

INTERVIEW OF BGEN FRASER
PROTECTED B

1 (inaudible) too, there was five checks and balances
2 in place for your level.

3 BGEN FRASER: Well, there were
4 five different sources of information coming up to
5 me.

6 MR. LENTON: Okay. And so none of
7 that provoked you to request anyone to do a
8 specific inquiry or to dig into it or anything
9 further that you recall?

10 BGEN FRASER: No.

11 MR. LENTON: Generally, what
12 naturally flowed up to you was consistent.

13 Do you have any idea how long you
14 actually stayed at CAF?

15 BGEN FRASER: I can't remember.
16 We had the 96-hour rule; as soon as we caught the
17 detainees, the clock started.

18 MR. LENTON: Right.

19 BGEN FRASER: So we were religious
20 in making sure that they were turned over in the
21 appropriate time in accordance with the rules and
22 regulations, unless there was a medical reason. In
23 the cases where there were medical reasons, and we
24 did keep (inaudible), we gave them medical care
25 that was as good as and the same standard as what

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PROTECTED B

1 any one of the other soldiers received. The only
2 thing we would do is to put a guard on them.

3 MR. LENTON: Okay. In this
4 particular case, they in fact didn't stay very long
5 at CAF? They were probably -- there was some time
6 to get them back, probably 12 hours to get them
7 back to CAF, because of airlift issues and that.
8 They were probably more or less eight hours in the
9 system, at CAF, and then released.

10 Do you recall any issues of
11 pressure to get them out quickly, specific pressure
12 to -- ?

13 BGEN FRASER: No. I mean, it was
14 our SOP to hand them over to the Afghan authorities
15 as soon as possible.

16 MR. LENTON: Okay.

17 BGEN FRASER: It is an Afghan
18 problem.

19 MR. LENTON: Okay. And if I --
20 just going back to your chart there, once these
21 guys are there, once they are in the control of the
22 military police, the Canadian military police at
23 CAF, they are basically under the umbrella of the
24 task force Provost Marshall as far as how they are
25 treated, and he has sort of muddled(ph) through.

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PROTECTED B

1 His direct line is to you but he
2 also reports to Putt, or he keeps Putt informed on
3 (inaudible).

4 BGEN FRASER: Absolutely.

5 MR. LENTON: And Putt is the one
6 that goes to SEFCOM, with that kind of thing?

7 BGEN FRASER: Yes. Yes. In the
8 NCE box, you have a Provost Marshall, you have an
9 -- it is an ops room; it is not really an ops room,
10 it is an information passage. And the Provost
11 Marshall is keeping Putt informed.

12 MR. LENTON: Right.

13 BGEN FRASER: And Putt is making
14 sure that Ottawa is informed about what the status
15 is of the detainees. In turn, Putt is also keeping
16 me informed about the status of detainees because
17 now they are outside of that Regional Command South
18 chain.

19 MR. LENTON: Right.

20 BGEN FRASER: They are in a
21 Canadian chain --

22 MR. LENTON: Right.

23 BGEN FRASER: -- until we hand
24 them off to the Afghan authorities. Because, you
25 know, the Canadian MPs aren't underneath that

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PROTECTED B

1 operational box. That is the complexity of the
2 environment.

3 MR. LENTON: Right. So if I am
4 understanding correctly then, once you've got the
5 detainees are on the ground are there, there is a
6 reporting going on between the Provost Marshall and
7 the national command element, is it safe to say
8 then that the majority of the routine or the
9 expected traffic will be right from the Net to
10 SEFCOM?

11 BGEN FRASER: Yes.

12 MR. LENTON: As far as the passage
13 of information, the files, the documentation,
14 SEFCOM concerns of the effect of the detainees,
15 would that tend to go straight from the SEFCOM
16 Group to the NCE?

17 BGEN FRASER: Correct.

18 MR. LENTON: As opposed to going
19 to the -- to your office, unless things are really
20 off the track.

21 BGEN FRASER: If things are off
22 the track, I as national contingent commander,
23 first of all, I, as the national contingent
24 commander, am being apprised of it all the time,
25 and make sure that this stuff is happening in

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PROTECTED B

1 accordance with the directions --

2 MR. LENTON: Okay.

3 BGEN FRASER: -- and in
4 accordance with the timelines.

5 MR. LENTON: Right.

6 BGEN FRASER: I then take off that
7 hat and put my operational hat on. I inform my
8 guy, my boss --

9 MR. LENTON: He is in Kabul?

10 BGEN FRASER: No, he is in
11 Baghram.

12 MR. LENTON: He is in Baghram,
13 okay.

14 BGEN FRASER: The division trainer
15 at this time, I am was working with [REDACTED] --
16 inform him that, in fact, you know, they may have
17 detainees. There is nothing untoward about the
18 detainees, and (b) is they are being handed back to
19 the Afghan authorities in accordance with the rules
20 and regulations.

21 MR. LENTON: Okay. So if someone
22 at SEFCOM -- and the information I have is that
23 there was an extreme interest at the SEFCOM level,
24 that these guys be moved post-haste through the
25 system and be transferred over. That traffic, is

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PROTECTED B

1 it normal for that traffic to go from SEFCOM
2 straight to Putt and then down to Fraser? Or would
3 it come through your --

4 BGEN FRASER: No. It would have
5 gone through the box on the left; it would have
6 gone through Putt and Fraser. And they would
7 inform me.

8 MR. LENTON: And then if they were
9 uncomfortable with it, you would expect that they
10 would inform you --

11 BGEN FRASER: Yes

12 MR. LENTON: -- if they were
13 uncomfortable with any direction they were getting
14 or any pressure they were getting from SEFCOM?

15 BGEN FRASER: Yes.

16 MR. LENTON: And to your
17 recollection there was no such contact?

18 BGEN FRASER: I don't recall
19 anything. I mean, we just wanted to make sure we
20 handed these guys off to the Afghans as soon as we
21 possibly could.

22 MR. LENTON: Okay. A bit of a
23 sidebar: Did the Provost Marshall, Captain Avi(ph)
24 Moore, was he on a visit over there in about that
25 time frame, late April?

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1 BGEN FRASER: I can't remember.

2 MR. LENTON: You can't remember.

3 What about --

4 BGEN FRASER: There are only about
5 3,000 of these guys showing up every day.

6 MR. LENTON: Lieutenant Commander
7 Gauthier, the SEFCOM commander of the day, do you
8 recall him coming over for a visit?

9 BGEN FRASER: He was there about
10 once a month.

11 MR. LENTON: He was there
12 frequently?

13 BGEN FRASER: Yes.

14 MR. LENTON: I am sure you had
15 tons of things to talk about. Were the detainee
16 issues ever a --

17 BGEN FRASER: Frequently.

18 MR. LENTON: Frequently?

19 BGEN FRASER: Yes.

20 MR. LENTON: And was the timeline
21 an issue with him?

22 BGEN FRASER: As soon as I got a
23 detainee I would phone him.

24 MR. LENTON: Okay. You would
25 personally phone?

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PROTECTED B

1 BGEN FRASER: I would do my best
2 to phone him. I actually phoned him on this case.
3 We talked two, three days after that, in fact. We
4 actually talked about this a couple of times.
5 Either I would phone him if I was around, and I
6 could. If not, Tom Putt would phone him.

7 MR. LENTON: Okay.

8 BGEN FRASER: One of the two of us
9 would always call back to SEFCOM as soon as we got
10 a detainee. That is one of the information
11 requirements that we had.

12 MR. LENTON: Now those
13 conversations and understanding where we are coming
14 from, was there anything in those conversations
15 relevant to either to an investigation or the
16 condition of the detainees or the time that they
17 had spent there or the short -- the consequences of
18 it being a short timeline?

19 BGEN FRASER: We would have told
20 them we have detainees, the condition of the
21 detainees, and if there was anything untoward that
22 they needed to know.

23 MR. LENTON: Yes.

24 BGEN FRASER: And when we were
25 going to get, you know -- how fast could we get

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PROTECTED B

1 them to handover to the Afghan authorities. I
2 guess I am a little puzzled why, having them been
3 there so short, what is the issue? Because --

4 MR. LENTON: Well, I am going to
5 come to that because -- and I will -- because we
6 are there: Did [REDACTED] ever engage you in
7 a conversation about how quickly they had been
8 removed from, transferred across to the Afghans?

9 BGEN FRASER: No, I can't
10 remember.

11 MR. LENTON: Okay.

12 BGEN FRASER: Nothing. Nothing
13 comes to mind.

14 MR. LENTON: [REDACTED]

15 [REDACTED]
16 [REDACTED] he sent a letter over to
17 the PRT, to [REDACTED] on the -- it is in
18 here. It was on April 21, seeking some follow-up
19 information on the detainees. I am going to show
20 it to you. For the purposes of the record, it is
21 marked B-71. It is a one-page memo.

22 BGEN FRASER: Okay. I have never
23 seen this letter.

24 MR. LENTON: Okay. The issue is
25 that -- or what we have been told, and I just want

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PROTECTED B

1 to find out whether it got to your level or not,
2 that there seemed to have been, with respect to the
3 time frame some concern by the SEFCOM group in the
4 fact that there wasn't a full identification of the
5 people, there wasn't a full interrogation of the
6 people, or a TQ done at CAF, before they were
7 released and off into the Afghan authorities.

8 I wondered, that seemed to have
9 caused some concern there? It wasn't information
10 we have, and I am just wondering if that ever got
11 up to your level and was part of the discussions
12 you may have had with SEFCOM or with sources of the
13 pressures (inaudible).

14 BGEN FRASER: No.

15 MR. LENTON: On the documentation
16 that we see is a transcript through, there is a --
17 the policy says they are supposed to have an exit
18 medical. The documentation says that they are
19 unable to do that because of the pressure to remove
20 the detainees and get them off site to the Afghan
21 authorities. Did that ever come up to your
22 attention, (inaudible) ever (inaudible) your
23 attention?

24 BGEN FRASER: No.

25 MR. LENTON: Okay. And one of the

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PROTECTED B

1 detainees in fact was unable to be interviewed by
2 the [REDACTED] people because he wasn't
3 stable enough to be interviewed. That never came
4 up to your attention, either?

5 BGEN FRASER: No.

6 MR. LENTON: So if that wasn't an
7 issue at the ground level, it wasn't percolating
8 high enough, far enough up for you to be made aware
9 of it?

10 BGEN FRASER: No.

11 MR. LENTON: (inaudible) the rest
12 of my question sheet here. I think we have covered
13 already that you would have expected that [REDACTED]
14 [REDACTED] and his group would have sort of done that
15 in their post-op, made sure that he was -- you
16 would have made sure he was happy with the way that
17 his people had executed the operation? There
18 wasn't excessive use of force or anything at the
19 time and, if you had that concern, that would have
20 been flagged?

21 BGEN FRASER: Absolutely. I mean,
22 every -- [REDACTED]
23 [REDACTED] their responsibility is, when they
24 conduct an operation, they do an after-action
25 review. I did it at the brigade level.

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PROTECTED B

1 MR. LENTON: Right.

2 BGEN FRASER: But that is when you
3 are talking about multiple units --

4 MR. LENTON: Understood.

5 BGEN FRASER: -- when you go and
6 say, "How did we plan, how did we execute it, what
7 did we learn, what can we do better?"

8 If there was anything untoward
9 that I needed to go and talk to my boss about, I
10 would go and tell him.

11 MR. LENTON: Okay.

12 BGEN FRASER: The same thing with
13 [REDACTED] It is an assumption on my part that they
14 would have done that themselves, and if there was
15 anything he needed to tell me he would have told
16 me.

17 MR. LENTON: Okay. So you, then,
18 from your position, you are relying on, "If
19 something was wrong, at least [REDACTED] or Major
20 Fraser should have brought it to my attention."

21 BGEN FRASER: Correct, because I
22 said --

23 MR. LENTON: Plus the other group
24 said it, some oversight (ph).

25 BGEN FRASER: Right. Because I

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INTERVIEW OF BGEN FRASER
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1 said, for strategic failure, anything that goes
2 untoward of a detainee, I need to know. If we
3 heard or kill any of the host nation, I need to
4 know. And Canadian casualties, I need to know,
5 because all those lead to strategic issues and
6 those are things that I get involved in.

7 But there was nothing, there was
8 nothing there that was coming up into my level that
9 caused me concern, to drill into a situation. So
10 [REDACTED] didn't bring it to my attention, that I
11 recall.

12 MR. LENTON: Okay. The concept of
13 the duty to investigate, and in the policing world
14 it is perhaps somewhat different than in the
15 general military world, but how do you see the duty
16 to investigate as it rests on the shoulders of the
17 task force Provost Marshall, when he sees an
18 injured detainee coming in, what would be your
19 expectation as a commander for him to do as a
20 matter of course?

21 BGEN FRASER: I mean, he is a
22 senior policeman with years of experience. If
23 there was something that would cause him concerns,
24 the expectation I have is he would open up a
25 (inaudible).

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 I told people, do what has to be
2 done.

3 MR. LENTON: Yes.

4 BGEN FRASER: All right? It is
5 not about -- it is what it is, and just do it, do
6 something about it.

7 You could ask people around me; I
8 am not one to shy -- if it is bad news, I am not
9 one to shy away from it. I will plough through it.

10 MR. LENTON: Okay.

11 BGEN FRASER: And my expectation
12 is, if it is bad, just get out there and start
13 kicking the rocks over and find out how bad it is.

14 MR. LENTON: He has, in your view,
15 a fairly significant obligation to self-generate a
16 file if he sees something that doesn't line up in
17 his perspective.

18 BGEN FRASER: I tasked him and I
19 expect it from him; he could self-generate a file.

20 If I looked at my medical people, I could say,
21 "You could self-generate a file." The chain of
22 command can self-generate, and issues and whatnot.

23 I mean, there is enough checks and balances on a
24 site that I can get information coming from
25 different sources that would help me to make sure

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PROTECTED B

1 that we weren't hiding anything.

2 MR. LENTON: What about SEFCOM?

3 If they are getting all this material back again,
4 in your understanding of what they do, do they do
5 kind of a check and balance? Do they represent any
6 part of that system?

7 They are arguably in a somewhat
8 more serene environment, to be able to sit down and
9 analyze things. Is there an expectation on your
10 behalf that they would do that as well?

11 BGEN FRASER: They have a
12 responsibility for checks and balances. Gauthier
13 would question me on the ConOps and what we were
14 doing. Not approving, but he would question me on,
15 you know, what we were trying to achieve, if there
16 was something that he had a question on or a
17 perception, we would get questions from SEFCOM all
18 the time. So that was another check and balance.

19 MR. LENTON: Okay. I believe in
20 the other interview you were shown this document;
21 for the record, it is B-39. I have to read the
22 bottom one first. It is the notification generated
23 by GPK Paul to go to the ICRC. Then there is a
24 response at the top of the question on him.

25 First of all, just to confirm

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1 whether you have, other than in the previous
2 interview, if you have seen that document prior to
3 that?

4 BGEN FRASER: No, I don't remember
5 seeing the document prior to this.

6 MR. LENTON: If you look in the
7 addressees, because the cc'd copies, are there any
8 of those people that come relatively close to, I
9 guess, your Regional Command South area?

10 BGEN FRASER: No.

11 MR. LENTON: And in the -- that is
12 the upper one there, when she responds back, I
13 think it is pretty much of the same list?

14 BGEN FRASER: No. Don't
15 (inaudible) those. I see no --

16 MR. LENTON: No? Okay, thank you.
17 She basically, and Ms Nolte(ph) generated this
18 based just on the three or four lines of
19 information at the bottom, and sees it as a red-
20 flag issue. And there is a number of checks and
21 balances there on the military side that haven't
22 picked up on it in the same way. Is there a
23 rationale for that? Or did that seem abnormal for
24 you that she would pick up on it that quickly on
25 those -- just based on the fact that how he got the

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PROTECTED B

1 injury, and whereas all of the other people, where
2 they are more involved, would not?

3 BGEN FRASER: I guess if, you
4 know, and again, if you just read the report about
5 the injuries, that would probably generate to
6 asking questions. She has probably never done,
7 gone and done any close combat, either.

8 MR. LENTON: Okay.

9 BGEN FRASER: Okay? And this is
10 not a black-and-white issue. It is shades of grey.
11 I mean, it is probably -- it is a legitimate
12 question, based on somebody who has no experience
13 in this area.

14 MR. LENTON: Okay.

15 BGEN FRASER: Then it is up to
16 people who have done this and, using good judgment
17 and -- to answer the questions and (inaudible)
18 discern whether or not there was something untoward
19 that has happened.

20 MR. LENTON: And that would be a
21 chain of command issue, then?

22 BGEN FRASER: That would be a
23 chain of command. So, quite frankly, a legitimate
24 question from her and the chain of command would be
25 obligated to go and reply to her questions. And I

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 think that is a fair dialogue that I may expect to
2 happen.

3 MR. LENTON: So you would expect
4 that the chain of command -- someone should have
5 requested that the chain of command provide a
6 response to this?

7 BGEN FRASER: I would have --

8 MR. LENTON: -- if the system
9 was --

10 BGEN FRASER: Absolutely.

11 MR. LENTON: -- (inaudible)
12 properly.

13 BGEN FRASER: That is a fair
14 question.

15 MR. LENTON: Yes.

16 BGEN FRASER: You know, you read
17 something like that in a report, go and ask
18 somebody a question.

19 MR. LENTON: No, and understood.
20 Sometimes a little bit of information is worse than
21 a lot of information.

22 BGEN FRASER: (inaudible). We had
23 nothing to hide over there.

24 MR. LENTON: No.

25 BGEN FRASER: We told everybody

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 everything that we did.

2 MR. LENTON: I want to go into a
3 little bit of -- some questions on the Theatre
4 Standing Order. Ken, do you have any questions
5 that you would like to --

6 MR. MILLS: Yes. I really just
7 have two, the issue about pressure coming to
8 release as quickly as possible. I understand the
9 thinking to do so, prior to anything happening,
10 that that is a good policy to have under the
11 circumstances.

12 But given what you had said to the
13 NIS, and here, I take it you were unaware that
14 there was pressure and that, because of the
15 pressure, some of the process was circumvented?
16 They didn't have an opportunity, they weren't given
17 -- the MPs weren't given, or the groups there, the
18 [REDACTED] were not given the time that they require to
19 go through the questioning process that they were
20 expected to go through.

21 If you had known about that at the
22 time would you have somehow intervened to make sure
23 that the process could run its full course?

24 BGEN FRASER: Yes. Now that is
25 not to say that the people at the ground level

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 wouldn't have wanted to have these guys for five
2 years.

3 MR. MILLS: Fair enough.

4 BGEN FRASER: Okay?

5 MR. MILLS: Yes.

6 BGEN FRASER: The question was did
7 they -- we -- did we have Osama Bin Laden in our
8 hands or did we have a local hire that was just in
9 a gunfight with a bunch of [REDACTED] and
10 was of little or no tactical value? That is a
11 judgmental call.

12 MR. MILLS: Right.

13 BGEN FRASER: Okay? But there is
14 a process to make sure that we document who we have
15 to the best of our abilities and, oh, by the way,
16 sitting down and taking their names and where they
17 live and whatnot, it is not like you and I. There
18 are not documented -- you know, that is a lot
19 harder to do than at briefs. We found that with
20 even -- you know, doing this after nine months,
21 trying to document a detainee who you had? You
22 know, it is based on what he or she -- what he
23 said.

24 MR. MILLS: Yes. Okay.

25 BGEN FRASER: And there is a lot

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 of (inaudible) out there.

2 MR. MILLS: Right.

3 BGEN FRASER: So -- but medical
4 checks and all those other checks, you know, I
5 expected -- you know, the process was designed to
6 make sure that we could actually, at the end of the
7 day, go, "This is what we did."

8 MR. LENTON: Right.

9 BGEN FRASER: "This person, we did
10 it all," including informing our chain of command
11 to go [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 MR. LENTON: That was the topic of
17 discussion at a meeting in late May, I believe.

18 BGEN FRASER: [REDACTED]
19 [REDACTED]

20 MR. LENTON: At what?

21 BGEN FRASER: [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 MR. LENTON: That was [REDACTED]
25 [REDACTED] I believe?

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 BGEN FRASER: Yes, I can't
2 remember [REDACTED] We brought him in.
3 We sat him down and we said, [REDACTED]

4 [REDACTED]
5 [REDACTED]

6 MR. LENTON: The other -- I think
7 the reason that -- and again, we have to deal with
8 what people tell us. And when I was speaking with
9 [REDACTED] at (inaudible), at your point, and
10 we haven't spoken with [REDACTED] but there
11 seemed to be a degree of frustration that the
12 [REDACTED] people had put a lot of effort into getting
13 these people into a custody environment and then,
14 within eight hours, they were back into Afghan
15 hands. And there seemed to be a (inaudible) get
16 down everything we (inaudible) but -- you weren't
17 aware of that?

18 BGEN FRASER: No. The [REDACTED] had
19 their own [REDACTED] They are the only
20 ones who do. So why didn't [REDACTED] use their own
21 resources?

22 MR. LENTON: Yes, and I am not
23 totally sure. We have some information as to what
24 happened at the field level, but we are of course
25 more interested in what did the TFPM do, what

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INTERVIEW OF BGEN FRASER
PROTECTED B

1 information was given to him, what taskings were
2 given to him, what was available to him that would
3 trigger his ability or his authority to self-
4 generate an investigation into the cause of
5 injuries. That is really what the focus of the --

6 MR. MILLS: Yes, just the -- the
7 other issue that seems to have come up for us, and
8 I am not sure how much you are aware of this, is at
9 the point where the detainee is going through the
10 medical process, there is an interpreter there,
11 there is an MP there who is taking notes. The MP
12 has recorded in his notes that the interpreter has
13 said on behalf of the detainee that he was beaten
14 by soldiers. That information is, as I say,
15 recorded in his notes.

16 That, coupled with the injuries --
17 and they may all be adequately explained, but
18 coupled with the injury and everything else, would
19 it be your opinion that somebody somewhere in that
20 process should have asked a few more questions?

21 BGEN FRASER: I am not sure if the
22 questions weren't already asked. I mean, that is
23 supposition.

24 MR. MILLS: Yes.

25 BGEN FRASER: But if you had just

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1 been in a gunfight, and you have been captured, you
2 probably were hit somewhere or detained.

3 MR. MILLS: Only fair enough.

4 BGEN FRASER: Yes. So the
5 detainee is going to say, "I was beaten." I would
6 have expected somewhere in that conversation he
7 would have said that word.

8 Now, having said that, if you take
9 a look at the nature of the injuries, and you talk
10 about the people on the scene, including the chain
11 of command of the people who took the detainees,
12 and compare that to all the other operations going
13 on there, there is a level of what are acceptable
14 parameters there. You know, unless this was the
15 very first time, which it wasn't the very first
16 time, in a sense, for the operators but, you know,
17 what are the parameters of that operation? And is
18 there anything there that, you know, is untoward.

19 MR. MILLS: Yes, I am not trying
20 to presuppose that --

21 BGEN FRASER: No. No, no, no.

22 MR. MILLS: -- there was something
23 wrong that was done here.

24 BGEN FRASER: Yes. And I don't
25 know.

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1 MR. MILLS: Yes.

2 BGEN FRASER: But nowhere in this
3 whole process was there an alarm bell sent off at
4 my level.

5 MR. MILLS: Right. I understand
6 that, too.

7 BGEN FRASER: Okay. And I am
8 looking for those alarm bells every day at every
9 incident. Is there something there that can
10 actually, you know -- is there something wrong in
11 that, or even the perception, because the
12 perception is just as important to me as the
13 reality. Those are things that I deal with every
14 day, over there.

15 MR. MILLS: Yes. No, that was
16 fine, and thank you, very much.

17 MR. LENTON: Okay. Earlier on you
18 mentioned the standing order, the one that -- and,
19 I mean, I am sure there was a number of them, but
20 the one that we are most interested in was TSO
21 321A, which speaks specifically to the detention of
22 Afghan nationals. Were you involved in the
23 crafting of that document?

24 BGEN FRASER: No. It was
25 essentially --

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1 MR. LENTON: I will give you a
2 couple there, because I have some -- there is some
3 confusion at my level, so I am hoping --

4 BGEN FRASER: He has got a
5 (inaudible) here. You can just stop the machine
6 or --

7 MR. LENTON: Yes. Yes, okay.

8 BGEN FRASER: Otherwise, it can
9 get very embarrassing.

10 MR. LENTON: It is 9:45, and
11 General Fraser is just --

12 Okay, it is 9:46, and we are
13 restarting.

14 General, I have just given you a
15 couple of documents. One of them is the Theatre
16 Standing Order 321A, and I have marked up in the
17 upper corner "1 March 2006." The first point, if
18 you go to, I believe it is (inaudible), your
19 signature is there. And there seems to be an issue
20 with the date. And I don't know whether, and
21 again, in the number of documents you would have
22 signed, whether that was ever brought to your
23 attention.

24 But the start date and the end
25 date are in fact the same. And I am wondering if

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1 that is just a typo? This document appears to be
2 an adoption of the same documents --

3 BGEN FRASER: This is a typo.

4 MR. LENTON: -- signed by Colonel
5 Noonan(ph), your predecessor, there?

6 BGEN FRASER: Yes. That would
7 have just been a typo.

8 MR. LENTON: Okay. I have been
9 assuming that; I just wanted to make sure that that
10 was in fact the case.

11 Now there is another document that
12 has more recently come to my attention, and that is
13 the one that is on the top, dated April 5, 2006.
14 You will notice that the title is somewhat
15 different: "Procedures for the Transfer of
16 Detained Individuals", as opposed to the,
17 "Detention of Afghan Nationals and other
18 Resources." That one has your signature block on
19 the bottom of it, but we do not have a signed copy.

20 I notice some differences. I
21 guess when I do an analysis of the documentation, I
22 see the one from the first of March, I see another
23 one that comes out in September of 2005, again,
24 with your signature block. Unfortunately, the copy
25 that has been provided to us is not signed. I

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1 don't know whether you would have recalled any
2 reason to have re-signed it. There are some subtle
3 changes, but it, for the most part, it is a mirror
4 image of the March 1 document.

5 BGEN FRASER: SEFCOM and people
6 were changing and modifying this as we went along.

7 MR. LENTON: Okay.

8 BGEN FRASER: If there were any
9 modifications, I was then to be given a new
10 document, and sign it, which would make it extant
11 and it would supersede whatever was before. That
12 is normal procedure.

13 MR. LENTON: Right. Do you recall
14 if in -- Major General Grant took command on
15 November 1, would he re-sign 321A? Or?

16 BGEN FRASER: You would have to
17 ask him.

18 MR. LENTON: Yes, okay. We have
19 had some trouble getting copies of signed documents
20 out of the system, and I wondered if you would have
21 remembered that.

22 BGEN FRASER: No. It is normal
23 protocol that commanders on -- you know, they are
24 all existing rules, regulations and orders are in
25 effect when you take over a command.

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1 MR. LENTON: Right.

2 BGEN FRASER: Normal protocol was
3 that you would reissue certain documents and sign
4 them, with your signature on them. Actually, there
5 is a lot of nugatory staff work, like the -- like
6 that, for just taking the same document, just
7 having somebody put a new signature block on it,
8 because we should just have standing SOPs that, you
9 know, apply for all the contingents and not just
10 for everyone.

11 MR. LENTON: Okay. So do you know
12 whether that one on April 5 ever was -- I mean --

13 BGEN FRASER: I can't recall.

14 MR. LENTON: Because the reason
15 that I -- there are a couple of points on it that I
16 would just like to draw your attention to and get
17 your reaction to.

18 On the first page, in paragraph
19 2 --

20 BGEN FRASER: Yes?

21 MR. LENTON: -- the document of
22 March and the subsequent document of September,
23 both start:

24 "Canada does not currently
25 possess -- "

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PROTECTED B

1 Whereas the other one says:

2 "Canada will not possess -- "

3 It is a subtle difference, but
4 there is some meaning, there, I think. I am
5 wondering if --

6 BGEN FRASER: I can't --

7 MR. LENTON: Okay. If you go to--

8 BGEN FRASER: Well, the discussion
9 I had with General Gauthier, because when I first
10 got over there, we had -- metaphorically speaking,
11 we had a detention, so -- (inaudible).

12 MR. LENTON: A pretty rough
13 (inaudible)?

14 BGEN FRASER: Well, no.

15 MR. LENTON: Rudimentary.

16 BGEN FRASER: It -- it was pretty
17 good, you know, all things being considered.

18 MR. LENTON: Okay, but --

19 BGEN FRASER: In Afghanistan.

20 MR. LENTON: Yes, okay.

21 BGEN FRASER: It was a pretty good
22 facility. The thing was the people in Ottawa said
23 you can't have a detention facility, you can't use
24 that word. You can have a process.

25 MR. LENTON: Okay.

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1 BGEN FRASER: Okay? And this is
2 all the (inaudible), "I don't care what you call
3 it. You call it whatever you want." I am
4 interested to make sure that, from the point of
5 detaining somebody, that we call all the checks and
6 balances until we hand them off to an Afghan, as we
7 are obligated to do.

8 MR. LENTON: Okay.

9 BGEN FRASER: And we do all the
10 right things and --

11 So you get the person, you check
12 the person out, you make sure nothing untoward has
13 happened to the person, you hand them over to a
14 POD(ph) first aid in the A2. You had them over to
15 an MP. The MP starts processing that person. You
16 do [REDACTED] you do the medical check,
17 et cetera, et cetera, until you get to the point
18 that you had them over to a proper Afghan
19 authority. So they, you know -- positive control
20 throughout the process.

21 At some stage in the game, some of
22 these people may have to stay in something. And so
23 the tactical (inaudible), we can find the Afghan
24 authority. If you want to call that a process, or
25 call it attend, or call it detention, I don't care.

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1 It is no skin off my nose.

2 So we stopped -- you know, I think
3 at one stage we might have said early on we were
4 going to have a detention (inaudible) facility.
5 People weren't happy with that term, so we changed
6 it. I said, "That's fine. I don't care."

7 MR. LENTON: It is odd though that
8 it comes -- and that is what makes me wonder
9 whether or not the one on April 5 was ever signed,
10 because it comes back in the same language as March
11 comes back in September and is --

12 BGEN FRASER: Yes.

13 MR. LENTON: -- (inaudible).

14 BGEN FRASER: This was a big thing
15 that was going back and forth, mainly in Ottawa.
16 They were concerned about us having a detention
17 facility.

18 MR. LENTON: Now was that a
19 military concern or a political concern?

20 BGEN FRASER: You have to ask
21 them. I don't know.

22 MR. LENTON: You don't know.

23 BGEN FRASER: No. And, quite
24 frankly, I didn't care.

25 MR. LENTON: Okay.

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1 BGEN FRASER: Okay?

2 MR. LENTON: Okay.

3 BGEN FRASER: It didn't change
4 anything. I was living on the ground.

5 MR. LENTON: Okay. Now this is
6 to --

7 BGEN FRASER: It might have just
8 changed words in this thing.

9 MR. LENTON: Yes. No, the -- one
10 -- probably one of the more significant ones that
11 you may have some issue with is if you go on the
12 first document, to page 8, paragraph 32.

13 BGEN FRASER: Which? Which one?

14 MR. LENTON: Of the --

15 BGEN FRASER: One of ours?

16 MR. LENTON: -- (inaudible)
17 documents? Yes.

18 BGEN FRASER: Okay. The AH8(ph)?

19 MR. LENTON: Yes. Under the
20 caption, "Determination of (inaudible) Continued."

21 BGEN FRASER: Yes.

22 MR. LENTON: And, on to the second
23 document, page 8 of 10, at paragraph 29.

24 BGEN FRASER: Okay.

25 MR. LENTON: If you read what in

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1 the second document has been extracted and put into
2 paragraph 29, it appears to have been extracted,
3 the first line of -- or from the first line of
4 paragraph 32 in the March document. And it seems
5 to be shifting the authority for retaining in
6 custody back to SEFCOM, and away from your
7 authority as the task force commander. I should
8 give you a moment to look at it. BGEN FRASER:
9 Paragraph 29, I mean, I can't -- I have a problem
10 with that.

11 MR. LENTON: Yes.

12 BGEN FRASER: How does SEFCOM
13 determine it, not being on the ground and not
14 having the information?

15 MR. LENTON: I don't disagree with
16 you. And I sense from the course of our interview
17 where you would stand on such an issue. So that
18 may be the question: Do you recall that having
19 been a discussion and do you recall every signing a
20 document into which you would have agreed to that?

21 BGEN FRASER: I don't remember
22 signing a document that I would have agreed to
23 that. That statement would have caused me to
24 question to Gauthier, you know, that requirement.

25 MR. LENTON: Okay. And that would

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1 have been part of the conversations you may have
2 had when he was on the ground there, at some point
3 in time? You may not recall it. I don't know the
4 (inaudible) --

5 BGEN FRASER: I don't recall but,
6 quite frankly, I mean, as the commander on the
7 ground, I have a problem with that.

8 MR. LENTON: Okay. A little
9 further down in the same paragraph there is another
10 extraction which I feel is significant and you can
11 comment on it. They talk about, again in the March
12 document, about halfway down:

13 " -- no later than 96 hours
14 after initial detention."

15 BGEN FRASER: Yes, which is --

16 MR. LENTON: I realize at that
17 point you weren't under ISAF; ISAF had not taken
18 over at that point. You were still under Enduring
19 Freedom, I think.

20 BGEN FRASER: Yes. And they had
21 the same -- they both had the same criteria.

22 MR. LENTON: Yes, I know. And I
23 understand that the 96 hours was in this --

24 BGEN FRASER: Yes.

25 MR. LENTON: -- inspired by what

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1 was in the ISAF and what everybody else's rules
2 were.

3 If you look at, again, at the
4 April 5 document, in paragraph 30, about halfway
5 down, that 96 hours has been changed for:

6 " -- shall be made as soon as
7 operationally possible."

8 BGEN FRASER: Yes.

9 MR. LENTON: This goes back to the
10 questions we had about the pressure, and the
11 pressures and where they were coming from. Would
12 one be safe to interpret the, "as soon as
13 operationally possible" as being significantly less
14 than 96 hours if possible? Or is that to be
15 interpreted as soon as operationally possible,
16 rescinding the 96 hours and giving a more open-
17 ended perspective to it?

18 BGEN FRASER: I would have
19 interpreted it as rescinding the 96 and giving it
20 more open ended.

21 MR. LENTON: Okay.

22 BGEN FRASER: Whereas the 96 was
23 no longer than 96. Like, 96 was a mark we had to
24 put in the sand. Now you are trying to do this as
25 soon as you can, before the 96. But anything over

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1 the 96, you were really engaging the chain of
2 command to say, "Why are we holding this person
3 here?"

4 MR. LENTON: Okay.

5 BGEN FRASER: And, with this,
6 there is no line in the sand anymore. It is
7 really -- for me, it is too vague.

8 MR. LENTON: Okay. But if you
9 come behind that, then, "as soon as operationally
10 possible", with paragraph 29 taking the authority
11 back to SEFCOM --

12 BGEN FRASER: Yes.

13 MR. LENTON: -- and where
14 (inaudible) have been given up to this point, at
15 that point in time, there was significant pressures
16 coming out of SEFCOM not to keep them longer, but
17 to keep them less --

18 BGEN FRASER: This puts a whole --
19 this puts the whole monkey into SEFCOM's bailiwick.

20 MR. LENTON: Okay. And I -- based
21 on your earlier response, you would probably have
22 some problems with that if that had been put to
23 you?

24 BGEN FRASER: I was comfortable
25 with the 1 March document. I had some concerns

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1 with the 5 April document.

2 MR. LENTON: But you don't recall
3 whether it was ever signed or that it was just a
4 draft that was floating around?

5 BGEN FRASER: I don't recall
6 signing it. It must have been -- if I saw
7 something like paragraph 29? - that is just
8 something I just would have to go and question.

9 MR. LENTON: Okay.

10 BGEN FRASER: Was this 5 April
11 document ever signed?

12 MR. LENTON: I don't know. We
13 had, in our investigation up until most recently, I
14 was under the belief that it was the March 1
15 document --

16 BGEN FRASER: Yes.

17 MR. LENTON: -- that was the
18 authentic document, with the exception of the date,
19 the typo on the date. And then, in one of the NIS
20 interviews, or some of the NIS interviews, they had
21 put forward this document, the 5th of April, with a
22 slightly different title. And I thought we had
23 missed the boat and were not looking at the right
24 document.

25 I asked them for a copy of it and

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1 all they had was an unsigned copy. I haven't yet
2 had an opportunity to go back and have them search
3 the files and see if they can come up with a signed
4 copy. So -- but for me, I guess, where I find it
5 is relevant is it would be indicative of some
6 discussion going on at the time with respect to
7 detainees and perhaps some shifting ground or
8 varied opinions about detainees. You being the
9 person that was at the pointy end of the stick, I
10 was wondering what you recalled of that and what
11 your reaction would be to that?

12 BGEN FRASER: A lot of the
13 discussion about detainees back to Ottawa was they
14 were in a staff exercise. I think that this was in
15 a staff college. I am actually conducting
16 operations on the ground. I needed answers and
17 direction the day before this (inaudible).

18 MR. LENTON: Right.

19 BGEN FRASER: You know. Little
20 words, like, stuff like this? You know, what do
21 you want me to do when I get somebody? You know?
22 What rule and regulation am I working under, here?
23 You know, "Guys, I am doing it."

24 MR. LENTON: No, and that is not
25 inconsistent with other people, much further down

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1 the chain, have expressed as well.

2 BGEN FRASER: Well, I feel it,
3 and, you know, just accentuate that by 12,000,
4 because that is how many people I was dealing with,
5 plus [REDACTED]
6 [REDACTED] I mean, that is an awful lot of (inaudible)
7 around there.

8 MR. LENTON: Okay. No, I can
9 certainly appreciate that.

10 The military police -- before we
11 move on, any questions?

12 MR. MILLS: No. I am just doing
13 (inaudible).

14 MR. LENTON: (inaudible).

15 MR. MILLS: We don't want to take
16 up extra time with you.

17 BGEN FRASER: That's okay.

18 MR. MILLS: But I don't know what
19 your schedule is this week.

20 MR. LENTON: The MP technical
21 directive based on -- and I will show you a copy of
22 it. I believe in your NIC(ph) you said you had not
23 seen that, and that would not be on your line of
24 sight sort of a thing?

25 BGEN FRASER: I have not seen the

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1 technical directive.

2 MR. LENTON: And then it was
3 followed up by the change no. 1, which is
4 essentially the same thing, but in a Telex format.
5 Timewise, it is more closely time proximate to
6 the--

7 BGEN FRASER: Yes. And, again, on
8 the distribution list, though, I would have never
9 seen this.

10 MR. LENTON: Getting back to the
11 duty to investigate, your duty-to-investigate
12 trigger, as far as your instruction, would be what
13 is continued in, I believe, paragraph 11, if you
14 want to look at the March 1 document?

15 BGEN FRASER: Okay.

16 MR. LENTON: Pardon me, it is
17 paragraph 18 on page 4 of 11, at (d), at the very
18 bottom of the page.

19 BGEN FRASER: Correct.

20 MR. LENTON: And that is a blanket
21 responsibility to everyone under your command?

22 BGEN FRASER: Everyone.

23 MR. LENTON: Okay.

24 BGEN FRASER: Everyone was -- I
25 insisted everyone read the TSOs and they be adhered

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1 to.

2 MR. LENTON: Okay.

3 BGEN FRASER: Would you have a
4 higher expectation on behalf of the military police
5 contingent?

6 BGEN FRASER: Higher than what?

7 MR. LENTON: Higher than in
8 general? Did they have an enhanced level of
9 responsibility to investigate?

10 BGEN FRASER: The short answer is
11 no.

12 MR. LENTON: Okay.

13 BGEN FRASER: I mean, if I look at
14 the medical staff, when it talks about detainees,
15 medical staff, chain of command, or the men, the
16 military police, they have an equal responsibility.

17 In accordance with paragraph 18, if something is
18 untoward, they should do it.

19 Now, I would, in the case of an
20 MP, with the number of years of investigation and
21 capability and expertise, I think it would be more
22 refined than, you know, somebody else who has maybe
23 not been exposed to a lot of this stuff. He should
24 be able to pick up on some of the nuances and be
25 able to snap faster at it, than maybe, you know,

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1 somebody sending in a green report and asking the
2 question. I would ask the MPs to be more
3 professional at investigations and figuring out
4 what are the triggers and looking for smoking guns.

5 MR. LENTON: Okay. In the terms
6 of policing duties and functions, and I -- I don't
7 know how familiar you are with the way that the
8 statute is written with respect to military police
9 duties and functions, but there is a specific
10 definition of what policing duties and functions
11 are. One of them is dealing with the people that
12 are in custody.

13 Did you see the MPs' handling of
14 the detainees as a military police duty and
15 function, or did you see it as a military function,
16 a pure military function, one that happened to be
17 being instituted by or practised by the military
18 police?

19 BGEN FRASER: It is an MP
20 function. It is not (inaudible) --

21 MR. LENTON: -- (inaudible)
22 policing part of the MP function?

23 BGEN FRASER: It is per the
24 policing function. They are the ones that handle
25 detainees. Now soldiers may pick them up

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1 initially, but the directions and the orders that
2 we -- that I gave everybody was, "You find an MP as
3 soon as you physically can, and you hand that
4 person over to an MP."

5 MR. LENTON: Okay.

6 BGEN FRASER: Okay?

7 MR. LENTON: And --

8 BGEN FRASER: And the MPs are the
9 ones who are responsible and trained to do this
10 stuff.

11 MR. LENTON: Okay. And the badge
12 of the MP becomes somewhat a shield for the
13 detainee in the sense that he is someone that has a
14 level of responsibility, expertise and competence
15 to deal with them? Is that a fair characterization
16 of the function (inaudible)?

17 BGEN FRASER: That is fair.

18 MR. LENTON: One last question:
19 The arrangement between the Canadian and Afghan
20 governments was signed back in December of 2005.
21 Did you have any participation in that, the
22 establishment of the document that pre-existed when
23 you got there?

24 BGEN FRASER: I had (inaudible) --

25 MR. LENTON: Nothing to do with

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1 that.

2 BGEN FRASER: I had nothing to do
3 with that one.

4 MR. LENTON: Okay. One last
5 question: After the detainees left from Kandahar
6 and were handed off by the MPs to the Afghan
7 authorities, was that the end of the concern as far
8 you were concerned, that they are back to the
9 national system? Were there any post-transfer
10 issues or concerns?

11 BGEN FRASER: No. Once they were
12 handed back to the Afghan authorities, that is --
13 unless there was something that would twig us to go
14 and track that person, i.e., for an operational
15 reason that they were tactically important to a
16 system like that, for that, that is where we
17 stopped.

18 MR. LENTON: And would that be the
19 military police that you would ask to go back to do
20 that? Or the [REDACTED] people or the other (inaudible) to
21 do that?

22 BGEN FRASER: It depended on who -
23 - what the issue might be.

24 MR. LENTON: Okay.

25 BGEN FRASER: Was it an

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1 intelligence interest, that we would want to go
2 back and ask somebody? The important thing, what
3 we were doing was trying to determine the
4 appropriate Afghan authority to hand these people
5 back to.

6 MR. LENTON: Okay. And as far as
7 the prison system and that, that was all outside of
8 your stretch of activity and all that sort of
9 thing?

10 BGEN FRASER: It was outside my
11 stature. We did have a survey on record of the
12 prison, as the (inaudible) yes (inaudible) --

13 MR. LENTON: (inaudible) in
14 January of 2006.

15 BGEN FRASER: Yes. Somebody had
16 come in and done a survey of it. We knew about
17 that. During my time, we did send some people in
18 just to check. And the reports coming back and
19 (inaudible) document to NGOs and IO agencies who
20 actually walked in there because, you know, we were
21 -- [REDACTED] in there and stuff
22 like that.

23 As Afghan facilities go? It
24 wasn't that bad. It wasn't that bad. No
25 comparison to Canada, like, nowhere near. But,

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1 like, it wasn't part of our jurisdiction. But we
2 did have some interest in it.

3 MR. LENTON: Was there a--

4 BGEN FRASER: And during my time.

5 MR. LENTON: Okay. When you say
6 not part of your jurisdiction, is it not part of
7 military jurisdiction or not part of the Canadian
8 government's jurisdiction?

9 BGEN FRASER: It was not part of
10 military jurisdiction.

11 MR. LENTON: Okay.

12 BGEN FRASER: And to my knowledge,
13 I didn't -- I don't think there was anything that
14 Canada had, who was involved at the time, direct
15 involvement.

16 MR. LENTON: But in those people
17 that did have some cause to (inaudible), because
18 this all of course ultimately comes out into the
19 abuse and torture and all that sort of thing, but
20 didn't that kind of information was (inaudible)
21 back up to your level to (inaudible), to be of
22 concern.

23 BGEN FRASER: I never received
24 injury reports about abuse that were directly tied
25 to us, nothing like that. It never changed(ph).

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INTERVIEW OF BGEN FRASER
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1 MR. LENTON: Ken, anything

2 further?

3 MR. MILLS: No. Thank you.

4 MR. LENTON: Okay. If you have
5 any questions of us or anything further, anything
6 that you feel that we should know in order to bring
7 to the Chair's attention in his decision making and
8 determinations on the file, or anything that we
9 have missed?

10 BGEN FRASER: No, I don't think
11 there is anything we have missed.

12 MR. LENTON: Good. Well, it is
13 currently eight minutes past 10:00, and the
14 interview is now stopped, and I thank you very,
15 very much for your assistance.

16 BGEN FRASER: Thank you.

17 --- Whereupon the interviewed concluded

18 at 10:08 a.m.

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I HEREBY CERTIFY THAT I have, to the best
of my skill and ability, accurately recorded
by Stenomask and transcribed therefrom, the
foregoing proceeding.

Robert Lee, Certified Court Reporter

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