

- 1 MR. SCOTT PROUDFOOT, SWORN:
 2 CROSS-EXAMINATION BY MR. CHAMP:
 3 1. Q. So we are on the record today on July 11th,
 4 2007 for a Cross-Examination of Mr. Scott Proudfoot on the
 5 basis of an Affidavit that he swore on May 3rd, 2007 in
 6 Ottawa, Ontario.
 7 Mr. Proudfoot, do you have a copy of this
 8 Affidavit?
 9 A. Yes.
 10 2. Q. And you are the person who swore this
 11 Affidavit?
 12 A. Yes.
 13 3. Q. And you have been sworn in this morning?
 14 A. Yes.
 15 4. Q. So, Mr. Proudfoot, I have some questions for
 16 you arising from your Affidavit and I will go through
 17 those with you today, but I would just like to start off
 18 to understand your background and role in the department.
 19 How long have you been in the Public Service?
 20 A. Nineteen years.
 21 5. Q. What departments have you worked for?
 22 A. Only Foreign Affairs.
 23 6. Q. What classification are you? Are you an FS
 24 officer?
 25 A. An FS, yes. Foreign Service officer.

- 1 7. Q. FS-3 right now, hopefully to be FS-4?
 2 A. I am an FS-3. Hopefully to be EX-1. I am in
 3 an acting EX-1 position.
 4 8. Q. I am working on the FS-4 for you guys.
 5 MR. ANDERSON: It doesn't put the two of you in
 6 conflict!
 7 MR. CHAMP: I don't think so.
 8 9. Q. What is your current position?
 9 A. I am director of the policy and advocacy
 10 division in the Afghanistan Task Force in Foreign Affairs.
 11 10. Q. Can you please explain what your duties are?
 12 A. My division is responsible for developing
 13 foreign policy positions vis-a-vis Afghanistan and
 14 Canada's engagement in Afghanistan in advocating them with
 15 other countries and in coordinating policy positions
 16 interdepartmentally so that we have a whole of government
 17 approach to Afghanistan.
 18 11. Q. These policies relate to all aspects of the
 19 task force in Afghanistan?
 20 A. Most aspects of our engagement of that sort,
 21 particularly as regards foreign policy.
 22 12. Q. That would include potentially humanitarian
 23 issues?
 24 A. To a degree we would coordinate with other
 25 divisions and other departments on humanitarian issues.

- 1 13. Q. Human rights development issues?
 2 A. Likewise.

3 14. Q. You have some duties or some of your duties
4 have been in relation to the issue of detainees captured
5 by Canadian Forces in Afghanistan?

6 A. I have had some involvement, rather marginal
7 involvement in that issue. I am familiar with it.

8 15. Q. With respect to human rights development this
9 would mean that you have some knowledge of the current
10 state of human rights in Afghanistan?

11 A. I have some knowledge, yes.

12 16. Q. What is your understanding of the human rights
13 situation in Afghanistan right now?

14 MR. ANDERSON: That is a pretty broad question. I
15 think if you want to ask it in a more specific fashion he
16 can perhaps give you some answers.

O

17 MR. CHAMP:

18 17. Q. On a spectrum would you agree with me that
19 Afghanistan's record on human rights is at the low end of
20 countries?

21 MR. ANDERSON: Again, I am going to object to that
22 question. It is far too broad, Mr. Champ. If you want to
23 ask specifically about his knowledge of any reports that
24 are out there and what they say that is fine. If there
25 is other issues about human rights and in particular how

5

1 they relate to the issues in this case, I am certainly
2 open to having my client answer those questions.

3 MR. CHAMP: Mr. Anderson, you told me before you
4 started you weren't going to intervene very much!

5 MR. ANDERSON: I am trying not to.

6 MR. CHAMP: This might be an appropriate time
7 perhaps, Mr. Anderson, for you to put on the record the
8 objections you had indicated to me prior.

9 MR. ANDERSON: Thank you, Mr. Champ.

10 As I said, we have three blanket objections. The
11 first two are things that we object to but we will
12 nonetheless provide you the answer under reserve of that
13 objection, and we will take the responsibility for
14 enforcing that objection, if we need to.

15 The first objection is with respect to any
16 questions relating to the supplemental agreement and its
17 effect, and the point on that is that our position is the
18 overall Application is brought in relation to the former
19 arrangement and its absence of any provisions to inquire
20 into the well being of detainees, and on that basis we
21 would take the position that overall, because of the limit
22 of the Application, the answers to the questions would be
23 irrelevant.

24 The second objection, again simply as a blanket
25 objection, and again just to reserve our rights if we have

6

1 to we will take responsibility for enforcing the
2 objection, otherwise obviously you will be able to use the
3 answers, and that is with respect to questions about --
4 anything about the treatment of detainees in the sense

5 that our position is that neither the Charter nor
6 international law has an application in these
7 circumstances, and obviously that will be dealt with later
8 by the court at some time, unless we come to some other
9 accord.

10 The third objection that we raised off record and
11 that I have written to you about is we take the position
12 that your request for Mr. Proudfoot to attend with
13 documents relating to the drafting of the May 3rd, 2007
14 arrangement, including but not limited to communications,
15 previous drafts and other related working documents, is
16 irrelevant to any of the issues as framed in either of the
17 Applications, but more importantly in the context of this
18 Cross-Examination in relation to your Motion for an
19 Injunction or a Reply, and our position on that is that
20 your issue is about the treatment of Afghan detainees and,
21 in particular, what information we may have that relates
22 to the substantial risk of torture and our being satisfied
23 as to whether or not there is such a risk when we
24 transfer.

25 In that sense the drafts have absolutely no

7

1 application. What is relevant obviously is what is being
2 done on the ground, and that is the basis for our
3 objection on that point nine of your request for those
4 documents.

5 I apologize, I will try not to intervene; just it
6 is important we are clear that this is not a discovery.
7 The questions have to be directed and trying to ask him
8 about scales of things about human rights generally is far
9 too broad. Thank you very much for your indulgence, Mr.
10 Champ.

O

11 MR. CHAMP: No problem, Mr. Anderson. Just for
12 clarification, when you are saying that you object that
13 international law does not apply are you saying that all
14 international law, all international ---

15 MR. ANDERSON: Just so I am clear, that neither
16 the Geneva Convention nor the Convention on Torture has a
17 direct application in terms of the law in this country; in
18 other words, no court can enforce in this country those
19 provisions. These are international law provisions and so
20 they are certainly enforceable by other means.

21 The question is can you rely upon them and create
22 rights that are enforceable in courts in this country and
23 our position is that you cannot, very much like the
24 Charter.

25 MR. CHAMP: Okay, that is very helpful.

8

1 The third point that all documents relating to the
2 drafting of the May 3rd, 2007 supplementary arrangement
3 you are saying they are irrelevant because this is about
4 the practice and not the treaties.

5 MR. ANDERSON: Yes, and just to be clear they are
6 not treaties, they are arrangements. I may slip and call

7 them agreements but I mean to call them arrangements.
8 MR. CHAMP:
9 18. Q. Mr. Proudfoot, back to my questions on human
10 rights development, you have some knowledge, I would
11 presume, that there are international reports about the
12 poor record of Afghanistan in the treatment of prisoners
13 and detainees?
14 A. I am aware of reports about the human rights
15 situation in Afghanistan including the treatment of people
16 in prison.
17 19. Q. You agree with me that those reports would
18 reflect a very poor record of treatment of prisoners and
19 detainees by Afghanistan?
20 A. Some of them contain serious allegations about
21 the treatment of people in detention.
22 20. Q. I would gather that in developing human rights
23 policy those reports would to some extent be taken into
24 consideration by Foreign Affairs?
25 A. Yes.

9

1 21. Q. And by the Government of Canada?
2 A. Yes.
3 22. Q. And in your policy coordination role those
4 concerns would be communicated to other government
5 departments?
6 A. Those issues are made known.
7 23. Q. Including to the Department of National
8 Defence?
9 A. I believe so.
10 24. Q. There is international reports but there is
11 also domestic reports. Are you aware that the Afghan
12 Independent Human Rights Commission produces reports
13 annually about the human rights situation in that country?
14 A. Yes.
15 25. Q. Were you aware that the most recent by the
16 Afghan Independent Human Rights Commission states that
17 they received reports of over 700 incidents of torture or
18 extrajudicial killing? Are you aware of ---
19 A. I wasn't aware of that particular fact.
20 26. Q. Or that in Khandahar Province specifically
21 where Canadian Forces are deployed in 2005 there were 141
22 reports of torture and 63 reports of extrajudicial
23 killings? Were you aware of that?
24 A. I don't have those statistics at my finger
25 tips, no.

10

1 27. Q. Were you aware that the Afghan Independent
2 Human Rights Commission did collect statistics like that?
3 A. I am aware that they are monitoring human
4 rights, yes.
5 28. Q. Just for your information I was just
6 referencing the most recent report by the Afghan
7 Independent Human Rights Commission which is Exhibit YY
8 attached to the Affidavit of Yvar Hameed.
9 MR. ANDERSON: Is there a date on that report, Mr.

10 Champ?
11 MR. CHAMP: Yes, it is -- actually I don't think
12 they have a specific date on it. It is just their 2005
13 report.
14 MR. ANDERSON: Thank you.
15 MR. CHAMP: It is described in detail in the
16 Affidavit.
17 29. Q. And you have read Foreign Affairs reports
18 about Afghanistan that would say that extrajudicial
19 executions, disappearances, torture and detention without
20 trial are all too common?
21 A. I have read the annual reports.
22 30. Q. Which state that?
23 MR. ANDERSON: Is there an answer? Do you know if
24 the reports state that?
25 THE WITNESS: Yes.

11

1 MR. CHAMP:
2 31. Q. With respect to policy development around the
3 issue of detainees how long have you been involved in that
4 issue?
5 A. To the extent that I have been involved since
6 I came into the task force in August I have had some
7 awareness of the issue, but the lead on that file has been
8 elsewhere. I have been more involved since April/May this
9 year.
10 32. Q. And more attention at that time?
11 A. It has become a larger focus of work.
12 33. Q. Who are some of the other people in the
13 department that you deal with? For example, do you deal
14 with Colleen Swords?
15 A. Yes. The lead on detainee issues remains
16 with the International Security Branch headed by Colleen
17 Swords.
18 34. Q. I am going to ask you some questions now just
19 specifically about the agreement, Mr. Proudfoot, so if you
20 have got your Affidavit in front of you there, and this
21 might be a worthwhile time to put in a document.
22 We had requested that you produce a number of
23 documents today, Mr. Proudfoot, and a single document was
24 produced. It says in the top right hand corner "version
25 3, 9 May, 19h30 Draft Implementation Modalities". Can you

12

1 please explain to me what this document is?
2 A. This document describes or summarizes the
3 modalities being put in place to implement the
4 supplementary arrangement of the 3rd of May, so it
5 explains the steps being taken pursuant to that
6 arrangement.
7 35. Q. Who would have produced this document?
8 A. I wrote it.
9 36. Q. You have remained involved in that issue since
10 May 9th?
11 A. Marginally.
12 37. Q. Madam Reporter, I would ask that this

13 document, which we have provided you a copy, be identified
14 as Exhibit A to the Cross-Examination of Mr. Proudfoot.
15 EXHIBIT NO. A: Document entitled "version 3, 9
16 May, 19h30 Draft Implementation Modalities".
17 Turning to the arrangement, in paragraph 3 of the
18 arrangement it states that:
19 "The Government of Canada will be notified prior
20 to the initiation of proceedings involving persons
21 transferred by the Canadian Forces and prior to
22 the release of the detainee, and the Government of
23 Canada will also be notified of any material
24 change of circumstances regarding the detainee,
25 including any instance of alleged improper

13

1 treatment."
2 Has Canada been notified about the initiation of any
3 proceedings?
4 A. I am not aware of any notifications.
5 38. Q. Has Canada been notified of any material
6 change in circumstances of detainees?
7 A. Likewise I am not aware of any such
8 notifications.
9 39. Q. Paragraph 5 states that:
10 "The Afghan authorities will ensure that any
11 detainee transferred to them by the Canadian
12 Forces will not be transferred to the authority of
13 another state, including detention in another
14 country, without the prior written agreement of
15 the Government of Canada".
16 Are you aware of any requests from the Government of
17 Afghanistan for transfers to third party states?
18 A. I don't think there have been any such request
19 for transfers.
20 40. Q. Is the Government of Canada developing any
21 modalities or criteria for that issue?
22 A. Not that I am aware of.
23 41. Q. Paragraph 7 states that:
24 "In order to facilitate ongoing access and
25 capacity-building projects by the Government of

14

1 Canada the Afghan government will hold detainees
2 transferred by Canadian Forces in a limited number
3 of facilities".
4 Do we know the facilities now where any Canadian Forces'
5 detainee is held?
6 A. We have been in contact with the Government of
7 Afghanistan to ascertain which facilities they are being
8 held at and are in discussions about identifying a small
9 number of facilities where they will be held in the
10 future.
11 42. Q. Do we know now where Canadian Forces'
12 detainees are being held currently?
13 A. We have approached the Government of
14 Afghanistan to ascertain the whereabouts of all
15 transferred detainees. I do not know the status of the

16 response.
17 43. Q. So you don't know if Afghanistan has been able
18 to locate all the detainees?
19 A. I do not know.
20 44. Q. Once Afghanistan provides that information
21 would that information at some point cross your desk?
22 A. Probably not.
23 45. Q. And why is that?
24 A. The reporting on this issue has a very narrow
25 distribution on a need-to-know basis and generally

15

1 speaking I do not see that material.
2 46. Q. Which divisions, branches or departments are
3 within that narrow distribution?
4 A. I don't know them all but Colleen Swords
5 certainly is on that distribution.
6 47. Q. Do you know if any detainees being held by
7 Afghanistan who were captured by Canadian Forces are being
8 held outside of Khandahar Province?
9 MR. ANDERSON: Just a second. Can we go off the
10 record for two seconds or I can stay on -- it is up to
11 you?
12 MR. CHAMP: I think I prefer to stay on the
13 record.
14 MR. ANDERSON: I think I am not sure if I need to
15 raise an objection at this point because I don't know what
16 Mr. Proudfoot knows about the detention or whether that
17 raises implications if you know someone is outside of the
18 Province, and I don't suspect it does but I want to give
19 him a chance to think about that before he answers your
20 questions.
21 MR. CHAMP:
22 48. Q. That's fine.
23 A. Yes, I believe that some are held outside
24 Khandahar.
25 49. Q. It is my understanding from statements by a

16

1 spokesperson from Foreign Affairs that some are being held
2 in Kabul?
3 A. Yes.
4 50. Q. In the National Directorate of Securities
5 facilities?
6 A. I am not aware of which specific facilities
7 but that is likely.
8 51. Q. I have got a couple of newspaper stories on
9 that issue about the statements from Foreign Affairs.
10 They didn't issue a press release statement on this one so
11 I couldn't get it off the web site.
12 So, Mr. Proudfoot, I will just give you and your
13 counsel a moment to take a look at those two articles that
14 I provided you. One is from June 9th, 2007 from the
15 Toronto Star and the other one is from June 8th from the
16 Globe and Mail.
17 You are finished reviewing it, Mr. Proudfoot?
18 A. Yes.

19 52. Q. So in these reports they indicate that there
20 has been six reports of abuse to Canadian officials. Is
21 that your understanding as well?

22 A. That is.

23 53. Q. In the Globe and Mail report which is titled
24 "Canadians hear six claims of torture from Afghans" in the
25 sixth paragraph down it says:

17

1 "Three of the fresh reports come from prisoners
2 interviewed in the country's notorious
3 intelligence service jail in Kabul, the fourth
4 account was obtained in Khandahar. The precise
5 details of the allegations were not made clear,
6 although earlier this week Mr. MacKay described
7 the initial reports as serious".

8 Mr. Proudfoot, is it your understanding that information
9 is correct?

10 A. I have not read the reports on those visits.
11 I am aware of this from press reports.

12 54. Q. Could I just have the Globe one identified as
13 Exhibit B and the Toronto Star one as Exhibit C.

14 EXHIBIT NO. B: Article from Globe and Mail dated
15 June 8, 2007.

16 EXHIBIT NO. C: Article from Toronto Star dated
17 June 9, 2007.

18 MR. CHAMP:

19 55. Q. Most of the rest of my questions have largely
20 been addressed by the modalities implementation but I will
21 just ask you a couple of questions on that.

22 Paragraphs 8 and 9 of the supplementary
23 arrangement speak to full and unrestricted access for
24 Canadian government officials and about, upon request,
25 being allowed to interview detainees in private.

18

1 So it is my understanding obviously, Mr.
2 Proudfoot, that Canadian officials have indeed carried out
3 these visits?

4 A. Yes.

5 56. Q. I understand from the document that you
6 provided to me today that these visits are conducted by
7 multi disciplinary teams led by DFAIT officials, but also
8 including Corrections Services Canada officials, RCMP
9 officers and Department of National Defence officials, is
10 that so?

11 A. Yes.

12 57. Q. So there is how many people in the team?

13 A. I don't have specific information on that but
14 to the extent that I do they have been small groups.

15 58. Q. Small groups made up of officials from those
16 departments?

17 A. Yes.

18 59. Q. In the modalities document that you provided
19 the third last paragraph says:

20 "Such visits will occur with or without prior
21 notification and may include private interviews or

22 medical examinations".
23 Do any of the Canadian officials have medical experience
24 or are they medical doctors?
25 A. Yes, they have access or the ability to bring

19

1 medical doctors along on the visit.
2 60. Q. Is the doctor a Canadian official?
3 A. A Canadian doctor.
4 61. Q. The modalities also states that these teams
5 will receive specific training in how to detect signs of
6 mistreatment. When will the specific training take
7 place?
8 A. Some of the officials have already had that
9 training. Others who have yet to be deployed will be
10 having it in the next few weeks, and for those already
11 deployed the plan is to take the training to the field and
12 to do it in Khandahar.
13 62. Q. Who is providing that training?
14 A. I don't know, I'm sorry.
15 63. Q. Is it Canadian government officials or are we
16 contracting out?
17 A. I don't know.
18 64. Q. Mr. Anderson, would you guys be able to find
19 out that information for me, subject to any objections you
20 may have on it?
21 MR. ANDERSON: No, we are not going to provide any
22 undertakings at this point, but I may as a matter of
23 course see if I can find anything generally as a courtesy,
24 but just so we are clear there is no obligation to provide
25 undertakings in a Cross-Examination on an Affidavit, so we

20

1 wouldn't formally provide you with an undertaking.
O
2 MR. CHAMP: That's fine. Then just formally we
3 won't conclude the Examination at the end of today.
4 MR. ANDERSON: I expected that you wouldn't
5 anyway, given that there are documents out there and that
6 you would not adjourn subject to questions on those
7 documents.
8 MR. CHAMP: That's fine.
9 65. Q. These officials they have already conducted
10 visits, correct?
11 A. Yes, they have.
12 66. Q. Who do they report to? Foreign Affairs Canada?
13 A. Yes.
14 67. Q. Do they report to the Canadian Embassy in
15 Kabul?
16 A. Yes.
17 68. Q. Would they report to the provincial
18 reconstruction team?
19 A. They would include people from the provincial
20 reconstruction team.
21 69. Q. Would they report to the Canadian Armed
22 Forces?
23 A. Report to ---?

24 70. Q. Would the reports get to the Canadian Armed
25 Forces?

21

1 A. Yes.

2 71. Q. They do produce written reports of their
3 visits?

4 A. They do.

5 72. Q. Do you know how many visits approximately have
6 been carried out to date?

7 A. A minimum of six pursuant to the arrangement.

8 73. Q. Yes, because I understand there were some
9 prior. Are these six visits all at the same facility or
10 are they at different facilities?

11 A. I believe they have been at different
12 facilities.

13 74. Q. When you say a visit does a single visit
14 include visits to a number of detainees potentially?

15 A. Yes.

16 75. Q. Do you know if we have encountered any
17 logistical problems in reaching the locations of some of
18 these facilities?

19 A. Not to my knowledge.

20 76. Q. Has there been advance notice of these visits
21 to the Afghan officials?

22 A. Those that I am aware of there have been no
23 advance notice.

24 77. Q. Have we encountered any difficulties with
25 visits being denied even briefly by Afghan officials? Mr.

22

1 Anderson can't assist you.

2 A. Not to any great extent. I believe there was
3 one incident where the entry took a few minutes before
4 they were able to -- 20 minutes or something -- get in.

5 78. Q. Then I gather there was some phone calls made
6 and so forth?

7 A. I think they were finding the person who had
8 the authority to get them in. Because it was unannounced
9 the person who had the authority to let them in wasn't
10 present and they had to find him.

11 79. Q. Do you know if there has been any refusals,
12 even briefly, for private interviews?

13 A. I don't know of any such refusals.

14 80. Q. My next question kind of relates back to
15 specific training but what standards or criteria do these
16 officials follow for guidance in conducting these visits?

17 A. I don't have that level of detail.

18 81. Q. To date have all detainees that you have
19 knowledge of been visited?

20 A. I don't think so.

21 82. Q. Have there been any repeat visits to
22 detainees?

23 A. I don't know.

24 83. Q. Have there been any medical exams of
25 detainees?

1 A. I don't know.
2 MR. ANDERSON: Just so we are clear on that, when
3 you are asking about medical exam of detainees are you
4 asking when they are in detention or ---
5 MR. CHAMP: Yes, while they are in Afghan
6 detention. Yes, I am aware obviously that the Canadian
7 Forces does conduct a thorough medical examination of all
8 detainees when they are in Canadian Forces custody and
9 prior to their transfer to Afghan authorities. I am aware
10 of that.
11 MR. ANDERSON: Perfect.
12 MR. CHAMP:
13 84. Q. As we have seen with the newspaper reports we
14 have put in there have been some allegations of abuse
15 reported to Canadian officials?
16 A. Yes.
17 85. Q. I understand these reports have been passed on
18 to the Afghan government to investigate?
19 A. The information that there is allegations of
20 abuse is being conveyed to Afghan authorities, yes.
21 86. Q. So these allegations of abuse, do you know if
22 these interviews were in private?
23 A. I know that we have had private access. I
24 don't know whether the allegations were made in private or
25 not.

1 87. Q. So there are some visits that have not been in
2 private?
3 A. I don't know that.
4 88. Q. Aside from interviews of detainees are you
5 aware of Canadian officials taking any other investigative
6 steps? For example, did they attempt to recover any
7 evidence such as clothing with blood?
8 A. I don't know.
9 89. Q. Or did they try to identify possible witnesses
10 and obtain statements?
11 A. I don't know.
12 90. Q. So there were allegations of abuse. Are you
13 aware of what kind of abuse, the forms of abuse? Mr.
14 MacKay has described them as serious.
15 A. Yes, I haven't seen the report that he is
16 referring to.
17 91. Q. Have you heard what some of the allegations
18 are?
19 A. No.
20 92. Q. Have you heard that some of the allegations
21 involve electric shocks?
22 A. I have heard that certainly in some of the
23 reports made earlier there were allegations of electric
24 shocks, but I don't know if that has been made to Canadian
25 officials or not.

1 93. Q. Or being hung upside down for days?
2 A. I don't have these details.

3 94. Q. Are you aware if any of the detainees in
4 question were male or female?
5 A. I don't know. I have not seen reference to
6 female detainees.
7 95. Q. Did Canada ask for the detainees to be
8 returned pending the outcome of the investigation?
9 A. No.
10 96. Q. Why not?
11 A. I don't know. I can't answer that.
12 97. Q. Has Canada taken any additional steps to
13 guarantee the safety of these individuals who have
14 reported torture to Canadian officials?
15 A. By additional steps --?
16 98. Q. Have we taken any steps?
17 A. We have conveyed our concerns to the
18 Government of Afghanistan and to the ICRC and AIHRC and
19 ask that investigations be taken up and that remedial
20 action be taken.
21 99. Q. But in our modalities or any of the other
22 procedures that we are developing are we putting in place
23 any safeguards against reprisals against these individuals
24 who are reporting torture?
25 A. There is an issue of identifying the

26

1 individuals and that we therefore before taking up their
2 allegations with Afghan authorities we seek their consent
3 that that be done. There may be other modalities that I
4 am not aware of.
5 100. Q. So these allegations have now led to
6 investigations by the Afghanistan government?
7 A. I believe so.
8 101. Q. That is pursuant to paragraph 10 of the
9 supplementary arrangement?
10 A. Yes.
11 102. Q. Paragraph 10 of the arrangement states that:
12 "The Government of Afghanistan will inform the
13 Government of Canada the steps it has taken to
14 investigate such allegations."
15 Have we been informed of these steps?
16 A. I know that there has been communications with
17 the Government of Afghanistan. I don't know what the
18 status of these investigations is.
19 103. Q. Do you know which departments or branches of
20 the Government of Afghanistan are carrying out the
21 investigations?
22 A. I am not sure.
23 104. Q. Mr. Proudfoot, do you know how Canada has
24 satisfied itself that investigations will be independent?
25 A. We have in the first instance been dealing

27

1 with the AIHRC, which is independent, but I am informed
2 that in discussions with others, who were aware of Afghan
3 government investigations, it is their impression that
4 these investigations are indeed thorough and serious and
5 independent.

6 105. Q. Canada has acknowledged, I believe, that
7 Afghanistan has an admitted lack of resources for law and
8 order and carrying out investigations and so forth?
9 A. Yes.
10 106. Q. Has Canada offered any assistance of resources
11 to carry out these investigations?
12 A. The investigations themselves are being done
13 by the Afghan government but we have offered assistance in
14 building the capacity of the Afghan government to
15 undertake these and other investigations and to fulfil its
16 monitoring role and to fulfil its role in bringing rule of
17 law.
18 107. Q. For these investigations of allegations -- I
19 understand there was investigations even in the Globe and
20 Mail reports and so forth -- do you know what form
21 Canada's assistance has been to Afghanistan for these
22 investigations?
23 A. We have made an offer of assistance. I don't
24 know what has happened pursuant to that offer.
25 108. Q. What was the nature of assistance that we

28

1 offered?
2 A. We offered such assistance as the Government
3 of Afghanistan considered it necessary to help with that
4 investigation.
5 109. Q. When does Canada expect Afghanistan to report
6 on these investigations?
7 A. I don't know of any specific time line.
8 110. Q. Is there any general time line or general
9 expectation?
10 A. I don't have an answer to that.
11 111. Q. Is it that you don't know?
12 A. I don't know.
13 112. Q. That's fine. At the beginning of my
14 Examination, Mr. Proudfoot, I had asked you some questions
15 about some of the international reports that are out there
16 involving abuse in the Foreign Affairs report. When did
17 you first see those reports?
18 A. The Foreign Affairs report came in in January
19 of this year. I saw it then. The other reports I saw
20 when they were published or shortly thereafter.
21 113. Q. I can't recall if I asked you -- the Afghan
22 Independent Human Rights Commission report, had you seen
23 that before?
24 A. I am aware of it. I think I have actually
25 only read reports about it rather than the report itself.

29

1 114. Q. It is easy to find. It is on line. You
2 should check it out. It is fairly detailed.
3 Well, I think that is all we can do for today.
4 MR. ANDERSON: If we can take a break I am just
5 going to check my notes and see if there is anything I
6 want to re-examine on, and if we can take five minutes.
7 (Brief Adjournment)
8 --- RE-EXAMINATION BY MR. ANDERSON:

9 115. Q. For the record my name is Anderson, first
10 initial J., and I am going to do a brief re-direct of Mr.
11 Proudfoot, and in particular, Mr. Proudfoot, during Mr.
12 Champ's Cross-Examination of you upon your Affidavit he
13 asked you about specific training and you indicated that
14 you weren't sure generally in terms of what the officials
15 had for training.

16 Just to break that down, can you tell me to what
17 extent do you know about the training a doctor would need
18 beyond the medical training to determine whether or not
19 someone has been tortured?

20 A. No. A doctor --?

21 116. Q. A medical doctor.

22 A. I don't know.

23 117. Q. I think we earlier said that some of the
24 officials that go in include officials from DFAIT. Who
25 are those officials? I don't need a name but what is

30

1 their status?

2 A. They are a mix of officials from the Kabul
3 Embassy, from the PRT and headquarters-based officials.

4 118. Q. You have indicated that you don't know exactly
5 what training is given to them?

6 A. I indicated that some happen to have had
7 previous training in what is relevant to torture awareness
8 and that those who are being posted out this summer will
9 receive this training in torture awareness, and that those
10 in the field will get it in the field.

11 119. Q. Just so we are clear that is for DFAIT
12 officials. Will other members of the team also get that
13 training?

14 A. That applies to extend it also to other
15 officials who could be involved in our visits.

16 120. Q. When you were advising Mr. Champ or providing
17 your evidence as to the various departments from which
18 officials might come you indicated some officials would
19 come from the CSC, and I understand that is the
20 Correctional Service of Canada?

21 A. Yes.

22 121. Q. Do you know what general background people
23 from the Correctional Services of Canada have?

24 A. I don't know beyond the fact that they have
25 some expertise in prisons and prison conditions.

31

1 122. Q. Just so I am clear, you said CSC, DFAIT, DND
2 are departments; were there other departments that I
3 missed?

4 A. Potentially RCMP.

5 123. Q. Are you aware of any specific training beyond
6 the investigatory policing training that the RCMP would
7 have in terms of what they might do to detect torture?

8 A. The torture awareness training would also be
9 offered to them, I believe.

10 124. Q. I think, Mr. Champ, that is my re-direct, and,
11 as I said, I don't think there is anything really earth

12 shattering or controversial in there, and I thank you very
13 much for your patience, and subject to anything you have
14 to say I think that will end it for today, but you said
15 you wanted to adjourn ---

16 MR. CHAMP: I adjourn subject to -- there were
17 some objections that you made which we will want to
18 explore with you; you may change your position on that; we
19 may take other steps, and further as well there is
20 numerous documents that we have requested which have not
21 been produced.

22 MR. ANDERSON: And you reserve your right to
23 question on those.

24 MR. CHAMP: Yes.

25 At 11:05 a.m., July 11, 2007 this Cross-Examination

32

1 adjourned.

2 I HEREBY CERTIFY THAT I have, to the best of my
3 skill and ability, accurately taken down in
4 stenotype and transcribed therefrom the foregoing
5 Examination.

6
7 PAULINE F. MUNRO, Official Court Reporter.

1 Examination No. 07-0727

Court File No. T-324-07

(Ottawa-Carleton)

2
3 FEDERAL COURT

4 B E T W E E N:

5 AMNESTY INTERNATIONAL CANADA and
6 BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

7 APPLICANTS

8 - and -

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

11 DEFENDANT(S)

12 *****

13 CROSS-EXAMINATION OF MR. SCOTT PROUDFOOT on an Affidavit
14 dated May 3, 2007, pursuant to an appointment made on
15 consent of the parties, to be reported by Gillespie
16 Reporting Services, on July 11, 2007, commencing at the hour
17 of 10:10 in the forenoon.

18 *****

19 APPEARANCES:

20 P. CHAMP, ESQ. for the Applicants

21 J. ANDERSON, ESQ./MS. A. ZAGORSKA for the Respondents

22 This Cross-Examination was taken in stenotype by Pauline Munro,
23 O.C.R., at Ottawa, Ontario, having been duly sworn for the
24 purpose.

1 (i)

2 INDEX

3 NAME OF WITNESS: MR. SCOTT PROUDFOOT

4 EXAMINATION BY: MESSRS. CHAMP/ANDERSON

5 NUMBER OF PAGES: 32

