

**FEDERAL COURT**

BETWEEN:

**AMNESTY INTERNATIONAL CANADA and  
BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION**

Applicants

- and -

**CHIEF OF THE DEFENCE STAFF  
FOR THE CANADIAN FORCES,  
MINISTER OF NATIONAL DEFENCE and  
THE ATTORNEY GENERAL OF CANADA**

Respondents

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**AFFIDAVIT OF COLONEL STEVEN P NOONAN**

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I, Colonel Steven P. Noonan, officer with the Canadian Forces, of the City of Ottawa, in the Province of Ontario, SWEAR THAT:

1. I am the Head of the Operations Branch (J3) of the Canadian Expeditionary Force Command Headquarters (CEFCOM HQ) of the Canadian Forces at Ottawa. With the exception of operations conducted solely by the Canadian Special Operations Forces Command (CANSOFCOM), Canadian Expeditionary Force Command (CEFCOM) plans and conducts all international operations of the Canadian Forces (CF).

2. I enrolled in the CF in 1978. Upon graduating from the Royal Military College in 1982 with a BEng. in Fuels and Materials Engineering. I received additional training and qualified as a Combat Engineer and served in a variety of postings in Canada and abroad.

3. From August 2005 until March 2006 I commanded the Canadian Task Force Afghanistan (TFA) in Afghanistan. In that capacity, I was responsible for the operations of all conventional CF forces in Afghanistan (the "Afghanistan Theatre of Operations") and reported through the chain of command to the Chief of the Defence Staff.

4. As the former commander TFA and as current J3 of CEFCOM, I have personal knowledge of conditions in Afghanistan, the command structure of the TFA and its allies in that country, the role of Canadian troops in Afghanistan, the rules of engagement applicable to Canadian troops, and the training of Canadian troops for operations in Afghanistan. I am also familiar with the procedures for capturing, detaining and transferring persons in Afghanistan and of current developments affecting the operations of Canadian Forces in the area.

5. Save and except as is expressly stated to be on information and belief, I have knowledge of the matters deposed in this affidavit.

**1. Conditions in Afghanistan**

6. Conditions in the Islamic Republic of Afghanistan ("Afghanistan") make it difficult to mount and sustain humanitarian or military operations.

7. Afghanistan is a landlocked country in Southeast Asia bordering on China, Iran, Pakistan, and the Central Asian countries of Tajikistan, Turkmenistan and Uzbekistan. It occupies an area of about 647,500 sq km and is quite rugged and mountainous. A large mountain range (called the Hindu Kush) runs northeast to southwest across the country dividing its northern provinces from the rest of the country. There are plains both in the north and southwest of the country.

8. The climate of Afghanistan is arid to semiarid with cold winters and hot summers.

9. The country has limited natural fresh water resources and inadequate supplies of potable water. Furthermore, soil degradation, overgrazing and deforestation have reduced the amount of arable land.

10. Attached hereto and marked as exhibit "A", is a map showing the principal cities and towns of Afghanistan. The roads and other infrastructure serving these communities are rudimentary and poorly maintained. Consequently, vehicular transportation is extremely slow.

11. Attached hereto and marked as Exhibit "B" is recent CF Backgrounder describing CF operations in Afghanistan. It describes Afghanistan as a country emerging from more than two decades of instability, human rights abuses, terror, insurgency, drought and poverty. Based on personal experience and observation, I believe this statement to be true.

## **A) The Threat in Afghanistan**

12. At present, the activities of members and supporters of the Taliban and al-Qaeda constitute the greatest threat to the reconstruction and development of the economy and institutions of the democratically-elected government of Afghanistan. These individuals (referred to after this as the "enemy") do not conduct themselves as conventional military forces. They do not wear a distinctive uniform and their principal mission is to cause indiscriminate civilian casualties through bombings, executions, extortion and other activities. By these means they seek to disrupt the lives of the Afghan people and the activities of humanitarian agencies, local and national government and military forces.

13. With al-Qaeda and the Taliban there are no ceasefire arrangements to enforce and no negotiated peace settlement to respect.

## **II. The Mandate of Canadian Forces in Afghanistan**

14. While the affidavit of Colleen Swords sets out Canada's whole of government approach in Afghanistan, as well as the basis of Canada's involvement there, it bears repeating that the current mandate of the CF is to mount security-related operations in Afghanistan under the United Nations-sanctioned NATO-led forces and with the consent of the Government of Afghanistan. The objective of the CF and its allies is to help create the conditions for longer-term reconstruction and development laid out in the Afghanistan Compact (the "Compact"), a copy of which is attached as Exhibit "C"

15. Of central importance for the purposes of this application are the commitments made by the Government of Afghanistan in the Compact to foster and develop the rule of law and to recognize and protect human rights in that country.

16. CF operations include: establishing the level of security necessary to promote development and an environment conducive to the improvement of Afghan life; assisting local law enforcement authorities; training the Afghan military; participating in the stabilization and reconstruction activities of provincial reconstruction teams; and, conducting air and ground combat operations as and when required.

17. The range of operations conducted by the CF in collaboration with its coalition allies and Afghan forces occurs in the context of an ongoing armed conflict.

#### **A) Command Structure in Afghanistan**

18. The vast majority of the CF personnel in Afghanistan form part of a UN-mandated multinational force called the International Security Assistance Force (ISAF). The North Atlantic Treaty Organization (NATO) – of which Canada is a founding member – leads ISAF.

19. In 2006, NATO issued operational plans for the conduct of operations in Afghanistan to the Commander ISAF in Afghanistan. These plans, which were made after receiving direction and guidance from both the North Atlantic Council and the Military Committee of NATO, included provisions for the handling of detainees.

20. Under these plans, the contributions of NATO and other nations and the location of their forces in Afghanistan, are voluntary and based on NATO requirements.

21. The Canadian Commander of Joint Task Force-Afghanistan reports both to the Commander of ISAF through Commander Regional Command South and nationally to the CEFCOM Commander.

22. The CF's role in ISAF and the direction provided to CF members in the field are consistent with the overall aims, objectives and guidance established by NATO.

23. Canada retains operational command over CF personnel with ISAF. NATO has operational control over these forces and, accordingly, NATO can assign duties to CF ISAF personnel so long as such duties are consistent with Canadian direction.

#### **B) The ISAF Mission**

24. The nature of the threat in Afghanistan can be geographically characterized as North/South. The preponderance of enemy contact occurs in southern Afghanistan where the majority of CF personnel are located.

25. While conducting operations in Afghanistan, members of the CF have been attacked by groups of armed enemy fighters seeking to kill them. Operations in Afghanistan have included attacks against an enemy in dug-in positions. As at the date this affidavit was sworn, 54 Canadian soldiers and one

Canadian diplomat have been killed in Afghanistan, and the majority of these deaths have been caused through enemy action.

### **III. Need for detention in Afghanistan**

26. The Law of Armed Conflict, also known as international humanitarian law, governs CF combat operations. When the enemy is captured, that law mandates humane treatment, including the provision of appropriate medical care of wounded detainees.

27. In Afghanistan the enemy does not wear a distinctive uniform, blends into Afghan society and indiscriminately causes civilian casualties. Canadian soldiers are often confronted by members of the enemy, or those who pose a threat of death to themselves or others. The Canadian soldier in this circumstance has three real choices: fire on the enemy, capture the enemy, or do nothing. These choices essentially break down to kill, capture, or be killed.

28. Where the enemy surrenders, is disarmed or is wounded the only appropriate option is to capture them. The CF requires the ability to detain in Afghanistan to deal with the threat posed by armed enemy fighters who try to kill or wound Canadian and allied soldiers and Afghan civilians. A detained enemy is not able to attack Canadian or allied soldiers.

29. Detention is integral to the broad spectrum of CF operations, including combat. Not having the option to capture the enemy is not an acceptable or appropriate military solution.

#### IV. Canadian approach to detainees

30. Canada's arrangement on transfer of detainees in Afghanistan is consistent with general CF doctrine which requires that detainees receive humane treatment and protection from harm. Various CF publications expand on these obligations. These publications include the pamphlet entitled "Prisoner of War Handling - Detainees and Interrogation & Tactical Questioning in International Operations," attached as Exhibit "Q" to the Affidavit of Yavar Hameed and the pamphlets entitled "Code of Conduct for CF Personnel" and "Law of Armed Conflict at the Operational and Tactical Levels" attached hereto and marked as exhibits "D" and "E" respectively to this affidavit.

31. The following clear statements of doctrine appear in those documents:

- The standards a nation sets for the treatment of those whom it makes PW should be a benchmark of that nation's culture and humanity, on display for all to see.
- Those who surrender and who are no longer a threat must be protected and treated humanely.
- *Regardless of whether your captive wears a uniform or civilian clothes the obligation to such person remains the same.*
- Treat all detained persons humanely in accordance with the standard set by the Third Geneva Convention. Any form of abuse, including torture, is prohibited.
- It is a service and a criminal offence to torture a PW or detained person. Any form of physical or psychological abuse is prohibited.
- By national direction, all detainees must also be protected against acts of violence, insults or intimidation.
- Where interrogation or debriefing is conducted by qualified and authorized personnel, no physical or mental torture, or any other form of coercion, shall be inflicted on PWs or detainees to force them to provide information of any kind.
- Report and take appropriate steps to stop breaches of the Law of Armed Conflict and these rules. Disobedience of the Law of Armed Conflict is a crime.



32. These statements of doctrine are inculcated in CF members during their basic training and during training for deployment. Indeed, before I deployed to Afghanistan I and CF members under my command attended training where this doctrine was discussed and supplemented by rules and procedures established specifically for the deployment. CF members were then subjected to a series of exercises where they were obliged to apply what they had been taught.

33. In addition, troops under my command were reminded of their obligations while in theatre and received a Soldier's Card reminding them again of their duties and responsibilities. Attached as Exhibit "F" to my affidavit is a copy of the current CF "Soldier's Card," approved 26 February 2007. This card, issued to all CF soldiers currently deployed with Op Athena in Afghanistan, serves as a quick reference on matters relating to the use of force. While this card was approved in February of this year, the "Code of Conduct" section is unchanged from previous versions. The Code of Conduct section states:

- "Treat all detained persons humanely in accordance with the standard set by the Third Geneva Convention. Any form of abuse, including torture, is prohibited."
- "Report and take appropriate steps to stop breaches of the Law of Armed Conflict (LOAC) and these rules. Disobedience of the LOAC is a crime."

34. I have spoken with WO Gallant regarding recent practice in application of Canada's detainee policy in Afghanistan. Attached to my affidavit as Exhibit "G" is a copy of a briefing deck on detainee handling. WO Gallant has informed me that this deck was given to an armoured unit deployed to Afghanistan mid-way through Roto 2. He informed me that the deck is a very slightly reworked version of the deck given to all soldiers of all units deployed on Roto 1.

35. Pursuant to Canadian policy, when detainees are captured, three things may be done with them: continue to detain, transfer, or release.

36. The CF will normally release or transfer detainees and consequently has no long term, high volume, detention capacity in Afghanistan beyond facilities for the temporary detention of up to 16 persons for 96 hours. Attached as Exhibit "H" to my affidavit are a series of photographs of the CF transfer facility at Kandahar Airfield.

37. The CF do not presently have the capacity or capability to establish and manage a long term detention facility in a deployed theatre of operations. Historically, operational experience has demonstrated that development of a new capability can be measured in years. Further, for Canada to build its own facility sends the message to the Afghan people that the Government of Afghanistan lacks the capability of enforcing the Rule of Law. Such a message would both be contrary to the ISAF mission and, more importantly, undermine the Afghan people's confidence in their elected government. We can do more to foster the sustainable development of democratic institutions by helping Afghan officials to improve their prison system and systems of due process of law, rather than operating our own detention facilities.

38. Like our NATO allies, we believe that the better approach is to recognize the responsibility of the Afghan authorities regarding the treatment of detainees and to help them in building capacity in that regard.

39. In this connection, I am informed that the NATO ISAF chain of command has a similar view on the damage to efforts in Afghanistan that would accompany a decision to build a detention facility there. Attached as Exhibit "I" to my affidavit is a copy of an article from the 27 April 2007 edition of the Toronto Star which

sources Major-General Ton van Loon, Commander Regional Command South for the statement that "it would be a mistake to take Taliban prisoners out of the hands of Afghan security forces...taking responsibility for those prisoners away from Afghanistan's nascent police and security forces would be a blow to reconstruction efforts."

40. In many cases the CF cannot simply release persons it captures in Afghanistan. Such persons may have been captured while trying to kill or wound CF or allied soldiers or Afghan civilians. Releasing such persons presents an unacceptable risk.

41. CF soldiers operating under ISAF operational control are subject to ISAF orders on detainee handling. ISAF policy in affect in Afghanistan is that the detention of individuals is permitted for up to 96 hours. Those detainees are either released or transferred to Afghan authorities.

42. Consistent with the aforementioned ISAF policy, the CF transfers detainees to Afghan custody. Procedures in the event of such transfers are as established by the 2005 Arrangement, Canada's policy is to transfer all detainees captured in Afghanistan to the Afghan authorities.

43. The detainee transfer Arrangement sets out basic policy on the treatment and transfer of detainees and notification procedures. Specifically, this Arrangement provides that the Afghan authorities will accept detainees who have been detained by the Canadian Forces and will be responsible for maintaining and safeguarding them.

44. The CF's detention policy in Afghanistan is completely framed by and complies with direction provided by the Government of Canada and ISAF.

**A) Canada's detainee policy is consistent with ISAF state practice**

45. Canada's detainee policy for Afghanistan is in line with that of other ISAF nations and ISAF itself. All other nations contributing to ISAF are also bound by ISAF policy. Other nations in addition to Canada that participate in ISAF also release or transfer detainees taken in Afghanistan to Afghan authorities.

**V. CF detainee handling procedures**

46. All detainees follow the same process. The process can be completed either on the site of initial contact or at Kandahar. The process begins with a decision to detain. The decision to detain is made at the lowest level in accordance with the soldier's assessment of the threat posed by an individual.

47. Once the individual is detained, further threat reducing activities are initiated (including restraint and search if required). Tactical questioning by qualified personnel occurs to obtain further information from the detainee. This information will assist in further refinement of the threat or potentially result in determination that the individual no longer poses a threat and can then be released.

48. All transfers require completion of an administrative process. This process includes completion of transfer paperwork involving personal information, family information, physical condition and details of the transfer.

49. The CF informs the ICRC in every instance in which a detainee is captured and transferred. The information flow is from the CF individual in theatre who detained/transferred the person, to Joint Task Force – Afghanistan (JTF-A). JTF-A reports to CEFCOM. CEFCOM passes the information to the Directorate of NATO Policy. The Directorate of NATO Policy passes it to the DFAIT mission in Geneva ("Geneva") as well as the Canadian Embassy in Kabul. Geneva provides the ICRC with the information, and the Embassy informs the local office of the ICRC in Kabul.

50. The information passed through this process includes, as applicable and to the extent it can be collected: detainee's name, father's name, grandfather's name, age, place of capture, nationality, tribe, serial number, date of capture, date of transfer, organization receiving transferee, condition of transferee, and any other comments.

51. Canadian detention handling procedures meet or exceed ISAF requirements.

## **VI. Detainees transferred by Canada in Afghanistan**

52. There has been an increase in the number of detainees since the CF began operations around Kandahar. Due to operational security I cannot release the numbers of detainees, however I can confirm they are higher than that alleged in the Applicants' affidavits. The most likely explanation for this increase is that CF members have engaged in more combat operations than was the case when they were based in Kabul because the threat to the government and people to Afghanistan is higher.

53. From March 2006 to the date of swearing of this affidavit, the CF transferred increasingly to the NDS as a result of increased confidence in the professionalism of that organization. In many cases, the NDS would accept detainees only if the CF could provide evidence of their involvement in illegal or terrorist activities. If such evidence could not be provided, then the NDS would not accept the detainees and the detainees were released by the CF.

54. As of the date of the swearing of this affidavit the CF has no detainees.

**A) Exercise of discretion by CF refusing to hand over a detainee**

55. There have been incidents in which CF soldiers have exercised their discretion and not transferred detainees in situations in which the detainees are at risk. For example, there was an incident last year in which the ANA wished to take custody of a detainee captured by the CF and were overheard, by an interpreter, to be contemplating the execution of the detainee. A CF member on the scene obtained instructions and held the detainee until the detainee could be transferred by the military police to the NDS.

56. There was one incident in which the CF took custody of detainee who had been turned over to the local ANP by the CF. In this case, the CF learned that the detainee had been beaten by the local ANP. When they learned of this, they approached the local ANP and requested that the detainee be given to them. The ANP complied and the CF subsequently transferred the detainee to the Provincial ANP.

**B) Incident where condition of transferred detainees confirmed**

57. I have been informed by WO Gallant and Maj Jeff Harvey and verily believe that in late November or early December 2006, two detainees who were interviewed and transferred by the CF to the Afghan National Directorate of Security (NDS) were temporarily returned to the CF for further interviews.

58. The two detainees who were returned to the CF were suspected insurgents. Shortly after their apprehension by CF personnel, they were brought to the CF transfer facility at Kandahar Airfield, where they were processed in, given medical examinations and then interviewed by CF intelligence officers. Following these interviews and a short period of detention, the detainees were transferred to, and removed by, the NDS.

59. Within a couple of weeks the CF intelligence officers who had interviewed the detainees received information that caused them to believe that the detainees might have been responsible for an explosion that injured CF personnel. For this reason, the NDS was contacted and requested to return the detainees for additional interviews.

60. Two or three days after the making of this request, the NDS returned the detainees for this purpose. The detainees were again processed into the transfer facility and given medical examinations. They appeared to be clean and in good health, and no medical problems were noted. The detainees were then re-interviewed and subsequently returned to the NDS.

61. CF personnel involved with detainee processing at the time considered the health and cleanliness of these detainees to be confirmation that detainees transferred to the NDS were being properly treated.

**C) No complaints regarding mistreatment of detainees transferred to Afghan authorities by Canada**

62. It is my belief that prior to the complaints detailed in the recent newspaper articles beginning with the Globe and Mail article published 23 April 2007 the CF was not aware of any specific complaints regarding the treatment of detainees transferred to Afghan authorities by Canada. I make this statement on the basis of the following information.

63. Since my involvement in Afghanistan, as Commander of the Canadian Task Force Afghanistan and as Head of the Operations Branch (J3) of CEFCOM HQI have not received or heard of any specific complaints from CF members, humanitarian agencies, detainees or former detainees to the CF or CEFCOM regarding the treatment of detainees transferred to Afghan authorities by Canada.

64. I am informed by the following persons and do verily believe that they received no complaints regarding the treatment of detainees transferred to Afghan authorities by Canada while in theatre and were similarly unaware of allegations of mistreatment before the newspaper articles mentioned above were published:

- WO Gallant, second-in-command of Kandahar Airfield MP Platoon from August 2006 to February 2007 (i.e. during Roto 2).
- Major Jeff Harvey, Task Force Provost Marshal for JTF-A during Roto 2 and
- Brigadier General David Fraser, Commander of Multi National ISAF Forces in Regional Command (South) between April 2006 and January 2007



- Brigadier General Semianiw, Commander of the Canadian Task Force for ISAF, between 2004 and August 2005.

65. I am also informed by Brigadier General Tim Grant, the current Commander Joint Task Force Afghanistan, and Commander since October 2006, and verily believe that, apart from the Globe and Mail articles, he has received no complaints regarding the treatment of detainees transferred to Afghan authorities by Canada and is similarly unaware of allegations of mistreatment.

66. I am informed by WO Gallant, and do verily believe, that as part of WO Gallant's work in Afghanistan he regularly discussed the issue of Afghan detention conditions with representatives of the United Kingdom. In no instance did WO Gallant receive information from these representatives that Afghan authorities had mistreated or tortured detainees.

#### **VII. CF activity since 23 April 2007**

67. On 23 April 2007 the Globe and Mail published a story about alleged detainee abuse at the hands of Afghan officials.

68. Since 23 April 2007 a documentary investigation has been commenced within the staff level at CEFCOM HQ. Further, based on one allegation in the Globe and Mail article, the Commander CEFCOM referred the matter to the CF National Investigation Service for an assessment as to whether an investigation is warranted.

69. I am informed by Brigadier General Tim Grant, Commander Joint Task Force Afghanistan, and verily believe, that he met with Director Quayum of the

Afghan National Directorate of Security (NDS) on 25 April 2007 to discuss the allegations in the Globe and Mail article and to facilitate access by AIHRC to NDS facilities. The following day, 26 April 2007, the Commander Joint Task Force Afghanistan, and the DFAIT representative from the PRT were present in a meeting between Director Quayum of the NDS and the local representative of the AIHRC, Eng Noorzai which resulted in a common understanding on AIHRC access to NDS facilities.

#### **VIII. Effect of an order to cease transfers**

##### **A) An Order prohibiting the transfer of detainees will compromise the Mission and the safety and security of CF members, their allies and the Afghan people**

70. It is my belief that the CF mission, as it currently exists, including the Provincial Reconstruction Team, could not continue if the CF can no longer transfer detainees to Afghan authorities. I believe this is because it would leave us with only two options: that of not taking detainees, or once taken of releasing them as soon as practicable.

71. The CF cannot conduct patrols outside of bases without the potential of taking detainees. This could arise even in the context of detaining injured enemy personnel pursuant to our obligations to provide them appropriate medical care. The ability to take detainees on the battlefield is integral to ensuring the safety of the soldiers and the civilian population.

72. As part of ISAF, the CF complies with the policy to transfer detainees, and in addition, the CF does not have the capacity to detain individuals indefinitely or for an extended period. The CF would be required to release

detainees with the consequence of increasing the risk to its soldiers, allies and Afghans.

***(i) Increased risk to soldiers and civilians***

73. If the CF holds an individual and needs to detain them because they are directly linked to violence directed at CF or allied soldiers or Afghan civilians, it can: detain them or release them after short-term detention. Allowing the detainee to go free in those circumstances is not a realistic option because they may return to kill, maim and injure again. Allowing detainees to be released shortly after capture therefore increases the risk to the CF in the completion of their mission and is not militarily viable.

74. The cessation of the transfer of detainees will assist the Taliban. If it becomes known that the CF must release enemy combatants after combat because there is no capacity to detain on a long-term basis, the Taliban can enhance its survival rate by surrendering rather than fighting in situations where it does not have the tactical advantage.

***(ii) CF Long-term detention is not an option***

75. It would be incorrect to assume that the effect of an order ceasing the transfer of detainees to Afghan authorities would simply mean that the CF would start to maintain long-term detention of the detainees immediately.

76. A decision to create a long term detention facility or prison would undercut the efforts of the Government of Canada, the NATO led ISAF and UN Security Council Resolutions to assist the Afghan government in the reconstruction of its own national institutional capacity.

77. The Government of Canada does not have an international mandate or a bi-lateral agreement with the government of Afghanistan to establish and run a long-term detention facility in Afghanistan. The CF has not been authorized to detain for the long term by either the government of Canada or ISAF commanders who have operational control over CF forces.

**(a.) *A long-term facility within the multi national base at Kandahar increases risk to CF and allied troops, requires consent of multi national partners and use of Afghan soil***

78. The CF shares the Kandahar Airfield base with its allies. A long-term detention facility requires an expansion of the Canadian footprint at Kandahar Airfield. The Government of Canada does not have the unilateral authority to expand its detainee transfer facility or to operate a long-term detention facility at the base contrary to ISAF policy.

**(b.) *No Capacity to create a long-term detention facility***

79. Detainees cannot be kept in a transfer facility indefinitely or for more than a few days. Further, the CF lacks the capacity and expertise to establish and maintain a long term detention facility. Historically building a new capacity is measured in years rather than months.

80. The CF operates a transfer facility at Kandahar Airfield. A transfer facility differs significantly from a detention facility.

81. I have discussed the difference between a transfer facility, like that at Kandahar Airfield, and a long-term detention facility with Major Ron Gribble. Maj Gribble served with Task Force Kabul from late 2004 to early 2005 as the MP Operations Officer and is now the Commandant Canadian Forces Service Prison

and Detention Barracks in Edmonton. He has informed me, and I do verily believe that there are substantial differences between a transfer facility and a detention facility.

82. Maj Gribble is familiar with the transfer facility at Kandahar Airfield. While that facility contains 16 cots in four tents, its maximum capacity is actually 8 to 10 persons. This is because in the majority of cases detainees must be segregated from each other, for example men from women, detainees captured during combat from those captured for interfering with operations in another manner and newly arrived detainees who have not yet been interrogated.

83. The transfer facility, and in fact any other like it, cannot be used as a long-term detention facility because they are operated in different ways, their infrastructure is different and they require personnel with skills and training different from that of personnel at a transfer facility.

84. Detainees held for a short period of time do not present the same escape risk as detainees held for more than four or five days. In the latter case, detainees will have a chance to plan an escape and work incrementally toward that goal.

85. The structure of a transfer facility reflects the foregoing. The transfer facility in Kandahar is on soft ground. A long-term facility must be on hard ground to reduce the risk of escape by tunnelling. The transfer facility is comprised of soft skinned tents in a standard walled enclosure topped with concertina wire. A long-term facility requires more secure solid structures. This is inappropriate for a long-term facility which requires stronger, more durable structures, an ablutions area, messing facilities, provision for special religious activity, and an area to exercise, none of which exist in the processing facility.

86. Finally, soldiers tasked to the transfer facility are not trained to work in a long-term detention facility.

87. For all of these reasons, it is not an option to use the current transfer facility at Kandahar Airfield, nor another facility like it, for the long-term detention of individuals.

***(c.) No Doctrine and Training***

88. The CF lacks the doctrine, the personnel and the training material necessary to operate a long-term or indefinite detention facility. In fact, it does not possess the training packages to give to persons who might be involved in this activity.

89. While the CF has doctrine, personnel and training materials necessary for operating a service prison and detention barracks for CF members, Maj Gribble draws a sharp distinction between detaining Taliban and other terrorists who have taken part in hostilities, from CF members who have been convicted of offences and sentenced to short periods of incarceration at the Detention barracks.

***(d.) Resourcing***

90. The requirement to staff a long term detention facility at Kandahar airfield removes soldiers from security operations. This could undermine the capacity of the CF to support other CF operations thereby increasing risks to CF members, their allies, international workers and Afghan civilians.

91. I make this affidavit in opposition to the motion for an interim injunction and for no other or improper purpose.

SWORN BEFORE ME at the City of  
Ottawa, in the Province of Ontario,  
this 1st day of May, 2007.

S. Noonan

[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS  
IN THE PROVINCE OF ONTARIO

Alexis S. Hanna