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# **Special Committee on the Canadian Mission in Afghanistan**

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**EVIDENCE**

**Wednesday, April 28, 2010**

**Chair**

**Mr. Kevin Sorenson**



## Special Committee on the Canadian Mission in Afghanistan

Wednesday, April 28, 2010

• (1530)

[English]

**The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)):** Good afternoon, everyone. This is meeting number seven of the Special Committee on the Canadian Mission in Afghanistan, Wednesday, April 28, 2010.

We will have bells at 5:15 and then a vote in the House at 5:30, so I'm asking the committee if we can go to committee business today somewhere between 4:45 and 5 o'clock. We do have a substantial amount of business that we must discuss.

Today we have panelled our two witnesses together, and we do appreciate their attendance here as well.

We're continuing our study on the transfer of Afghan detainees, and as our witnesses we have, from the Department of National Defence, Mr. Gavin Buchan, who is the former political director for the Kandahar Provincial Reconstruction Team; and appearing as an individual, Major-General Timothy Grant, retired, former commander of Joint Task Force Afghanistan.

My understanding is that both of you will have an opening presentation and then would entertain a round, or a couple of rounds perhaps, of questions.

We welcome you both. Thanks for being here. We look forward to your comments.

Mr. Buchan.

**Mr. Gavin Buchan (Former Political Director, Kandahar Provincial Reconstruction Team, Department of National Defence):** Thank you.

Mr. Chairman, honourable members, I will begin by explaining briefly who I am and the nature of my involvement with the Afghanistan file.

I've been in government for some 18 years, 15 with the Department of Foreign Affairs and three with National Defence. I have worked on Afghanistan detainee issues in three separate capacities. The first time was in early 2005 as deputy director of the defence and security relations division of DFAIT. Between April 2006 and July 2007, I was political director of Canada's provincial reconstruction team in Kandahar, with the exception of the months of May and June of 2006, which were covered by Richard Colvin. After my return from Afghanistan, I was transferred to the Department of National Defence, where I was director of the unit responsible for Afghanistan policy from October 2007 to February 2009.

I would like to address these three assignments in chronological order.

In 2005 I participated in interdepartmental meetings that considered options for how to handle future detainees in Afghanistan. The decision to base our regime on transfer to Afghan authorities was made in large part because most detainees would be Afghan citizens on Afghan soil. Transferring detainees to the host government was a question of respect for Afghan sovereignty.

I would like to underscore that in 2005 departments were aware that the Afghan detention system had serious failings. There was a risk that prisoners might be mistreated, so steps were taken to mitigate that risk. Canada sought and received assurances from the Government of Afghanistan that it would respect international standards of treatment and provide access to both the International Committee of the Red Cross, ICRC, and the Afghanistan Independent Human Rights Commission, AIHRC. However, looking back now with the benefit of practical experience in Kandahar, it is clear this was not sufficient.

• (1535)

[Translation]

With the arrangement put in place, we obtained little information on the detainees transferred between February 2006 and April 2007. It has been alleged that during this period, Canadian authorities knew that the detainees we transferred to Afghan prisons were being tortured. This is borne out neither by my memory of my time in Kandahar, nor by the written records that I have reviewed in preparation for this presentation.

[English]

Prior to April 2007, my engagement on detainee issues focused on capacity-building. I had no mandate to engage in monitoring. Nonetheless, in the course of my duties in Kandahar, I met with the ICRC and the AIHRC. I met with Afghan judges, prosecutors, prison officials, and police. I met with political figures, with village elders, and with farmers. I met with the UN, with NGOs, and with NATO allies. I even met with the Kandahar Council of Religious Scholars. None of these contacts produced information to the effect that Canadian-transferred detainees were being abused or that our detainee arrangement was not being respected by Afghan authorities. Had I obtained such information, I would have reported this to Ottawa and recommended a course of action.

The committee is, I gather, aware that messages were sent from the embassy in Kabul on detainee issues between February 2006 and March 2007. Having gone back and reviewed the documentation from this period—and I specify “this period”—I find that the documents add nothing of significance to what we already knew in 2005. They simply confirm that abuse of detainees was a risk in Afghanistan. None of them contain specific information about treatment of detainees transferred by Canada, none of them contain specific information about facilities to which Canada was transferring detainees, and, most importantly, in none of these messages did the embassy recommend substantive changes to detainee policy.

It is possible that there is additional material of which I am not aware. It is possible that there were events that to me, stationed at the PRT, were not visible.

[Translation]

However, to the best of my knowledge, the first information alleging abuse of Canadian-transferred detainees came to light in the context of press reports published in April 2007. These reports contained multiple allegations of torture at the facility of the National Directorate of Security or NDS

[English]

or in English, the NDS,

[Translation]

in Kandahar City.

[English]

The allegations were taken very seriously both at headquarters and in the field, and there was a vigorous exchange of views on what needed to be done. There was also a rapid response. Within 48 hours I had been sent with a colleague from the Correctional Service of Canada to conduct a preliminary inspection of the NDS facility.

That visit generated two allegations of abuse, conveyed to me personally. Démarches were then made at the highest levels. The ICRC and the AIHRC were notified, and within 10 days a new arrangement had been agreed to with the government of Afghanistan. This supplementary arrangement empowered Canadian monitors to visit without prior notice and to hold private interviews with detainees. It also included Afghan commitments to investigate and prosecute allegations, and several other significant improvements.

The May 3, 2007, supplementary arrangement, while a much more robust regime, is not a panacea. Full implementation of the arrangement is not an easy task. Every monitoring visit goes through the streets of Kandahar to a predictable location that is closely watched by insurgents and occasionally attacked. Every trip risks the lives of not only the monitoring team but of all the personnel in the security detail, and it uses scarce PRT resources that are then not available for patrols to advance Canadian development projects or engage villagers out in the districts. For every call to do more monitoring, there are trade-offs to be made, but overall the supplementary arrangement is among the strongest models in NATO for dealing with detainees.

[Translation]

There have, however, been some challenges in ensuring full implementation. This became clear in November 2007, after my return to Ottawa. At that time, as the Committee is aware, there was a compelling allegation of torture that caused a suspension of transfers. It took some months, a significant escalation in monitoring and extensive engagement with the NDS, to restore confidence that detainees we transferred would not be at significant risk of abuse.

● (1540)

[English]

In the Afghan context, it will never be possible to completely eliminate all risk of torture. But when used to the full, the supplementary arrangement does offer a robust deterrent and a means to detect violations should any occur. As such, it has been instrumental in changing the workings of the NDS in Kandahar, a step that has benefited not just Canadian-transferred detainees, but all detainees held by the NDS.

I would like to close on a personal note. Since the committee hearings last November, I have struggled with a fair amount of self-doubt. It has been alleged that in the period leading up to March 2007, Canadian authorities knew that we were transferring detainees to torture. I was the DFAIT representative on the ground. I was the person meeting with the local representatives of the AIHRC and the ICRC, but it was only in April 2007 that it became clear to me that our detainee arrangement was not working. I was left wondering if I had overlooked information I should have seen. If everybody supposedly knew, then what had I missed? My review of documentation in preparation for this meeting has gone some way to reassure me. I saw nothing in the record through March 2007 that indicated Canadian-transferred detainees were being abused, nothing that changed the baseline understanding from 2005, when the original arrangement was put in place; and the record very clearly shows that when serious allegations were brought forward, in April 2007, firm and rapid action was taken.

In my experience working on this file, there have been hard lessons, and these deserve to be examined to ensure that they are learned for the future. But overall, what I have seen has been the work of a team of dedicated individuals—civilian and military—doing their best to ensure detainees are treated humanely and in accordance with Canada's international obligations. They have done this in harsh, difficult, and often dangerous conditions; and in the best Canadian tradition, when they have seen problems, they have done their best to address them. It has been my privilege to work alongside them.

Thank you.

**The Chair:** Thank you very much, Mr. Buchan.

Now we'll turn to General Grant.

**Major-General (Retired) Timothy Grant (Former Commander, Joint Task Force Afghanistan, As an Individual):** Mr. Chair, members of the committee, good afternoon.

My name is Tim Grant, and from November 1, 2006, until August 1, 2007, I was the commander of the Canadian military contribution to the Afghanistan mission. This included national responsibilities as well as those of being the NATO commander responsible for ground combat operations in Kandahar province.

You've heard from others that casualties, be they military or civilian, as well as the handling of detainees were considered possible points of strategic failure for the Canadian mission. This focused my attention on these two subjects on arrival and throughout my tour.

One of the first documents I read on arrival in Kandahar was the task force standing order on the handling of detainees. This was essentially the bible for how to deal with detainees from the point of capture to the point of transfer or release. I made sure all my subordinates had read the TFSO and understood its contents.

As the mission progressed and we learned more about the environment we were operating in, we adjusted that TFSO based on lessons learned. I was very comfortable that the right people were doing the right things at the right time and in the right places.

In November 2006—to set the scene—the battle group had been through Operation Medusa, and while successful, they had taken serious casualties. The companies were essentially deployed in the Panjwai area, between Zhari and Panjwai district centres. To say that the conditions in which the soldiers lived were austere is an understatement. Many of these young men and women had gone over a month with no showers, no running water for toilets, no laundry, and a constant diet of hard rations. To make matters worse, these outposts were subject to regular attack by insurgents.

It was our challenge to prevent those insurgents, who did not wear uniforms, from re-infiltrating the area where local farmers were trying to tend to their fields. These farmers were the very people we were trying to protect. This task actually became more difficult as we repopulated the area in early 2007. Tactical questioning by soldiers on the ground was a vital tool in allowing this determination to be made, thereby protecting the population from insurgents' influence and threat.

Some have questioned why we even took detainees. Let me provide some context, which I believe has been lacking to date.

I'll provide three short scenarios: first, soldiers in contact with the enemy, both sides exchanging gunfire and fighting for their lives, which leads to insurgents being captured; second, an IED attack on a convoy where Canadians are killed or wounded, and a local Afghan who has been wounded by the blast, in the course of receiving first aid, is found to be in possession of a weapon; and finally, a surgical strike is made on a bomb-making factory where individuals are found to be in possession of explosives. Each of these are real cases, and in each case Canadian soldiers would look at the conditions and indicators before deciding to take control of detainees.

Once identified as a threat and detained, detainees were processed administratively and attended to medically, and then moved to the detainee handling facility at Kandahar airfield. Here the detainees underwent further medical and administrative screening to verify the information provided from the field.

Finally, two decisions were made: first, were there grounds for transfer; and second, was it appropriate to transfer? The decision was exercised, on average, on a weekly basis.

I hope you can see how critical it was to be able to support those soldiers in the field with a system that would quickly and safely remove insurgents and suspect individuals from the battlefield. In my mind, this was primarily about protecting our men and women, the detainees themselves, and of course the Afghan people.

As you know, the decision to transfer a detainee rests with the commander. That was me, and I know how important a decision it was to determine if there were substantial grounds for believing that there existed a real risk the detainee would be in danger of being subjected to torture or other forms of mistreatment at the hands of Afghan authorities. I knew it was my responsibility to ensure that I was knowledgeable regarding the conditions into which detainees would be transferred. I watched communications traffic, read e-mails, and spoke to those I believed could help inform my decision-making process.

This was not a one-time affair. I paid attention to this issue constantly. Without question, information from the ambassador and the embassy was important, but I also spoke to our allies, the Red Cross, the Afghanistan Independent Human Rights Commission, and the United Nations. I made use of every possible source of information to inform my decisions, including dedicated legal advice.

●(1545)

At no time before April 2007 did anyone express to me that they had concerns involving transfers, and that includes Mr. Colvin, who had ample opportunity to do so. I met with the local representative of the Red Cross within three weeks of taking command and regularly thereafter. No reports of concern from the Red Cross came to my attention, but I believe they would have, given my positive relationships, my open, frank, and frequent dialogue with them.

When allegations were raised in April, prompt actions were taken to investigate their veracity and determine what actions, if any, were needed to address them. In the end, the decision to transfer was never taken lightly and never in a vacuum.

While I was acutely aware of the strategic points of failure and the actions of Canadian soldiers on a daily basis, I also knew my responsibilities as a commander went beyond those in uniform. I forged strong relationships with other members of the whole-of-government team. These included the RCMP training the police, Corrections Canada officers working in the prisons, and the Canadian International Development Agency staff helping in some of the most destitute areas of the province. In addition, I reached out to international agencies, including the United Nations assistance mission and the United States Agency for International Development, to name but a couple. The issues and challenges were clear to everyone, and we were joined at the hip. We helped each other and received regular guidance and advice from our leaders in Ottawa.

I also established a good working relationship with Ambassadors Sproule and Lalani. Without question, they led the Canadian effort in Afghanistan. They represented the Government of Canada in Afghanistan, and I supported them in their efforts. They helped me to develop a better understanding of the complex and ever-changing political and security environments in Afghanistan and the workings of the major players represented in Kabul.

But the person I relied on for his insights into the political dynamic in Kandahar is the man sitting beside me. Gavin is the political director of the provincial reconstruction team. I don't say this because he's here today, but I believe he had a unique and informed perspective on all things political in the province.

The signing of the supplemental arrangement was a key venture in my tenure in command. Throughout the development of the arrangement, my staff and I worked closely with the whole-of-government team and the military chain of command. We revised our task force standing order and confirmed the roles that all members of the team would play before, during, and after transfer.

You've heard about the special relationship the Canadian Forces had with the leaders of the Afghan security forces, including the police, the army, the border police, and the National Directorate of Security, the NDS, as well as the governor. I would agree that we had a good relationship, and I don't apologize for that. I fostered strong bonds with those organizations that we were working with in battling the insurgency; my soldiers' lives depended on it. I established weekly security meetings with the Afghan generals and the governor to discuss common challenges. I found these exceptionally useful, but they were not meetings held behind closed doors under some veil of military secrecy. I insisted that my political adviser and the senior leadership from the provincial reconstruction team, including Gavin, be in attendance. I used this event in part to show the Afghans how military and civilian can and must work together.

In summary, I was fortunate to be part of a team of dedicated professionals who focused on doing the right thing. Everyone knew their roles and responsibilities and performed at an exceptional level. I was proud of each and every one of them.

• (1550)

**The Chair:** Thank you very much, General Grant.

We'll move into the first round of questioning.

Mr. Rae.

**Hon. Bob Rae (Toronto Centre, Lib.):** Thank you very much, to both Mr. Buchan and General Grant. I appreciate it very much.

Just to be clear, Mr. Buchan, when you say, for example, on page 5 of your statement that in the Afghan context it will never be possible to completely eliminate all risk of torture, what do you understand by the phrase "Afghan context"? When you say something like that, what are you saying?

**Mr. Gavin Buchan:** That's a fair question. I could equally have said it's impossible to eliminate the risk of torture in the Canadian context, because it is impossible.

**Hon. Bob Rae:** You would say the same thing about conditions in Canada as about the conditions in Afghanistan?

**Mr. Gavin Buchan:** To be precise, the Afghan context differs from the Canadian, in that we're talking about a country that is 90% illiterate, with very low levels of development within the bureaucracy, a poor culture of records-keeping overall. These are challenges that we're working to help them overcome, but when you start from that sort of under-developed context with a history of three decades of warfare, you don't start out with a culture of human rights.

**Hon. Bob Rae:** That's true.

We heard recently from one of your predecessors in Afghanistan, Madame Olexiuk, who indicated from her knowledge and awareness of conditions in the country—she was there prior to 2005—that she would have said the torture and physical abuse of prisoners, from her understanding, would have been widespread in the Afghan prison system.

In fact, a number of very public documents, from the United States government, from reports tabled by the Secretary General of the United Nations, and a number of other documents, have all referred to the fact that physical abuse—problems of beating up prisoners—was a widespread reality in the Afghan prison system. These are all public documents that she referred to and that others have referred to.

Is that a fair statement?

**Mr. Gavin Buchan:** It's certainly true that historically in Afghanistan there have been issues of torture and abuse. If you look at the Soviet period or even the republican period that preceded it or the monarchy that preceded that, you don't have a great track record in the country.

What's important now is that with the assistance of countries like Canada and the capacity-building programs we're putting in place, that's changing. It doesn't change overnight, though. You don't from one day to the next flick a switch and suddenly have a system that has been comprehensively reformed. You have to engage in training; you have to improve the facilities. And we've put the resources behind that.

**Hon. Bob Rae:** I think the question I'm trying to get at is to ask, were you aware of any discussions about there being another choice?

And perhaps I could ask General Grant the same question, as to whether or not there was ever active consideration given to not transferring prisoners but rather establishing either a Canadian-run prison or a NATO-run prison or some kind of facility that would say we have enough concern about the risks, based on our historical information and our sense of what's going on, that we're simply not in a position right now to transfer prisoners; that we'll help the Afghans build up their prison system, but until we're satisfied that they've made more progress, we're simply going to keep them ourselves.

Was any consideration given to that approach? There's some reference to it in the documents—some discussions with the Dutch, or some other documents. You both have the advantage of seeing unredacted documents that I have not been able to see yet. Perhaps one day all truth will be revealed, but right now I don't get to see the blacked-out parts and you get to see those, so perhaps you can fill me in a little bit.

• (1555)

**The Chair:** Mr. Buchan.

**Mr. Gavin Buchan:** If I could, I'd like to start the response to that, simply because I have a little bit of the historical context.

**Mr. Bob Rae:** Yes.

**Mr. Gavin Buchan:** We were looking at the issue in 2005.

Well, I'll start by giving you my personal assessment. There are only ever three options for dealing with detainees: you can take national responsibility for them, which includes not just detention, but prosecution and incarceration in the long term; you can find a third party to whom to transfer them; or you can transfer them to the host government. In this context, of those three options the third one was the one that respected Afghan sovereignty. We're not an occupying power. We're there at their invitation in their country. When the original discussions were had in Ottawa, that was the deciding factor in determining—

**Hon. Bob Rae:** But isn't it also true to say that this is the one decision that, according to the evidence we have with respect to the historical pattern, would lead to the greatest risk of physical abuse of the detainees? Is that not a fair statement?

**Mr. Gavin Buchan:** What is fair to say is that we were aware there was a risk of detainees being abused. In 2005 we weren't ignorant; we had the facts at our disposal. What we did in the 2005 arrangement was put in place measures to mitigate that risk.

**Hon. Bob Rae:** Yes, I understand that.

**Mr. Gavin Buchan:** We had ICRC and—

**Hon. Bob Rae:** No, but I don't want to lose sight.... I'm aware of that, and I don't want to cut you off, but we have a very tight timeframe here.

Can you just hone in on this question of the other two choices that were available? One was obviously to transfer them to some other country, whether it be the Americans or somebody else—I think the Americans would have the largest facilities. And the other option would be, either alone or with other ISAF countries, to say we're going to try to set up some other way of dealing with this problem.

**Mr. Gavin Buchan:** If we had set up a facility of some kind, it would have been a short-term and not a permanent fix, because at some point you leave, and at that point you have to hand over to the Afghan prison system. So that's—

**Hon. Bob Rae:** Well, it would be fairly long-term in relation to where we are. We could argue about that.

**MGen Timothy Grant:** Mr. Rae, you had asked a question from the military standpoint.

I wasn't involved in the initial policy in 2005, but I can tell you that during my time in theatre there were no discussions that I was involved in on the issue of having a prison with our allies. In fact, it was very clear to me from the military chain of command that this was not an issue the military was interested in. We just didn't have the capability or expertise to do it.

**Hon. Bob Rae:** And that's because it would have involved more cost and more responsibility?

**MGen Timothy Grant:** I'm not sure why, but it was clear to me that it was not an option.

**Hon. Bob Rae:** You mean it was made clear to you by someone else?

**The Chair:** Thank you.

**MGen Timothy Grant:** The military chain of command made it clear to me that it was not an option that the military could become involved in. We didn't have the expertise to do it.

**Hon. Bob Rae:** So—

**The Chair:** Thank you, General Grant.

We'll move to the next question.

[Translation]

Mr. Bachand, you have seven minutes.

**Mr. Claude Bachand (Saint-Jean, BQ):** How long did you say?

[English]

**The Chair:** It's seven minutes.

[Translation]

**Mr. Claude Bachand:** Welcome, General Grant and Mr. Bachand.

I have here a description in chronological order of the events related to Afghan detainees. I am considering the period during which you were there, General Grant. As for you, Mr. Buchan, you are very well aware of this issue. You were in Afghanistan and you also worked for Foreign affairs. So I think you may be able to answer my questions.

I will start with December 4, 2006. I will read the entry in English because, unfortunately, the document is in English.

**An hon. member:** Unfortunately?

**Mr. Claude Bachand:** Unfortunately, yes.

I am quoting:

● (1600)

[English]

A report from Kabul passes along the concerns of NATO allies that detainees may “vanish from sight” after being transferred to Afghan authorities, and that there is a risk that they “are tortured.”

[Translation]

Mr. Grant or Mr. Buchan, did you see this 2004 report from NATO saying they were concerned with this issue?

[English]

**The Chair:** Mr. Buchan.

**Mr. Gavin Buchan:** Yes. I'm familiar with that document, with identifier Kabul-0160, I believe.

That was in the context of an Afghan government decision on how it would manage its detainees—which ministry would take lead responsibility. I don't believe that's something I can address in public from that perspective, because it concerns their internal affairs. However, if we are looking at the issues raised in that document, it talked about the absence of legal status for detainees, and in the line you quoted I believe the emphasis, if you read further, is on the fear that prisoners who should legitimately be detained will be able to leave the system, either by buying their way out or by other illegitimate means.

My memory of that document is that it's not one focused on the issue of abuse as such, but more on the perspective of people slipping out of the system. Is that correct?

[Translation]

**Mr. Claude Bachand:** Yes, but if they disappear— By the way, this is not the only quote about people disappearing. So this means that when detainees are transferred to Afghan authorities, they can disappear, which is rather worrying. It is unlikely they boarded an airplane to a tourist destination by the Mediterranean.

Mr. Grant, I believe you were the commander of Canadian forces during this period. Did you see this report?

[English]

**MGen Timothy Grant:** Not having it in my hands, I'm not sure whether I have seen it or not, Mr. Bachand.

[Translation]

**Mr. Claude Bachand:** All right. I will continue quoting.

[English]

End of December 2006: The Canadian Embassy writes in its human rights report for 2006 that “torture” is common in Afghan jails. The word “torture” appears repeatedly. This report was drafted in large part by Catherine Bloodworth, a Department of Foreign Affairs and International Trade...political officer who handled files relating to human rights, justice and counter-narcotics.

[Translation]

Did you see this report drafted by Mrs. Bloodworth? The question is for both witnesses.

[English]

**The Chair:** Mr. Buchan.

[Translation]

**Mr. Gavin Buchan:** Yes, I saw this report. I also saw the reports for 2005 and 2004 which contained the same references. There was no significant change compared to what we knew about the situation in Afghanistan. Indeed, it was almost the same report as that of the preceding year and the year before.

What I think is very important to note in this report is that, at the end, in the recommendations section, there are no recommendation for a change of policy regarding Afghan detainees.

**Mr. Claude Bachand:** Did you read this report, Mr. Grant?

[English]

**MGen Timothy Grant:** Yes, I have read it.

[Translation]

**Mr. Claude Bachand:** And you did not think these two reports contained enough evidence to conclude that there were immediate risks warranting a suspension of transfers? These are reports from our own staff saying there were risks. I simply want to remind you that the Geneva Convention prohibits transfers when such a high level of risk exists.

We also have this in March of 2007:

[English]

The three Afghan detainees whose case is being investigated by the MPCC cannot be found after investigators spent a month trying to locate them, in breach of the transfer agreement.

[Translation]

You were there at that time, Mr. Grant. It happened under your command. Did you know that the military police looked for the three detainees for over a month and did not find them? Do you recall this?

[English]

**MGen Timothy Grant:** I'm aware that the National Investigation Service were conducting investigations. I was not briefed on all of the details, but I know that because of the environment in Kandahar, they had challenges in physically getting hold of those individuals. In some cases they were successful and in other cases they weren't. They were very limited in their ability to move outside the wire and to conduct what you would refer to in this country as a normal police investigation.

● (1605)

[Translation]

**Mr. Claude Bachand:** All right. Mr. Buchan, were you aware of this situation?

**Mr. Gavin Buchan:** This is not a case that I know specifically.

**Mr. Claude Bachand:** Okay.

I will go on. This was announced in April 2007:

[English]

*The Globe and Mail* reports that 30 transferred Canadian detainees were “beaten, whipped, starved, frozen, choked and subjected to electric shocks during interrogations”.

[Translation]

Did you read this *Globe and Mail* article published in April 2007?



**Mr. Gavin Buchan:** Yes, I read the article. I believe almost every witness who will appear before the committee has read these articles. Moreover I talked to the author of the articles at that time. Within 48 hours of these reports, I was in the basement of the NDS talking with detainees in order to ascertain what had happened. This was not an inquiry. We did not have the means or the expertise to conduct an inquiry. The government reacted almost instantly, which is understandable. We reacted not only in Kandahar but also in Kabul where representations were made at the highest levels. As a Canadian bureaucrat, I think I can be proud of the fact that as soon as we had knowledge of these allegations, we reacted so swiftly and so effectively. Changes were made to the system following that.

[English]

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

Go ahead, General Grant.

**MGen Timothy Grant:** I will simply add that this was the first time that a credible allegation was brought forward. We took it very seriously. In spite of some of the significant factual errors in that report, we took this very seriously.

As Mr. Buchan has said, he went to the prison. I, with Mr. Buchan, had a face-to-face meeting with the head of the NDS in Kandahar. We followed that up shortly thereafter with meetings both with the head of the NDS and with the head of the Afghan Independent Human Rights Commission. We moved quickly when presented with a credible allegation.

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

We'll now move to the government and Mr. Obhrai.

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

Thank you, Gavin Buchan and General Grant, for coming before the committee to give your perspective.

Mr. Buchan, when you took over from Mr. Colvin, you would have received briefing notes or handover notes from him. Did any of these documents allege that the Canadian-transferred prisoners were being abused in prisons in Kandahar?

**Mr. Gavin Buchan:** In the handover note that I received on my arrival in Kandahar in July 2006, there was no reference to the detainee issue whatsoever.

**Mr. Deepak Obhrai:** There was none whatsoever.

**Mr. Gavin Buchan:** There was a list of items on which I needed to follow up. There was one missing persons case, which had nothing to do with Canadian detention policy, but there was no reference whatsoever to detainees as an issue on which I should follow up during my tenure in Kandahar.

**Mr. Deepak Obhrai:** General Grant, you heard in earlier testimony that toward 2006 and early 2007, warnings were repeatedly given about torture and mistreatment of prisoners. You went Afghanistan in November 2006. You said you received one from the *Globe and Mail* article, but can you tell this committee whether you were warned by Richard Colvin or any other Canadian official of any credible allegation of mistreatment or torture of Canadian-transferred prisoners in Afghan prisons?

**MGen Timothy Grant:** No, I was not at any time, from the time I arrived until the *Globe and Mail* article, advised by anyone that there were serious issues and that I should either stop or consider stopping transfers of detainees, not from Mr. Colvin and not from anyone else.

I will tell you, I am puzzled by Mr. Colvin's comments.

**Mr. Deepak Obhrai:** Thank you.

General Grant, were you aware, before deploying to Afghanistan and during your time there, of your important obligations under international law concerning Canadian-transferred prisoners? Did you think you discharged these responsibilities to the best of your ability?

● (1610)

**MGen Timothy Grant:** I first became involved in Afghanistan on September 11, 2001, when we started planning at that point for a Canadian contribution to Afghanistan, or in the hours very shortly thereafter. In addition, I helped to train four rotations that went into theatre, including the first PRT. In every one of those training scenarios and planning scenarios, the treatment of detainees figured highly.

I believe I was well aware of the international obligations. I was well aware of what I needed to do, and more importantly, I believe I took the steps to make sure I was knowledgeable and capable of making decisions.

**Mr. Deepak Obhrai:** Mr. Buchan, would you clarify, when you were alerted for the first time of credible allegations of mistreatment or torture of Canadian-transferred prisoners in Kandahar prisons, what actions were taken?

**Mr. Gavin Buchan:** This is the April period to which we've already referred in response to other questions. There was a comprehensive series of actions taken.

At the local level, we followed up with the visit to the facility, to which I've referred. We met with Afghan officials in Kandahar, the head of the NDS, as General Grant mentioned, and the governor, in addition. We informed the Afghanistan Independent Human Rights Commission; we made sure that they had the details of allegations. Actually I had to sit the NDS and the AIHRC down together in the same room to resolve a dispute that they had been having over access.

At the Kabul level, there were equally strong responses. You had *démarches* being presented at the very highest levels within the NDS and the Afghan government, expressing Canada's position very clearly and insisting on answers and progress. And as you saw, a mere ten days after the allegations were presented, you had a new supplementary arrangement in place that gave us powers that were very robust, as I have described in my statements.

**Mr. Deepak Obhrai:** Very good. Thank you.

Do I have time on the clock?

**The Chair:** Yes, you have seven minutes.

**Mr. Deepak Obhrai:** General Grant, do you recall when you were first alerted to specific concerns about the mistreatment of Canadian-transferred prisoners in prisons in Kandahar? Could you tell us what actions you took?

**MGEn Timothy Grant:** Very similar to Mr. Buchan, the first thing we did was to try to confirm the veracity of the allegations in Graeme Smith's article. We did move quickly to make sure that we spoke to those individuals in Afghan positions of authority to ensure we understood what was happening and we could take steps to ensure the safety of Canadian transferred-detainees, if they were at risk, and we did engage with both Ambassador Lalani and with senior bureaucrats back in Ottawa as we moved forward with the development of the supplementary arrangement. Once the supplementary arrangement was in place, we then took steps to make sure that we could properly implement that arrangement at all levels and by all members of the whole-of-government team in Kandahar.

**Mr. Deepak Obhrai:** Mr. Buchan, in your testimony you stated at one point that when you went out to visit these prisons and everything, there was a risk to your life. There was a risk because you were travelling on roads that were constantly under attack.

Would you tell this committee what it was like, and if you felt your life was threatened at any of the times when you were making these visits?

**Mr. Gavin Buchan:** Any time we moved anywhere in Kandahar City or Kandahar province, we needed a multiple-vehicle package with a security detail. You had to have patrol routes and pre-briefs. You had to alter the route by which you went because there was a constant awareness that you were a potential target for a suicide bombing. It was particularly personal in my case because I had replaced Glyn Berry after he was killed in a suicide bombing.

Every time you left the wire, you were at risk. We were at particular risk in going to the two detention facilities because we knew these facilities were of interest to the insurgents and that they had been attacked by them on occasions in the past. As well, when you become predictable in your movements, you face the highest level of risk, because it's possible for the enemy to plan an attack effectively.

• (1615)

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

We'll move to Mr. Harris, please. Mr. Harris, you have seven minutes.

**Mr. Jack Harris (St. John's East, NDP):** Thank you Chair, and thank you, gentlemen, for joining us today.

Mr. Buchan, I recognize that when you went to Afghanistan, you were following in the place of Glyn Berry, who had lost his life doing the job that you took shortly afterward. We appreciate your dedication and your willingness to do that as part of your job on behalf of Canada.

I do have to ask, though, about a picture that seems to be becoming clear to me, at least. You say that prior to April 2007 your engagement focused on capacity-building, but that you had no mandate to engage in monitoring. Is it fair to say that there was actually no one from DFAIT in Afghanistan who had a role in conducting monitoring prior to April 2007?

**Mr. Gavin Buchan:** That's correct.

**Mr. Jack Harris:** In your previous incarnation in 2005, when you were working on planning, it was actually decided by the government—and I assume this was made in Ottawa by political officials—that we would rely on Afghan assurances that they wouldn't torture people who were passed over to them. That was the premise of that first agreement, was it not?

**Mr. Gavin Buchan:** There were actually three sets of safeguards built into the 2005 agreement. The first was the assurance of the Government of Afghanistan, to which you refer. The second was the specified role for the International Committee of the Red Cross. The third was the assurance of access for the Afghanistan Independent Human Rights Commission. From a perspective of principle, it looked as though we had three lines of defence in this regard.

**Mr. Jack Harris:** All right. I'm putting it to you that all three of those failed. The Afghan authorities did not conduct themselves properly; the Afghanistan Independent Human Rights Commission was not given access to the prisons, and they indicated that; and the International Committee of the Red Cross did not report to Canada, but to the Afghan authorities. That procedure actually failed, and as you indicated, it had to be changed.

I'm not blaming you for this, Mr. Buchan, but the worry I have is that the defence seems to be that there were no "credible" allegations—I use that word, and it's an adjective that's always used by the government in the defence of the situation—that Canadian-transferred detainees—and that's another adjective that's always used—were being tortured. However, the other evidence from Ms. Olexiuk, from Mr. Colvin, and from others was that everybody knew that prisoners were tortured in Afghanistan. "That's what they do", said Mr. Colvin. Everybody seemed to know, and I'm sure you did too, that this was the story about Afghan detainees.

What I want to know is why it took a reporter from *The Globe and Mail* going to Afghanistan, doing his own investigation, taking whatever risks he had to take—the same ones, I suppose, that we would have to take to monitor this—to come up with the story that caused the government to act. That's the reality, isn't it?

**Mr. Gavin Buchan:** There are a couple of elements of that that I think need to be unpicked, as it were. The first is the role of the ICRC. They do not report to Canada, but they nonetheless undertake monitoring. That is one of their prime functions as an organization, and they had access to Afghan prisons throughout this period.

The second is the AIHRC, which during my time in Kandahar had what I would describe as intermittent access until we assisted them by applying some pressure. They hadn't told us, however, that their access was deficient during most of this period. Clearly there were issues in terms of their capacity, but Canada was working throughout this time to build up the capacity of the AIHRC, which included ensuring that they were notified of every prisoner we transferred. We were putting in place—

**Mr. Jack Harris:** But they complained about that being inadequate.

The other thing you told us is that when you did find out, as a result of Graeme Smith's activities, you had no means or expertise to conduct an investigation. Essentially, by meeting with the NDS authorities, you relied on them to conduct an investigation. Isn't that correct?

• (1620)

**Mr. Gavin Buchan:** I would disagree with that characterization.

**Mr. Jack Harris:** So there was no investigation.

**Mr. Gavin Buchan:** What happened in April of 2005 on that first visit, which preceded negotiation of the supplementary arrangement

**Mr. Jack Harris:** In 2007, I presume.

**Mr. Gavin Buchan:** Yes, 2007. What happened was a facilities inspection, during which we went through the prison population with an NDS officer at our shoulder. However, in the supplementary arrangements we had an instrument that allowed for private interviews of detainees, so that on subsequent visits we would be able—and this I did myself, on subsequent occasions—to go off into a room, sit down with the interpreter and a Canadian-transferred detainee and get a frank assessment from them of what their conditions of incarceration were and what the treatment was. So we had from May 2007 a much stronger instrument in place.

Coming back to your earlier point, though, the challenge we faced in the period through April 2007 was that the instrument we had put in place to generate feedback to us was not generating that feedback. So we didn't realize that the first line of defence was not fully functional—the assurances that prisoners would be well treated.

**The Chair:** Go ahead, Mr. Harris. You still have a minute.

**Mr. Jack Harris:** We were told by Brigadier-General Ken Watkin that the rule of international law and humanitarian law required that you can't transfer to a real risk of torture, and I think we're all accepting that. But he also indicated that this applied whether you were engaged in an internal civil war or engaged in direct combat.

It seems to me that Canada decided that the sovereignty of Afghanistan was a reason that we could pass our responsibilities on to them despite the risk of torture. I want to quote what Louise Arbour, a former Supreme Court justice, was quoted as saying a couple of days ago. This is about Afghanistan:

When you embark on these operations, you have to realize what you will face and have a strategy that is legally compliant [with international conventions] and that makes sense. It's part of the complexity of engaging in warfare in these kinds of theatres.

And she said that our activities show a lack of foresight and coherent policy.

Do you have misgivings that the initial decision was the wrong one, to actually turn it over to Afghan authorities?

**The Chair:** Answer in 20 seconds, please.

**Mr. Gavin Buchan:** I think it's fair to say that the system we put in place in 2005, while it met our international legal obligations—or so I was told by a lawyer—was not something that was sufficiently robust to cope with the practical realities on the ground in Kandahar, which we didn't have any experience in at the time.

Now we know; from April 2007 we have known. Prior to that point we didn't.

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

Mr. Hawn, please.

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

Thank you both for being here.

General Grant, I'd like to touch quickly on the *Globe and Mail* article, because it's been referenced here a number of times.

It was said by you or Mr. Buchan that you had concerns about some of the accuracy of items in the article. Can you clarify those, briefly, if you have a couple of examples?

**MGen Timothy Grant:** The first thing that struck me in that article was that Graeme Smith was quoting an individual as the head of the NDS in Kandahar. The name he used is not one that I recognized, and it's not one that any of the senior leadership of the NDS recognized. So I'm not sure who he actually had spoken to. That caused me some concern.

The other one was that he was getting quotes from an individual from the Afghanistan Independent Human Rights Commission, again an individual I hadn't heard of, but I assume he did work for that commission. The concern there is that this individual was quoted as being concerned about the fact that Canada was not providing—or it “would be nice if Canada provided”—the names of detainees who were transferred. Again that struck a chord with me, because for more than two months we had been doing exactly that. I signed an agreement personally with the head of the Afghanistan Independent Human Rights Commission on February 20, at which point we said that we would provide those details, and we had been providing them.

Those two specific issues caused me concern—not with the whole article, but it caused me to question it a little bit.

**Mr. Laurie Hawn:** So in spite of your lack of confidence in the accuracy of the article, we took action anyway.

**MGen Timothy Grant:** We did without question. Given the fact that allegations had been made, we acted.

• (1625)

**Mr. Laurie Hawn:** Mr. Buchan, we talked about the agreement and the composite agreement. You can have the world's best agreement, but it still depends on the people who are applying the agreement. I'll just quote Admiral Ludin, Afghanistan's ambassador to Canada. He said yesterday,

If there weren't any problems in Afghanistan, if there weren't human rights violations, if our police and prisons were perfect, why did we need your help? That's why you're there, helping us.

Can you comment on that? I think it goes to context that, yes, an agreement can be great, it can be airtight, but it still depends on the people administering the agreement.

**Mr. Gavin Buchan:** Yes, I would completely agree with that. It comes back to the question of capacity building.

We had a team from Correctional Service Canada on the ground conducting a needs assessment in the summer of 2006. That was followed up within seven or eight months by the presence of a CSC team on the ground to work on prison issues full-time. That's a significant commitment of personnel and resources, and it's a huge contribution to the prison system in Kandahar. Sarposa Prison is getting, in the Afghan prison context, rave reviews. It's a very highly regarded institution now, and that is due to the work that has been done by Correctional Service Canada as part of the broader commitment by Canada to capacity building. That is an integral part of how we conduct operations.

**Mr. Laurie Hawn:** Mr. Bachand quoted selectively from a document that you had seen, with respect to detainees disappearing from the system, with the implication they disappeared because they were harmed in some way. Given your experience, can you clarify that it was just as likely that they disappeared just by being released illegitimately or for some other reason?

**Mr. Gavin Buchan:** Given my own experience, I'd say that's an accurate concern.

The good news about handing prisoners over to the NDS vice directly to a prison system is that they actually have to go through a process of being investigated and being charged. If there is no charge to be laid, then they have to be released. So they're following a process of law, sometimes imperfectly, but they are following it. The risk of somebody being released from the system because they're not going to be charged is very high, and the documentation may not reflect that.

**Mr. Laurie Hawn:** So the—I don't want to say “allegations”, because that's probably too strong a word—implication is in fact very selective and not necessarily accurate.

**Mr. Gavin Buchan:** If my memory is correct, the emphasis in that document was on the concern about people leaking out of the system.

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

General Grant, we've heard disturbing allegations that Canadian soldiers were in fact blocking the ICRC from doing their jobs by deliberately providing wrong information, and that higher levels of the military impeded the timely flow of information to the ICRC. Can you clarify for us whether or not these are issues or they were issues with local representatives? How was that system working, in your experience?

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

Could we have a fairly quick answer, please, General Grant?

**MGen Timothy Grant:** I would say those comments are nonsense, quite frankly. As I said, I met with the local representative from the Red Cross early in my tour, and I met with him often. He had free access to the base, which he exercised on a regular basis, and he visited the detainee facility.

The only issue that ever came to my attention about information flow was in fact about information that did not get to ISAF headquarters. And while people initially blamed the Canadians, in fact it was an allied officer in the Regional Command South headquarters, the provost marshal at that point, who was not a Canadian, who had failed to do his job. So from my standpoint, we

met with the ICRC, and they had no complaints about the way we provided them information.

**The Chair:** Thank you, General Grant.

Mr. Dosanjh, please go ahead for five minutes.

**Hon. Ujjal Dosanjh (Vancouver South, Lib.):** Thank you, General, and thank you, Mr. Buchan.

I have a couple of questions. The first one is for the general.

General, when he appeared before the committee Mr. Malgarai indicated that an allegation had been made that a young unarmed man had been shot during your watch. Were you present in the battlefield at that time, or were you not present?

**MGen Timothy Grant:** No, I was not present.

**Hon. Ujjal Dosanjh:** I understand there's a news story that the family, particularly the two brothers of the man who was allegedly shot, have asked for a probe, and General Natynczyk has indicated that a probe is under way, whether it just started now or had been ongoing. Can you shed any personal light on this from what you may have learned from your involvement as the lead?

● (1630)

**MGen Timothy Grant:** I'm afraid I probably can't shed any light on it. I have not had access to those documents. I read General Natynczyk's letter back to this committee, I believe, but other than that I can't remember over three years ago.

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

Mr. Buchan, when Ambassador Lalani appeared here, if I'm correct he actually did acknowledge that there was a substantial risk of torture in Afghan jails, particularly with the NDS. Our detainees were no exception. From all of the evidence—you may disbelieve some, believe others—from international reports, from our own people who know the situation in Afghanistan, there is mounting evidence, mounting allegations, that this risk was real.

Can you tell the committee—and you know the international law—whether you were satisfied that we as a country met the international test, particularly given that when you have to investigate these allegations we turn to the torturer? If the NDS is accused of torturing, we actually go to the NDS and say please investigate these allegations. Can you tell me whether you're satisfied that we met the test?

**Mr. Gavin Buchan:** If I can ask for clarification, when you say “met the test”, are you referring to 2005, 2007, the present day?

**Hon. Ujjal Dosanjh:** Whether we met the test during your period.

**Mr. Gavin Buchan:** I'm confident that Canada has consistently met the test of its international obligations throughout our period in theatre. Does that mean that no Canadian-transferred detainees have faced abuse? I think with the benefit of hindsight we can say that in the period 2006 to April 2007 we did not have a perfect system. What has to be borne in mind is that as soon as we found this out we took strenuous efforts to fix it, to address the situation.

**Hon. Ujjal Dosanjh:** How would you come to that conclusion, if Ambassador Lalani is correct that our detainees faced a substantial risk of torture and continued to do so? How do you say that we met the test? Can you explain?

**Mr. Gavin Buchan:** Because measures were put in place to mitigate that risk.

**Hon. Ujjal Dosanjh:** After torture had happened.

**Mr. Gavin Buchan:** No. Measures were taken and put in place to mitigate the likelihood of it taking place. If you look at the 2005 arrangement, you have the assurances from the Government of Afghanistan, AIHRC monitoring, and ICRC notification. Those were the three steps. When we discovered that those were not working sufficiently, additional mitigation measures were put in place.

**Hon. Ujjal Dosanjh:** Okay.

Can I take you back to...? I believe there was a meeting at Kandahar airfield with ICRC and Canadian officials. Were any of you present at that meeting?

**The Chair:** Could you be a little more specific as to time?

**Hon. Ujjal Dosanjh:** It would be in 2007.

**MGen Timothy Grant:** I met with the ICRC several times in 2007.

**Hon. Ujjal Dosanjh:** At the Kandahar airfield?

**MGen Timothy Grant:** Yes. The representative would come to visit me and visit the detainee centre on a regular basis.

**Hon. Ujjal Dosanjh:** Right. Can you then tell us—if there is anything you can tell us—what they were talking to you about? What were their concerns?

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

Very quickly.

**MGen Timothy Grant:** I will tread lightly here, but the fact is that what I was provided by the ICRC representative gave me a level of comfort that the Canadian-transferred detainees were not being tortured and not subject to abuse. While that information may not have been transposed from Geneva ICRC to Ottawa, the level of information I was getting from the folks on the ground was much more significant.

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

We'll move to Mr. Dechert, please.

• (1635)

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

Gentlemen, thank you for your appearance here this afternoon.

Mr. Buchan, do I have it right that Mr. Colvin was in Kandahar in May and June of 2006? Was that the only time he was in Kandahar?

**Mr. Gavin Buchan:** That is the only time he was stationed in Kandahar.

**Mr. Bob Dechert:** He was stationed in Kandahar. Okay.

**Mr. Gavin Buchan:** He came down from Kabul on visits, for example, accompanying ministers or MPs who were touring.

**Mr. Bob Dechert:** Okay. And he replaced you for a period of time, and then you relieved him when you came back in June 2006?

**Mr. Gavin Buchan:** Yes. I both preceded and followed Mr. Colvin in Kandahar.

**Mr. Bob Dechert:** Okay. And when you arrived back in Kandahar, did you have a debriefing session with him?

**Mr. Gavin Buchan:** We didn't overlap on that occasion. What I received at the PRT was a written briefing note.

**Mr. Bob Dechert:** And did anything in his written briefing note touch on the issue of abuse of prisoners?

**Mr. Gavin Buchan:** No, there was nothing to that effect in the note.

**Mr. Bob Dechert:** Okay.

Mr. Grant, you said "I am puzzled by Mr. Colvin's comments". So my question to both of you gentlemen is, why do you think Mr. Colvin would not have mentioned something back in 2006 and would then raise the allegations much later, in 2009? Why would he do that, and what do you think his motivations are for doing such a thing?

**MGen Timothy Grant:** I have no idea. I saw Richard on numerous occasions, both when he came to Kandahar to visit and when I went to Kabul on business. Unlike General Gauthier, I don't think I scared Richard, but at no point did he come and say, "General, there is an issue".

**Mr. Bob Dechert:** It's curious to me that if that was his responsibility at the time and he was concerned, he wouldn't have raised it. I just find that curious.

Mr. Buchan, what's your view on that?

**Mr. Gavin Buchan:** I won't presume to speak for Richard or on his motivations. What I will say is that in April 2007 there were some very vigorous exchanges between the embassy in Kabul and headquarters in which he put forward strong and I believe entirely legitimate views. But the key thing here is timing. Those views were expressed in April 2007, and not in the period prior.

**Mr. Bob Dechert:** Right, and then what happened once you received those allegations and those concerns from him? What did you do?

**Mr. Gavin Buchan:** They weren't actually allegations at that stage. It was in the period following the appearance of the allegations in *The Globe and Mail*. And there was a very serious debate as to what Canada should be doing and what options could be followed up to achieve the greatest effect. At that point Richard felt that more could be done than was initially proposed.

**Mr. Bob Dechert:** And what happened? What was the result of those concerns?

**Mr. Gavin Buchan:** At the end of the day, I believe most of them were incorporated into the structure of the 2007 agreement. In particular, he felt very strongly that we needed hands-on Canadian monitoring, and that is something we negotiated and we now have.

**Mr. Bob Dechert:** Okay.

Mr. Buchan, when the 2005 arrangement was being negotiated, did you ever brief the then Minister of Defence or Minister of Foreign Affairs with respect to that arrangement?

**Mr. Gavin Buchan:** No. And I should clarify my role in 2005. At the time I was but a lowly deputy director at headquarters, and my engagement extended only through April or May of 2005, at which point I moved to another assignment, so I did not see the end of that process.

**Mr. Bob Dechert:** What do you think the then Minister of Defence or Minister of Foreign Affairs would have known about the transfer of prisoners in 2005 and the arrangement that was being negotiated and ultimately signed with the Afghan government at that time?

**Mr. Gavin Buchan:** I really can't speculate on what a minister would have known. All I can talk about is what I actually experienced, which was the discussion in the room about what the options were and what the pluses and minuses would be of different approaches. I was out of that situation before it rose to political levels.

**The Chair:** Thank you very much, Mr. Dechert.

We'll move to Mr. André. Welcome here.

[Translation]

**Mr. Guy André (Berthier—Maskinongé, BQ):** Good afternoon.

Like my colleague, I want to talk about *The Globe and Mail* articles.

• (1640)

[English]

On April 25, 2007, *The Globe and Mail* reported that the government was informed that "Extrajudicial executions, disappearances, torture and detention without trial are all too common" for detainees, and that the government had censored this information in documents released to the media.

[Translation]

Given these reports mentioned by *The Globe and Mail*, it is obvious you were aware of these allegations. You knew that transferred Afghan detainees were subject to abuse. What did you do? Why did you not act? Did you inform other members of the government of the situation? I feel there was some carelessness. Were you free to act? Were there any pressures or constraints that prevented you from stopping the transfer of detainees to these facilities where they were tortured?

[English]

**The Chair:** General Grant.

**MGen Timothy Grant:** If I could just ask for clarification, I think you said it's based on the article of April 2007. Is that the timeframe we're referring to?

[Translation]

**Mr. Guy André:** Yes, exactly. It was reported on April 25, 2007.

[English]

**MGen Timothy Grant:** Right.

The bottom line is that we did take action. We took very swift action when those series of articles were printed, were made public. So from that standpoint, absolutely, we acted on the ground in a responsible and swift manner.

As to the issue of whether I was able to make a decision to transfer or not transfer, absolutely, that was my decision. During that period of time, we didn't make transfers. We wanted to make sure of what had transpired on the ground.

**The Chair:** Monsieur André.

[Translation]

**Mr. Guy André:** You can carry on.

[English]

**Mr. Claude Bachand:** Can I continue?

**The Chair:** Go ahead, Mr. Bachand.

[Translation]

**Mr. Claude Bachand:** This was written in May 2007:

[English]

The new transfer agreement is signed allowing Canada to visit Afghan prisons. Colvin says little monitoring occurs due to lack of resources, which means "detainees continued to be tortured after they were transferred." He also says "the paper trail on detainees was reduced" and "reports on detainees began sometimes to be censored with crucial information removed."

[Translation]

Do you believe that what Mr. Colvin said is accurate?

[English]

**MGen Timothy Grant:** Not at all. In fact, I would say the paper trail from that point in time became larger.

We put in place at that time a formal piece of paper, a process that would clearly capture the commander's decision-making process. I think that's the paperwork that was discussed yesterday at the MPCC that can't be found, or can't be located quickly.

The fact is we were diligent to make sure we documented exactly what transpired. That information was put into a database that was accessible to both military and Department of Foreign Affairs officers. And that's what I talked about earlier. The implementation of that supplemental agreement caused us to do certain things differently. It took about a week for us to figure out all of the details we had to do to make sure that we had got it absolutely right. And everyone was involved in that. So to say that our paperwork was reduced after that time, it's just the opposite.

[Translation]

**Mr. Claude Bachand:** Okay.

This was reported in June 2007:

[English]

A PRT team in Kandahar reports that a Canadian-transferred detainee in Sarpoza prison has been "beaten with electrical cables while blindfolded" by NDS officials.

[Translation]

Are you aware of this report of the PRT team?

[English]

**MGen Timothy Grant:** I believe so, but I would have to see it to be sure.

[Translation]

**Mr. Gavin Buchan:** May I ask you to repeat the date?

**Mr. Claude Bachand:** It is June 4, 2007. It is a report by a PRT team in Kandahar.

**Mr. Gavin Buchan:** Yes, I understand.

If I remember well—and I think I do—this alluded to something that happened before April 2007. It is someone who was transferred to the Sarposa jail and who made allegations about abuse that may have happened at the NDS. These allegations are related to the period preceding April 2007.

• (1645)

[English]

**Mr. Claude Bachand:** Okay.

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

I come to Mr. Hawn.

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

General Grant, we've heard testimony that the captured Afghan insurgents are not IED bomb-makers, but innocent Afghans with no connection to the insurgency whatsoever. Would you agree with that assessment, that most or many of the detainees were taken arbitrarily or simply for the purpose of information gathering? How did we process those folks?

**MGen Timothy Grant:** I would say no one was taken arbitrarily and no one was taken for the purpose of information gathering. Soldiers were trained. They needed to ensure that their environment was safe, and where there was doubt, through the tool of tactical questioning, they were able to determine if an individual posed a threat to them and to the Afghan civilians in the area.

So were innocent individuals from time to time picked up? Did soldiers on the ground make a mistake? Absolutely. But the fact is they took them in a controlled process, moved them back to Kandahar, where we had the luxury to make the decision, a cold, calculated decision, of whether this person was truly a threat. I would say, in general terms, about 25% of the people were immediately released because they didn't cross that threshold of being a threat.

From my standpoint, the soldiers on the ground who were trying to distinguish insurgents from local farmers made the right decisions. At KAF, we made the right decisions.

**Mr. Laurie Hawn:** You probably can't get into too much detail, but how much would a simple gunshot residue test have played in that decision and how much would other factors have played?

**MGen Timothy Grant:** If you go back to the three scenarios that I described, the first one is the conditions of the incident. So is it after a firefight? Is it after an IED or a suicide bomber? The soldiers would look at the conditions of that incident and then they would look through a series of indicators, and gunshot residue was but one of them. But for security reasons, I would not give you the list of what all the indicators are.

**Mr. Laurie Hawn:** I understand.

Mr. Buchan, we've heard a lot of diverging testimony, and a lot of it from Mr. Colvin, and it has been referred to again. Last week Mr. Colvin clarified that he really wasn't saying that Canadian-transferred detainees had been mistreated, but he was concerned that they might be vulnerable to mistreatment. Isn't that precisely the concern that everybody has expressed right from day one? And we might be simply exaggerating his concerns, because he didn't pass those concerns on to you or to General Grant, from what I've been hearing.

**Mr. Gavin Buchan:** It's an accurate statement that Richard expressed concerns about the overall treatment of detainees in the Afghan system during the period 2006-07, yes.

I think you're quite right, we all had concerns about risk. We had put measures in place to mitigate that risk and we didn't realize that those measures were not working the way they were intended. Once we did realize the measures were not working as intended, we put in place new ones, much reinforced, in an effort to ensure that the situation was fixed, comprehensively.

**Mr. Laurie Hawn:** General Grant, you've worked with translators, obviously, before, and Mr. Buchan, I suspect you have too. We have been told that Mr. Ahmadshah Malgarai obviously was a translator. I assume he would like to keep a low profile for self-preservation. Would that be a normal *modus operandi* for a translator?

**MGen Timothy Grant:** It would be.

**Mr. Laurie Hawn:** Now, if Mr. Malgarai was preaching in the local mosque, which he was, and was under consideration, in some quarters, as a potential Governor of Kandahar, does that sound like somebody who was really trying to keep a low profile?

**MGen Timothy Grant:** He started working in Afghanistan while I was still the commander, and I believe he translated for me once. I wasn't comfortable with him, so I went back to another individual. If I had known he was preaching in the mosque, I would have put an end to it, because I don't believe that would be appropriate to do.

My recollection of 99% of the interpreters, translators, is that they are very dedicated to the job they do in Afghanistan, but they do keep a low profile.

**Mr. Laurie Hawn:** I'm not suggesting that Mr. Ahmadshah Malgarai was not dedicated to his translator job, but there were some other issues.

Mr. Buchan, at the time the supplementary arrangement was being developed, were you satisfied that you were able to contribute and in fact roll Mr. Colvin's concerns into the arrangement? Did you feel there was a good spirit of cooperation between DFAIT and the military and the other folks who drafted that arrangement?

• (1650)

**Mr. Gavin Buchan:** Yes. At that time and at other times in theatre, I have been very satisfied with the degree of cooperation of DFAIT, DND, CIDA, the Correctional Services, and the RCMP. We really do have a whole-of-government team operating in theatre.

We're doing things we have never done in the past. We're learning sometimes as we go along, but we're delivering real results. I think April 2007 is a good indicator of that. We brought the expertise in from the Correctional Services. You had DFAIT as the assigned monitoring agency, you had the RCMP standing by to provide technical assistance, and you had DND providing security.

**Mr. Laurie Hawn:** How do you respond to the criticism that Canada has turned a blind eye to torture? Is that statement remotely possible or true, in either one of your estimations?

**Mr. Gavin Buchan:** It's something that touches me. It offends me, because as I said in my statement, had I been conscious at any stage in my assignment of the abuse of Canadian detainees, I would have reported that to headquarters and would not have rested until something had been done.

**The Chair:** General Grant.

**MGen Timothy Grant:** Based on my responsibility to make the decision, I did not make a blanket decision. Each and every detainee was special. I looked at it that way and wanted to make sure that the right decision was taken at the time.

I can't speak for the whole of government, but I can speak for those I knew in theatre. I think we did the right thing. I know we did the right thing.

**The Chair:** Thank you very much.

We'll have to leave it there. We have votes coming up and another individual who will appear before our committee.

I certainly want to thank both of you for coming and for your professionalism. I think all of us care very much about the men and women who represent our country and all the values we hold so dear. Many times the diplomats and those who are behind the scenes are kind of forgotten in the fact that we're talking about soldiers, and we've had both represented here today.

Thank you for your long career with the Canadian armed forces, General Grant. It's a career you can be very proud of, and I can certainly say we're very proud of you.

It's the same with you, Mr. Buchan. Thank you for your honesty today and for the passion you have that Canada did the right thing.

Thank you very much.

*[Proceedings continue in camera]*

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