of-government team. They may have... I don't know, maybe somebody from the other element of the whole-of-government team operating their stove pipe sent something up. I have no idea.

Mr. Laurie Hawn: And you were in the box, as you said, with a very close relationship with those other members of the whole-of-government approach.

BGen Denis William Thompson: Right.

During my time, none of that sort of information would have been shared with me.

● (1725)

The Vice-Chair (Hon. Bryon Wilfert): Thank you.

Mr. Abbott.

Hon. Jim Abbott: Very quickly, this is actually the nub of what we're spending our time on at this committee right at the moment. We have allegations...

I'm sorry, General. I recognize that I'm making a statement here that you might not be able to respond to in your professional capacity. We are dealing here with allegations from a politically motivated opposition, who are trying to say the government has been doing something that borders on war crimes, or are war crimes. You have made the statement that you would not, and cannot, do anything that would be contrary, or you would not be able to respond to an unlawful command.

I further cannot imagine that any of the advisers to you or to the government would countenance that, either. In other words, there is a lot of speculation that my friends have volunteered to disseminate and to bring to the fore. There's a whole pile of information just spinning around here, but when we get down to the nub of it, we have professional people like yourself, a professional army, and professional bureaucrats doing a job for Canada, and with the full knowledge and consent of the Canadian government. The two are the same thing.

Your comment today really underscored this whole issue that the army will not do anything that would be in response to an unlawful command. That's been very helpful. I thank you for that.

BGen Denis William Thompson: So I assume there's no question in there. Is that right?

Hon. Jim Abbott: I'm sorry to put you on the spot, General. I really mean that seriously. This is craziness.

The Vice-Chair (Hon. Bryon Wilfert): Are there any further questions?

Mr. Laurie Hawn: If we have time left...

The Vice-Chair (Hon. Bryon Wilfert): You have about a minute and a half.

Mr. Laurie Hawn: General, we talked about people making allegations and so on. In your experience or from your knowledge of their procedures, is it routine for Taliban detainees to make allegations regardless of circumstance?

BGen Denis William Thompson: I'll be frank. Taliban detainees' opinions aren't really of much interest to me. I'm sorry, they just aren't.

Mr. Laurie Hawn: I think that answers the question.

The Taliban detainees say a lot of things.

BGen Denis William Thompson: I'm sure they do, but you know...

Okay.

The Vice-Chair (Hon. Bryon Wilfert): Is there anything further from the government?

Okay, thank you.

Monsieur Bachand.

[*Translation*]

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

First, I want to welcome General Thompson and apologize for my absence. I was in the other theatre of operations, leading a special mission.

Some hon. member: Oh, oh!

Mr. Claude Bachand: I read what you said about what can constitute evidence of a link to the insurgency. I understand that. I also saw that you frequently reviewed DFAIT reports when making your judgment. You recognize that you have a responsibility. When you transfer a detainee who is linked to the insurgency, you must ensure that there is no risk of torture, because you know that you could get your knuckles rapped otherwise.

BGen Denis William Thompson: Yes, exactly.

Mr. Claude Bachand: I want to hear what you think of Colonel Juneau and General Laroche. That question was asked today. A few months ago, this is what Colonel Juneau said:

[*English*]

> "The frequency of detainee visit reports is of concern to me," wrote the senior officer, who required post-handover inspection updates to ensure he wasn't transferring detainees to a "real risk" of torture.

[*Translation*]

A little further on, General Laroche says this:

[*English*]

> ...it is considered essential that we gain better visibility of the situation.

[*Translation*]

You seem to be saying that you did not receive any negative reports. Did you receive many reports? That may be the issue. Juneau and Laroche say that there were not enough reports and that, in their opinion, it was dangerous to transfer detainees. You arrived a few months later; did things change? Did you see those reports?

BGen Denis William Thompson: Absolutely.

As I mentioned earlier, I arrived around May 14, 2008. They started transferring detainees again in February 2008, because, between November 2007 and February 2008, they improved the reporting system and put in place a program to build capacity in the facilities themselves. A lot was done before they started transferring detainees again. That was the situation when I arrived.

Mr. Claude Bachand: Was it DFAIT sending you the reports?

BGen Denis William Thompson: No, it was an officer at DFAIT. But, as I said earlier, we were all a team.

Mr. Claude Bachand: It was a collaborative effort.

BGen Denis William Thompson: Absolutely.

Mr. Claude Bachand: Have you heard the rumour that the British allegedly stopped doing transfers? Do you know if that is true or not?

BGen Denis William Thompson: No, as I said, it has been 13 months since I have followed the situation in Afghanistan closely.

Mr. Claude Bachand: But when you were there, were you told or did you see that the British had stopped doing transfers because there were too many risks?

BGen Denis William Thompson: No, not when I was there.

● (1730)

Mr. Claude Bachand: Did you have access to all DFAIT's documents to assess the situation? In other words, did you have the reports? I would think that, being a team, you were shown the latest visit reports. Did you have access to all those reports?

BGen Denis William Thompson: Yes, absolutely.

Mr. Claude Bachand: Were they censored?

BGen Denis William Thompson: No, Mr. Bachand.

Mr. Claude Bachand: You must think it a bit unfortunate for us, the members, not being able to ask you questions using the same documents that you read. It is political.

Some hon. members: Oh, oh!

BGen Denis William Thompson: I am sorry, but it was not my decision.

Mr. Bachand, I want to remind you that the Royal Military College Saint-Jean's end of year parade is on May 22. I hope to see you there.

Mr. Claude Bachand: I will be there. I was told that we were sitting at the same table. I want to reserve a dance with your wife.

BGen Denis William Thompson: Okay. Thank you.

[*English*]

The Chair: Thank you very much, committee.

Thank you very much, General, for being here today. Some of your testimony is somewhat refreshing. It's not very often that we have public servants come before us and say if something went wrong, I'm responsible, I'm the guilty one. Yet you seemed very confident in your role there. We thank you for your candid remarks today. We thank you for your service in Afghanistan and we appreciate your testimony before our committee here today.

Yes, Mr. Wilfert.

Hon. Bryon Wilfert: With regard to the panels—

The Chair: Could we do this... Okay, go ahead.

Hon. Bryon Wilfert: We just wanted some clarification on the panels for April, if I could ask. Do you want to go in camera?

The Chair: We won't go in camera, the bells are ringing. If you want to come up to the table, we can clarify this after.

Thank you, committee.

We're adjourned.

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