

**INTERNAL INQUIRY INTO THE ACTIONS OF CANADIAN  
OFFICIALS IN RELATION TO ABDULLAH ALMALKI,  
AHMAD ABOU-ELMAATI AND MUAYYED NUREDDIN  
(THE "INQUIRY")**

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**NOTICE OF APPLICATION**

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**IN THE MATTER OF**  
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**OFFICIALS IN RELATION TO ABDULLAH ALMALKI,**  
**AHMAD ABOU-EL MAATI AND MUAYEED NUREDDIN**  
**(THE “INQUIRY”)**

**NOTICE OF APPLICATION**

ABDULLAH ALMALKI, AHMAD ABOU-ELMAATI and MUAYYED NUREDDIN (“the Applicants”) and AMNESTY INTERNATIONAL CANADIAN SECTION (ENGLISH BRANCH), BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION, INTERNATIONAL CIVIL LIBERTIES MONITORING GROUP, CANADIAN ARAB FEDERATION, CANADIAN COUNCIL FOR AMERICAN ISLAMIC RELATIONS, CANADIAN MUSLIM CIVIL LIBERTIES ASSOCIATION and HUMAN RIGHTS WATCH (“the Intervenors”) will make an application to the Inquiry on Tuesday, October 9, 2007 at 10:00 a.m., or as soon after that time as the application can be heard, at the Bytown Lounge, 111 Sussex Drive, Ottawa, Ontario.

PROPOSED METHOD OF HEARING:

The Applicants and the Intervenors ask that this application be heard orally.

THE APPLICATION IS FOR:

1. Disclosure of the names of all Canadian officials interviewed by Inquiry Counsel, save those currently employed by CSIS in covert operations;
2. Production of all documents disclosed to Inquiry Counsel by all of the participants in the Inquiry, without redaction save and except where there are valid national security confidentiality (“NSC”) claims requiring redaction;

3. A Direction that all interviewees with knowledge of the following issues be called as witnesses to give evidence publicly:
  - a. embassy and consular conduct;
  - b. the Canadian government's practice and policy on torture;
  - c. information sharing with foreign regimes; and
  - d. requests by Canadian officials to secure information from Messrs. Almalki, Elmaati and Nureddin while they were in detention; and
4. Such further and other relief as counsel may request.

THE GROUNDS FOR THIS APPLICATION ARE:


1. The Applicants have a direct and substantial interest in the subject matter of the Inquiry;
2. The Inquiry was called pursuant to the recommendation of Commissioner O'Connor in the Report of the Events Relating to Maher Arar that the cases of the three Applicants be reviewed "through an independent and credible process that is able to address the integrated nature of the underlying investigations and inspires public confidence in the outcome";
3. While the Terms of Reference and the Commissioner's May 31, 2007 ruling both envision the conduct of portions of the Inquiry in public, to date there have been no public hearings, no witnesses called to give evidence publicly, and no disclosure of documents to the public or even to the Applicants themselves;
4. It is essential to ensure the effective conduct of the Inquiry that key witnesses be called to give evidence in public hearings and that documents (redacted only for valid NSC claims and not including those documents previously submitted to the Arar Commission) be disclosed to the public;

5. Rules 2, 6, 8, 11, 12(c), 26, 28, 33 of the General Rules of Procedure and Practice of the Inquiry;
6. Such further and other grounds as counsel may submit and this Inquiry accept.

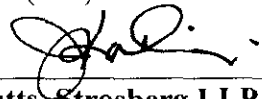
THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Application:

1. The Affidavit of Hadayt Nazami, sworn October 2<sup>nd</sup>, 2007;
2. Such further and other evidence that counsel may submit.

Dated this 2<sup>nd</sup> day of October, 2007.

  
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**IN THE MATTER OF**  
**INTERNAL INQUIRY INTO THE ACTIONS**  
**OF CANADIAN OFFICIALS IN RELATION TO**  
**ABDULLAH ALMALKI, AHMAD ABOU-ELMAATI**  
**AND MUAYYED NUREDDIN**  
**(THE "INQUIRY")**

**AFFIDAVIT OF HADAYT NAZAMI**  
**(sworn October 2, 2007)**

I, HADAYT NAZAMI, of the City of Toronto, in the Province of Ontario,  
MAKE OATH AND SAY AS FOLLOWS:

1. I am a Barrister and Solicitor, called to the Ontario Bar in July 2004. I am retained as one of the counsel representing Mr. Elmaati before this Inquiry. I continue to represent Mr. Elmaati. The Legal teams representing Messrs. Mr. Elmaati, Almalki and Nureddin have, in large part, worked in close association and coordination so as to better assist the Inquiry in the conduct of its work. As such, I have knowledge of the matters set out below.
2. On April 2, 2007, Messrs. Elmaati, Almalki and Nureddin were granted standing in this Inquiry as Participants. The Commissioner found that they were persons with substantial and direct interest in the subject matter of the Inquiry.
3. By ruling of the same date, a number of organizations were granted standing in this Inquiry as Intervenors: those who have a genuine concern about the subject matter of the Inquiry and have a particular perspective or expertise that may assist the Commissioner. The organizations joining with the three men in this Application were all granted Intervenor status.
4. The April 2, 2007 ruling provided that both Participants and Intervenors would be entitled to:

- (a) make submissions to the Commission on the Terms of Reference of the Inquiry and the proper process for the Inquiry to follow in light of the Terms of Reference;
- (b) make opening and closing submissions to the Inquiry; and
- (c) submit background documents, including analyses or studies, on issues of relevance to the mandate of the Inquiry.

Importantly, the Commissioner ruled that “further participation and involvement may arise as events unfold.”

5. On April 17, 2007, a hearing was held to receive submissions from Participants and Intervenors on questions related to the Terms of Reference and the procedures to be followed in the conduct of the Inquiry. At that time, counsel for Messrs. Elmaati, Almalki and Nureddin (the “Non-Government Participants”) involved in the within application submitted that, at a minimum, evidence relevant to the following issues must be called in public hearings:

- (a) embassy and consular conduct;
- (b) the Canadian government’s practice and policy on torture;
- (c) information sharing with foreign regimes; and
- (d) requests by Canadian officials to secure information from Messrs. Elmaati, Nureddin and Almalki while they were in detention.

6. On their behalf, counsel further submitted that the Inquiry’s hearings should only be conducted in secret where national security confidentiality claims are

made. Counsel asked that they be security cleared in order that they may be permitted to attend any private hearings.

7. The Intervenors in the within application joined with the Non-Government Participants in those submissions.

8. In his ruling dated May 31, 2007, the Commissioner adopted the government view that the Inquiry's hearings should, in the main, be held *in camera* and that counsel for Messrs. Elmaati, Almalki and Nureddin would not be permitted to attend those *in camera* sessions. Rather, the Commissioner held that we could have input into the Inquiry by consulting with Inquiry counsel prior to the interviews of Canadian officials by Inquiry counsel.

9. The Commissioner did caution, however, that "one should be mindful of the importance of being flexible." He stated that it "may be necessary to modify the approach of the Commission in doing its work" and furthermore, "if there are ways to balance interests in a more transparent way every effort should be made to do so without violating the Terms of Reference or the interests that must be properly acknowledged."

10. Following the ruling of May 31, 2007, counsel for Messrs. Almalki, Elmaati, and Nureddin - Paul Copeland and Jasminka Kalajdzic, Barbara Jackman, John Norris and I - consulted with Inquiry counsel in the manner described in the ruling. We met with Inquiry counsel on less than half a dozen occasions. Significantly, those meetings were "off the record" at the request of Inquiry counsel and subsequently the Commissioner himself. On one occasion, Messrs. Almalki, Elmaati, and Nureddin personally attended a meeting with us and Inquiry counsel to get a status update on the interview process taking place.

11. Inquiry counsel have interviewed a number of Canadian officials over the course of two or three months this summer. I understand that those interviews were conducted *in camera* and were attended by government counsel. Although Inquiry

counsel has disclosed to us a list of some of the Canadian officials interviewed, the list has not been made public. It is also unclear at this time whether we have been given a complete list of everyone who has been interviewed.

12. Messrs. Almalki and Elmaati were granted standing on a limited basis at the Commission of Inquiry into the actions of Canadian officials in relation to Maher Arar (the "Arar Commission"). In the Arar Commission, there was a substantial public phase of hearings and it was, of course, publicly known who was testifying during that phase.

13. There has been no public disclosure of the work of the Inquiry since the issuance of the May 31, 2007 ruling. The Non-Government Participants have repeatedly asked for the Inquiry to be more open and transparent in light of their "substantial and direct interest" in the subject matter of the Inquiry and the public interest raised by the issues being considered. While having deep reservations about the secret process taking place, the Non-Government Participants have co-operated to the fullest extent, and in the hope that their requests would be adopted.

14. The Non-Government Participants and Intervenor in this application are extremely worried about the erosion of public confidence in this Inquiry. Since the release of the Commissioner's May 31, 2007 ruling, public attention has heightened on issues like government secrecy, RCMP incompetence, and overclaiming of NSC in government documents. By way of example, I attach as Exhibit "A" to this my affidavit some of the articles published in various Canadian newspapers.

15. Counsel for the Non-Government Participants and the Intervenor have stated their concerns and requests on the record in a number of letters. For example, on June 14, 2007, Mr. Copeland wrote to the Commissioner expressing concern that we were being given virtually no information about the CSIS interviewees and thus would be unable to make meaningful suggestions as to lines of questioning for those unnamed officials. On June 27, 2007, Ms. Kalajdzic wrote to Inquiry counsel expressing concern

about the shortcomings of the process that had evolved since release of the May 31, 2007 ruling and asking for clarification about how the Inquiry was going to proceed.

Specifically, she asked:

- (a) if there would be any interviewees examined in more formal hearings and if counsel for the Non-Government Participants would be permitted to test their evidence;
- (b) if there would be summaries of the evidence obtained via the *in camera* interviews;
- (c) for disclosure of documents or document summaries which are not subject to a valid NSC claim; and
- (d) for expurgated transcripts of the interviews of Canadian officials as it was "impossible" to advance our clients' interests in this Inquiry without, at the very least, being given expurgated transcripts of the interviews and examinations of witnesses.

Attached as Exhibit "B" are copies of these two letters.

16. I am also aware that the Intervenors have had several meetings with Inquiry counsel and in one case, the Commissioner himself. Again, these meetings were "off the record" at the request of Inquiry counsel and the Commissioner. Nevertheless, the Intervenors have, at various times, written to the Commissioner and his counsel, to place formally on the record, concerns and suggestions to improve the Inquiry process. By way of example, I attach as Exhibit "C" letters dated August 22 and September 17, 2007, from Alex Neve, Secretary-General of Amnesty International Canada, on behalf of his organization and a number of other Intervenors.

17. Both the Non-Government Participants and the Intervenors have repeatedly stressed that their ability to engage with and contribute to the Inquiry process

in a meaningful manner is virtually impossible given the secret nature of the process. To date, we have been given:

- (a) no disclosure of any documents filed with this Inquiry;
- (b) no summaries of documents;
- (c) no opportunity to attend any interviews of any Canadian officials;
- (d) no meaningful summaries of the substance of the interviews conducted;
- (e) no list of the documents filed in the Inquiry;
- (f) no opportunity to test any of the government's evidence;
- (g) no dates or information on the nature of hearings or other sessions that might be open to the public;
- (h) no indication that the Commissioner himself will participate in any interviews of Canadian officials; and
- (i) no confirmation that any interviewees will be witnesses in a hearing at which counsel for the Non-Government Participants and/or the Intervenors would be permitted to attend.

18. In substance, although granted standing as Non-Government Participants and Intervenors, we have not truly participated in any meaningful way in this Inquiry.

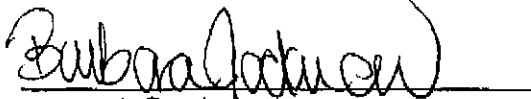
19. After considerable consultation, the Participants and Intervenors believe that to ensure the "effective conduct of the Inquiry", it is necessary that the following portions of the Inquiry be conducted in public:

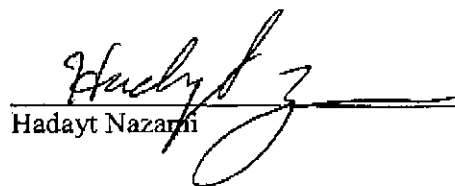
- (a) **Disclosure.** Documents filed with the Inquiry that were not previously filed at the Arar Commission should be disclosed and redacted only for valid NSC claims;

- (b) **List of Documents.** A list of all documents received by the Inquiry, including those to which an NSC claim has been made, should be disclosed;
- (c) **List of Canadian Officials Interviewed.** A complete list of all interviewees should be made public. In the case of interviewees currently engaged in covert operational activities for CSIS, particulars of the role they played in the investigations of the Non-Government Participants should also be disclosed;
- (d) **Witnesses.** All officials with information relevant to the following issues should be called as witnesses in public hearings where counsel for the Non-Government Participants will have the opportunity to cross-examine them if necessary:
  - (i) embassy and consular conduct;
  - (ii) Canadian government's practice and policy on torture;
  - (iii) information sharing with foreign regimes;
  - (iv) requests by Canadian officials to secure information from Messrs. Almalki, Elmaati and Nureddin while they were in detention.

20. I make this Affidavit in support of an Application for disclosure and directions on public hearings and for no other or improper purpose.

SWORN BEFORE me at the City  
of Toronto, in the Province of  
Ontario, this 2<sup>nd</sup> day of October, 2007.

  
A Commissioner, etc.

)  
)  
)  
)  
)  
  
Hadayt Nazari



This is Exhibit "A" to the  
Affidavit of Hadyat Nazami  
Sworn before me this 2<sup>nd</sup>  
day of Oct. 2007 AD.  
Bl. Godwin  
A Commissioner etc.

## Lessons not learned

ADAM RADWANSKI, AUGUST 19, 2007 AT 2:57 PM EDT

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I'm back about a day late to add much of value to the Maher Arar fallout; it's been well-covered by others, including my colleagues on the editorial board. But if we're going to look ahead a little (while still looking back), it's probably about the right time to ask whether we should be asking a bit more of this.

Granted, none of the three gentlemen at the centre of the Iacobucci inquiry cut quite the sympathetic figure that Arar did. They're not as telegenic or articulate, and their innocence might not be quite as clear-cut. But bottom line is, we've got an inquiry into very familiar allegations - that Canadian citizens were imprisoned and tortured in Syria (and Egypt) with some degree of Canadian complicity - and nobody much seems to care.

More to the point, we're not being given much opportunity to care. To their credit, the Conservatives showed they took the allegations of Muayyed Nureddin, Abdullah Almalki and Ahmad El Maati seriously by appointing a retired Supreme Court justice to look into them. But then they instructed said retired Supreme Court justice to keep the inquiry "internal," by which they apparently meant secretive.

Some measure of secrecy is reasonable when national security matters are in play, but Iacobucci seems to be taking it beyond even what the Tories had implied. The inquiry is so clandestine that even Nureddin, Almalki and El Maati aren't getting to find out much about what led to the apparent abuses they endured.

To make matters worse, he seems hell-bent on limiting the number of witnesses appearing before him. In part, it's been suggested to me, that's because he's dead-set against going past the January 2008 deadline the Tories set for his report - giving him very little time to get through three separate cases.

If the inquiry flies under the radar as it proceeds, that might not be the end of the world. But if it produces a half-assed result, we're all going to be the poorer for it. You'd think what we found out this week about the perils of secrecy would have Canadians (not least opposition politicians) crying foul. Instead, we seem to have determined that one Maher Arar is enough for us - a noble sentiment if it means preventing further cases like his, but not if it's ignoring past ones.

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## Leeway for Mr. Iacobucci

*The Globe and Mail*. Toronto, Ont.: Aug 14, 2007. pg. A.12

### Abstract (Summary)

Last December, in his final recommendations on the [Maher Arar] case, Judge O'Connor suggested further investigation into the treatment of Abdullah Almalki, Ahmad Abou El Maati and Muayyed Nureddin - all three of whom were imprisoned and allegedly tortured in Syria on suspicions of terrorist links. Unlike Mr. Arar, who was detained by U.S. officials in New York and shipped overseas, they were all seized while travelling through the Middle East.

### Full Text (409 words)

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After previously censored details of Mr. Justice Dennis O'Connor's report were made public last week, Canadian officials' role in the injustices done to Maher Arar became clearer than ever. What remains to be seen is whether their complicity in Mr. Arar's imprisonment and torture in Syria was an isolated incident or part of a broader pattern.

A federal inquiry into three outwardly similar cases has the potential to answer that question. But that may require Frank Iacobucci, the former Supreme Court justice leading it, to go beyond what the government envisioned when it appointed him.

Last December, in his final recommendations on the Arar case, Judge O'Connor suggested further investigation into the treatment of Abdullah Almalki, Ahmad Abou El Maati and Muayyed Nureddin - all three of whom were imprisoned and allegedly tortured in Syria on suspicions of terrorist links. Unlike Mr. Arar, who was detained by U.S. officials in New York and shipped overseas, they were all seized while travelling through the Middle East. But Canadian officials may have provided information to Syria that led to their arrests, and in turn may have received information from their interrogations there. Indeed, the previously censored passages of Judge O'Connor's report reveal that the RCMP applied for search warrants on the basis of information the Syrians extracted from Mr. El Maati.

Hoping to avoid the revelation of sensitive information, and possibly also eager to limit embarrassment to the national security establishment, the federal government instructed Mr. Iacobucci to conduct an "internal" investigation almost entirely behind closed doors. And it gave him a deadline of January, 2008 - less than a year to examine the fate of three men, even though it took 1½ years for Judge O'Connor to investigate Mr. Arar's case alone.

Neither the need for secrecy nor the need to adhere to arbitrary time constraints should limit Mr. Iacobucci's ability to get to the bottom of these cases. But lawyers for the three men at the centre of the inquiry, along with civil-liberties advocates, have alleged that this is what is happening - especially since it has not been confirmed whether key witnesses such as former RCMP commissioner Giuliano Zaccardelli and other senior Mounties will be heard from.

In light of the latest revelations surrounding Mr. Arar's case, Mr. Iacobucci should be given as much time and leeway as he needs. Finding out the truth about how Canada views our civil liberties cannot take a back seat to expediency.

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### Three men imprisoned in Middle East question secretive process of probe

The three men who were imprisoned in the Middle East in circumstances similar to Maher Arar say they cannot get assurances that key witnesses such as former RCMP commissioner Giuliano Zaccardelli will be questioned at an inquiry into their treatment.

Lawyers for the three, who say they were tortured, have gone to the Federal Court of Canada seeking an order to open up the secretive process set by retired Supreme Court judge Frank Iacobucci. They say they are concerned that the inquiry will not be credible.

Although Mr. Justice Dennis O'Connor's inquiry into Mr. Arar's case found last year that Canadian officials fed misleading information to the United States that probably led to his deportation and torture in Syria, it had no mandate to investigate the three other cases.

Mr. Iacobucci was appointed in December to conduct an "internal" inquiry into the actions of Canadian officials in the cases of Muayyed Nureddin, Abdullah Almalki and Ahmad Abou El Maati - a probe that is proceeding almost entirely behind closed doors.

Questions have lingered over whether Canadian officials provided information to officials in Syria and received information obtained from their interrogations there.

Yesterday, censored portions of Mr. O'Connor's report, released under a Federal Court order, showed that the RCMP applied for search warrants in 2002 using information that the Syrians obtained by interrogating Mr. El Maati, who was being detained there.

But his lawyers have been unable to obtain assurances that the RCMP officer who applied for the warrants, Sergeant Randy Walsh, will be questioned by the Iacobucci inquiry.

"If Justice Iacobucci wasn't aware of this issue before, then there's problems going on with the Iacobucci inquiry," said Barbara Jackman, a lawyer for Mr. El Maati.

In the first phase of the inquiry, commission lawyers are interviewing officials and others in private, and Mr. Iacobucci may adopt their findings as his own.

Commission counsel John Laskin said in a recent interview that he cannot say whether Mr. Zaccardelli will be questioned.

"That hasn't been finally determined yet, but a number of the others on their proposed list, we are indeed interviewing," Mr. Laskin told *The Globe and Mail*. "I'm not going to say that we're necessarily going to interview everybody they say we should interview, because at the end of the day, it's our judgment."

In correspondence filed with the Federal Court, Jasminka Kalajdzic, a lawyer for Mr. Almalki, asked why lists of interviewees did not include Mr. Zaccardelli, MP Dan McTeague, who was parliamentary secretary for consular cases when Paul Martin was prime minister, and RCMP counterterrorism officers Sgt. Walsh and Michel Cabana.

The commission's lawyers wrote back to say the lists were not necessarily complete, and that Mr. Cabana would be interviewed - but made no mention of the others.

Mr. Zaccardelli resigned his post as RCMP commissioner in December under fire for conflicting testimony about the force's actions in Mr. Arar's case.

"It's the chain-of-command issues. Zaccardelli was the head of the RCMP. If he wasn't aware of what was going on, why wasn't he? And if he was aware, what did he do about it?" said Ms. Jackman, who represents both Mr. Nureddin and Mr. El Maati.

"We don't even know who all the people are that they're interviewing. We know some of them. And in terms of whether or not they're getting at all the issues, it's blind faith."

Ms. Jackman said they are concerned that the government imposed a restrictive mandate on the inquiry because it fears the three cases would demonstrate a pattern of Canadian complicity in having third countries that use torture interrogate suspects to advance investigations.

"I have no confidence, to be honest with you. Because I don't know what's going on," Mr. Nureddin, 40, a geologist who was imprisoned in Syria for a month in 2003, said in a recent interview.

Mr. Laskin noted that the government called for a private inquiry when it set the terms of reference, and selected sections

can be held in public only when Mr. Iacobucci deems it essential.

Mr. Iacobucci issued rules of procedure for the inquiry in a May 31 decision, indicating that in general, lawyers for the three men would not be present at interviews and hearings. Instead, they can suggest "questions and lines of inquiry" to the commission counsel, he ruled.

That ruling is now being challenged by the three men and several groups, including the Canadian Arab Federation and the B.C. Civil Liberties Association, which argue Mr. Iacobucci was too restrictive in interpreting his mandate and is not making the inquiry public enough to instill confidence.

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# ProQuest

Databases selected: Multiple databases...

## Arar case sheds light on 3 others; [ONT Edition]

**Toronto Star.** Toronto, Ont.: Aug 16, 2007. pg. A.19

### Abstract (Summary)

Thanks to a federal court judge who overrode most of Ottawa's bogus security claims, we now know what most long suspected that Ottawa was well aware of the fate awaiting [Arar] after he was arrested in New York in September 2002. The newly uncensored portions show that the government knew the Americans were deporting Arar to the Middle East to be tortured for information, or as one security bureaucrat cunningly put it, to "have their way with him."

Yet all are part and parcel of the Arar case. O'Connor's original 2006 report concluded that Arar had been caught up because he knew [Abdullah Almalki] and El Maati. He also revealed that the RCMP suspected, without much substantive evidence, that Almalki was a terror kingpin. In order to find out more, the Mounties supplied Syrian torturers with questions for him.

The original version of the O'Connor report noted that in 2002 the Mounties wanted the U.S. Federal Bureau of Investigation to launch a criminal investigation into Almalki. What the government didn't want Canadians to know, and what was revealed only last week, is that the FBI refused. Clearly, the Americans didn't believe he was a much of a terrorist.

### Full Text (577 words)

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The release of previously censored portions of the Maher Arar report adds a few new details to the now familiar story of his despicable treatment by the federal government and its security agencies.

Thanks to a federal court judge who overrode most of Ottawa's bogus security claims, we now know what most long suspected that Ottawa was well aware of the fate awaiting Arar after he was arrested in New York in September 2002. The newly uncensored portions show that the government knew the Americans were deporting Arar to the Middle East to be tortured for information, or as one security bureaucrat cunningly put it, to "have their way with him."

Yet for the entire time that Arar was in jail in Damascus, the Canadian government publicly denied he was in danger of torture. We now know Ottawa was lying.

However, the most important revelations from last week's release relate not to Arar but to three other Canadians whose cases are before a judicial inquiry.

Abdullah Almalki, Ahmad El Maati and Muayyed Nureddin are trying to find out what role Ottawa played in their imprisonment and torture in Syria and Egypt between 2001 and 2004.

All are Canadian citizens. All had previously travelled to Syria without incident. All were arrested by the Syrians on subsequent journeys, imprisoned and tortured. El Maati was sent on to Egypt for more torture.

All say they were asked questions by their torturers which could have come only from Canada.

The trio had brief walk-on parts during Justice Dennis O'Connor's investigation of the Arar matter. He recommended that Ottawa establish an "independent and credible" inquiry into their cases.

In December, Prime Minister Stephen Harper asked former Supreme Court justice Frank Iacobucci to do that. But Harper set such rigid constraints (the inquiry is being held almost entirely in secret, with even the complainants denied access to most evidence) that the probe's credibility, if not its independence, is in question.

Yet all are part and parcel of the Arar case. O'Connor's original 2006 report concluded that Arar had been caught up because he knew Almalki and El Maati. He also revealed that the RCMP suspected, without much substantive evidence, that Almalki was a terror kingpin. In order to find out more, the Mounties supplied Syrian torturers with questions for him.

The unexpurgated version, however, shows that the relationship between the Mounties and Syrian intelligence went far deeper. In September 2002, the RCMP used El Maati's so-called confession, obtained under Syrian torture, as the basis for obtaining wiretaps in Canada. Earlier that year, they used similar information obtained from what the report calls "a country with a poor human rights record" to get search warrants. It seems the RCMP found the torturers useful.

The original version of the O'Connor report noted that in 2002 the Mounties wanted the U.S. Federal Bureau of Investigation

to launch a criminal investigation into Almalki. What the government didn't want Canadians to know, and what was revealed only last week, is that the FBI refused. Clearly, the Americans didn't believe he was a much of a terrorist.

Nonetheless, the RCMP continued to help Almalki's torturers.

Like El Maati and Nureddin, Almalki has never been charged with a crime here or anywhere. Like the other two, he is trying to find out why he was put through the hell that is torture.

Last week's declassification of the Arar report provides a few more hints.

Thomas Walkom's column appears *Thursday and Sunday*

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# ProQuest

Databases selected: Multiple databases...

## Ottawa sacrificed Arar to save face with U.S., Syria

John Ibbitson. *The Globe and Mail*. Toronto, Ont.: Aug 10, 2007. pg. A.1

### Abstract (Summary)

The revelations of Judge O'Connor's report revealed greater concerns: the ineptness of the RCMP in managing the information it had on Mr. [Arar]; (the very ease of communication that many of us feared would be compromised by the inquiry was proved not to exist during the Arar affair); the great danger in which the force placed Mr.

Full Text (678 words)

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The federal government fought like blazes to keep the fact that the CIA sent Maher Arar to Syria from you - they fought so hard that it took a court order for you to hear it - because Ottawa doesn't want to lose face with the Americans, or the Syrians for that matter.

To preserve their trust, our government was prepared to sacrifice the trust of its own citizens. What are we to make of such a thing?

The blacked-out lines of Mr. Justice Dennis O'Connor's report that are now available for all to see offer little that should surprise.

Of course the Central Intelligence Agency was at the heart of the decision to deport Mr. Arar to Syria. That's what the CIA does. We already knew - because the inquiry report describes it in grim detail - that Canadian intelligence and justice officials were feeding the Americans wrong information, though we now know that some of that wrong information came from Syria, where it had been pried under duress from another Syrian-Canadian, Ahmad Abou El Maati.

And we discover that at least one Canadian official warned his colleagues, after Mr. Arar had already been deported, that the Yanks probably wanted to send him somewhere where he could be tortured.

Big deal.

And yet the federal government refused to disclose this information, which Judge O'Connor wanted to make public, until a Federal Court judge ordered it to, because intelligence agencies will go to any length to avoid identifying each other as sources.

There is good reason to accept such secrecy as the necessary price of vigilance. Perhaps the single most important accomplishment of the American and Canadian governments in this decade has been preventing a second terrorist attack from occurring on either country's soil.

Since it is the first duty of government to secure the safety of its citizens, Ottawa and Washington deserve praise for carrying out that duty.

It also seemed reasonable for the federal government to insist that some portions of the Arar inquiry report be kept from the public.

There was always the risk that the inquiry could undermine trust and ease of communication between American and Canadian security and intelligence officials. That trust is crucial to strengthening the perimeter and to detecting and deterring future threats.

But the revelations of Judge O'Connor's report revealed greater concerns: the ineptness of the RCMP in managing the information it had on Mr. Arar; (the very ease of communication that many of us feared would be compromised by the inquiry was proved not to exist during the Arar affair); the great danger in which the force placed Mr. Arar by transmitting that information to the Americans without the proper caveats, and then the mendacity the Mounties employed in trying to cover up their responsibility.

By the time the report's findings were digested, the risk of damage to Canada's reputation among the spying fraternity was the least of our concerns. The more vital task was to restore Canadians' faith in the probity of their government and national police force.

For Ottawa to then fight to keep the public from hearing of the CIA's involvement in the affair - especially when any



reasonable reader of the report could have deduced that involvement - shows that it is still more interested in international proprieties than in telling the truth to the Canadian people.

It is ludicrous to suppose that Canadian-American relations have been damaged because the CIA has been outed by the O'Connor report. That troubled American intelligence service already has enough on its plate right now.

The only real damage the federal government has done, through both Liberal and Conservative administrations, is to itself. There are things about the Arar affair that you can't be told, our government informed us, for reasons of national security.

National security my ass. Foreign Affairs, CSIS and especially the RCMP were simply trying to keep hidden their incompetent, duplicitous, disgraceful handling of the Arar file. And they're still at it.

Why should anyone trust anything that our government says about Maher Arar any more?

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## ProQuest

Databases selected: Multiple databases...

**RCMP used 'disturbing' tactics to get warrants; Didn't tell judges information came from Syrian agents; [Final Edition]***Don Butler. The Ottawa Citizen. Ottawa, Ont.: Aug 10, 2007. pg. A.1***Abstract (Summary)**

The RCMP also told the judge that Mr. [El Maati] appeared to be in good physical condition when seen by a Canadian official. In light of that, it could "only surmise that Mr. El Maati told the truth and his recantation was an attempt to now (do) 'damage control.'" But it neglected to tell the judge that the official saw Mr. El Maati in August 2002 -- nine months after he gave his "confession" to the Syrians.

"Now we see in two cases within the [Arar] saga the RCMP and national intelligence operatives were not candid with the judge and the justice of the peace when they applied for those warrants." That's deeply disturbing, he said. "If we can't rely on our police forces and intelligence agencies to be truthful, then it really undermines our confidence in the whole administration of justice and rule of law in Canada." Paul Copeland, lawyer for Mohamed Harkat and Abdullah Almalki, two other Canadians who have been accused of terrorist links, said the revelations in the O'Connor report are part of a systemic problem.

"It's very disturbing and it's explosive stuff," he said. "There's got to be a much stricter practice in terms of the filtering and assessing of intelligence information to ensure that it's true." Mr. [Lorne Waldman] said the problem extends beyond warrant applications to security certificates, which can be used to detain non-Canadian terrorism suspects indefinitely without charge.

**Full Text (1236 words)***(Copyright The Ottawa Citizen 2007)*

On the TV show 24, counter-terrorism agent Jack Bauer routinely uses torture to extract critical information needed to stop the bad guys.

According to newly uncensored material in the Maher Arar report, in 2002 the RCMP almost certainly relied on torture. But unlike Jack Bauer, it didn't soil its own hands directly.

Instead, it used information extracted by Syrian agents to obtain search warrants and telephone warrants it wanted to pursue its anti-terrorism investigations.

Critically, the RCMP failed to inform the judges who granted the warrants that they were relying on information that was likely the product of interrogations involving tactics forbidden in Canada.

Yesterday, legal experts used words like shocking, indefensible and despicable to describe the RCMP's conduct.

David Paciocco, a University of Ottawa law professor and criminal lawyer, even suggested that by failing to reveal the circumstances under which the information was obtained, the RCMP likely broke the law.

The Criminal Code is clear, said Mr. Paciocco. Anyone seeking a warrant "is under an obligation to make full and frank disclosure of all information to the justice of the peace or the judge." "You can't be selective in the information that you present, nor can you create a misleading picture," said Mr. Paciocco.

Yet according to the newly released material in Justice Dennis O'Connor's report on the Arar case, that's exactly what the RCMP's Ottawa-based anti-terrorism team, Project A-O Canada, did on at least two occasions.

The first was in January 2002, when A-O Canada obtained warrants to conduct simultaneous searches on houses in Ottawa, Toronto and other Canadian cities.

To obtain the warrants, the report says A-O Canada "relied on information received from a country with a poor human rights record" -- believed to be Syria.

While A-O Canada disclosed where the information originated from, "it did not mention that country's poor human rights record or the fact that information might be the product of torture," says the newly unclassified material.

"Moreover," it adds, "no assessment was made of the reliability of the information." In September 2002, the RCMP applied for a telephone warrant, using information obtained from Ahmad El Maati, a Kuwaiti-born Canadian citizen who was arrested in Syria in November 2001 and, he maintains, tortured into making a false confession.

The RCMP told the presiding judge that Mr. El Maati had confessed to the Syrians that he "undertook pilot training at the request of his brother and that he accepted a mission to be a suicide bomber by exploding a truck bomb on Parliament Hill." According to Judge O'Connor, the RCMP knew that Mr. El Maati had said this confession was made "under extreme coercion," but said its investigation had corroborated much of the information.

However, the RCMP gave the judge no information on the human rights record of Syria and said nothing about the fact that Syrian Military Intelligence was known to torture detainees.

The RCMP also told the judge that Mr. El Maati appeared to be in good physical condition when seen by a Canadian official. In light of that, it could "only surmise that Mr. El Maati told the truth and his recantation was an attempt to now (do) 'damage control.'" But it neglected to tell the judge that the official saw Mr. El Maati in August 2002 -- nine months after he gave his "confession" to the Syrians.

Had the RCMP provided the full and frank disclosure the law requires, said Mr. Paciocco, "then the search warrants would not have issued. That evidence is inadmissible for all purposes under the Criminal Code." Lorne Waldman, who was part of Mr. Arar's legal defence team, said the RCMP's conduct "really goes right to the heart of the rule of law in this country."

"We give the police extraordinary powers to take extraordinary measures, especially in national security cases, based on them going before a justice or judge with absolute honesty and candour."

"Now we see in two cases within the Arar saga the RCMP and national intelligence operatives were not candid with the judge and the justice of the peace when they applied for those warrants." That's deeply disturbing, he said. "If we can't rely on our police forces and intelligence agencies to be truthful, then it really undermines our confidence in the whole administration of justice and rule of law in Canada." Paul Copeland, lawyer for Mohamed Harkat and Abdullah Almakki, two other Canadians who have been accused of terrorist links, said the revelations in the O'Connor report are part of a systemic problem.

The Canadian Security Intelligence Service also tried to use evidence obtained under torture against Mr. Harkat, he said. The judge threw the evidence out, though not based on the torture issue.

The Security Intelligence Review Committee (SIRC), which oversees CSIS, recently rejected Mr. Copeland's complaint that the agency has shown a "total lack of concern" about evidence obtained by torture.

Mr. Copeland said the SIRC told him it didn't need to act because his complaint had been partly dealt with by Judge O'Connor and would be further addressed by former Supreme Court Justice Frank Iacobucci, who is looking into the cases of Mr. El Maati and two other men detained in the Middle East because of suspected terrorist links.

John Tackaberry, a spokesman for Amnesty International Canada, said the RCMP's failure to provide full disclosure of torture when obtaining the warrants violated Canada's international obligations.

"It's very disturbing and it's explosive stuff," he said. "There's got to be a much stricter practice in terms of the filtering and assessing of intelligence information to ensure that it's true." Mr. Waldman said the problem extends beyond warrant applications to security certificates, which can be used to detain non-Canadian terrorism suspects indefinitely without charge.

"We have to rely on CSIS to go before a Federal Court judge and tell the truth and be candid and reveal everything," he said. "And now we see that they're not doing that." Mr. Paciocco said the new disclosures are likely to make defence lawyers involved in national security cases more vigilant in future.

The problem is they often don't get full disclosure of information, he said. "This case really pinpoints the importance of full access to information if the rights that have been bestowed by law are going to be enjoyed." James Stribopoulos, a law professor at York University's Osgoode Hall, said the cases are part of a larger problem with search warrants, which have a "shockingly high" error rate.

A 1999 study of 100 search warrants issued in downtown Toronto found that 61 per cent should not have issued, and 40 per cent even failed to disclose a reasonable and probable grounds for believing the target was involved in criminal activity.

One solution, Mr. Stribopoulos said, would be more training for police officers and justices of the peace. The latter approve most warrants even though most lack formal legal training.

Greater independent oversight should also be considered, he said. "One of the reasons that the actions of the police can fall so woefully short of the legal standard is partly because so often there aren't legal consequences to it."

#### [Illustration]

Photo: Rod MacIvor, The Ottawa Citizen / In September 2002, the RCMP applied for a telephone warrant, using information obtained from Ahmad El Maati, above, a Kuwaiti-born Canadian citizen who was arrested in Syria in November 2001 and, he maintains, tortured into making a false confession. ;

Credit: The Ottawa Citizen

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# ProQuest

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## The Arar File: A clearer picture begins to surface

The Globe and Mail. Toronto, Ont.: Aug 10, 2007 - pg. A.10

### Abstract (Summary)

Jan. 21, 2002: RCMP officers execute seven search warrants across Ontario, seizing items from the homes of Abdullah Almalki, an acquaintance of Mr. [Maher Arar] who was visiting Malaysia, and Ahmad Abou El Maati, who is in a Syrian jail. They also knock on Mr. Arar's door, but he is in Tunisia, his wife's homeland.

### Full Text (1701 words)

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Last month, the Conservative government lost its battle to keep secret further disclosures from the Arar Commission for national security reasons. Yesterday a portion of those censored words were finally revealed.

### Maher Arar

The wireless technology consultant from Ottawa has gained global fame as a wrongfully accused terrorism suspect. After being arrested in a U.S. airport, the Canadian citizen was deported to Syria and spent 10 months in jail there before returning to Canada and launching a campaign to clear his name.

### Sept. 11, 2001 terrorist attacks

Dec. 20, 2001: Mr. Arar complains that Canadian border agents seized his computer and snooped through its contents while he was returning from a trip to the United States.

Jan. 21, 2002: RCMP officers execute seven search warrants across Ontario, seizing items from the homes of Abdullah Almalki, an acquaintance of Mr. Arar who was visiting Malaysia, and Ahmad Abou El Maati, who is in a Syrian jail. They also knock on Mr. Arar's door, but he is in Tunisia, his wife's homeland.

June 2002: After twice travelling to the United States with no apparent problems, Mr. Arar returns to Tunisia for an extended visit.

Sept. 26: En route home to Canada from Tunisia, he is arrested at JFK Airport in New York, accused of having terrorist links and shown his 1997 Ottawa rental agreement, witnessed by Mr. Almalki, the brother of one of Mr. Arar's colleagues.

### 2002

Oct. 3:

During a visit by Canadian consular officials, he says he fears the United States plans to deport him to Syria.

Oct. 7:

A U.S. immigration official formally tells Mr. Arar that he is considered a terrorist and al-Qaeda member. Why? Because he knows Mr. El Maati and Mr. Almalki.

Oct. 9:

U.S. officials fly Mr. Arar to Jordan and several days later hand him over to Syria, where, he says later, he is immediately beaten with electric cables.

Oct. 11 to 16:

Subsequent beatings, he says, prompt him to confess to having been trained as a terrorist in Afghanistan. After that, the intensity of the beatings subsides.

Early November: He signs and applies his thumbprint to a document containing the confession he will later recant.

Early April, 2003: He is allowed to see sunlight for the first time in six months. April 23: Paul Cellucci, then U.S. ambassador to Canada, tells a private audience that "Mr. Arar is very well known to Canadian law enforcement. They

understand our handling of the case. They wouldn't be happy to see him come back to Canada."

Aug. 14: During a prison visit by a Canadian consular official, Mr. Arar breaks down and says he has been tortured.

Aug. 19: Again, he says, he is coerced into writing that he trained Afghanistan.

Sept. 19: Mr. Arar sees that Mr. Almalki is also in the Syrian prison and appears to have been tortured even more severely.

Oct. 5: Released from prison, he leaves Syria for Canada.

Nov. 1: Then U.S. secretary of State Colin Powell tells foreign Minister Bill Graham that the RCMP and CSIS alerted U.S. agencies to Mr. Arar's possible links to terrorism.

Nov. 4: Mr. Arar appears on national TV to say that "I am not a terrorist. I am not a member of al-Qaeda and I do not know anyone who belongs to this group."

Nov. 8: Contents of the Canadian government's secret dossier on Mr. Arar appear in the Ottawa Citizen, alleging that he trained in Afghanistan and may have been part of an al-Qaeda cell.

Jan. 12, 2004: Despite a growing outcry over Mr. Arar's treatment, the U.S. Justice Department sticks to its guns, stating "we have information indicating that Mr. Arar is a member of al-Qaeda and, therefore, remains a threat to U.S. national security."

Jan. 28: Under fire, the government announces a public inquiry into the circumstances of Mr. Arar's detention.

#### **Ahmad Abou El Maati**

Born in Kuwait to Syrian and Egyptian parents, he was a naturalized Canadian employed as a truck driver in Toronto when, in the months leading up to 9/11, he came to the attention of security agents. After the attacks, the scrutiny became so great that, fed up, he left for Syria and was jailed for almost 2 1/2 years.

April, 2001: Mr. El-Maati complains to friends and family that CSIS is asking questions and trying to recruit him as an informant.

Mid-August, 2001: He is quizzed at the U.S. border for eight hours about a map in his truck showing schematics of government buildings in Ottawa.

Sept. 11, 2001: After the attacks, he is visited again by CSIS when his name and that of his brother Amer appear on international terrorism watch lists.

Nov. 11, 2001: He flies to Syria after telling friends and co-workers he is joining his new bride. He is arrested upon arrival.

Dec. 3, 2001: Rocco Galati, his Canadian lawyer, gives the RCMP the mysterious map to show his client has nothing to hide. Later, Mr. El Maati says the map winds up in the hands of his Syrian interrogators, who, he claims, force him to confess to plotting to bomb Parliament with his brother. He also is forced to name everyone he knows, including acquaintances Maher Arar and Abdullah Almalki.

January, 2002: He is transferred from Syrian custody to Egypt, where he is questioned about the whereabouts of his brother.

November, 2002: A year after his Canadian citizenship papers are found in an al-Qaeda safe house in Afghanistan, Amer is identified by the FBI as an "armed and dangerous" fugitive.

July, 2003: In an apparent reference to Mr. El Maati, Seymour Hersh writes in The New Yorker that Syria "helped the United States avert a suspected bomb plot against an American target in Ottawa."

Nov. 6, 2003: Amnesty International urges Canada to do more to safeguard Mr. El Maati's rights.

January, 2004: After three orders by their own supreme court, Egyptian authorities release Mr. El Maati, two years after his transfer from Syria.

March 29, 2004: The paperwork is finally complete and he returns to Canada.

April 16, 2004: He swears an affidavit about what happened to him in a bid to obtain official standing at the Arar inquiry. His application is denied.

May 26, 2004: The FBI says its intelligence suggests that his brother Amer wants to hijack a plane for a reprise of the 9/11 attacks. An imam in Toronto, however, says Amer probably died long ago in Chechnya.

#### **Abdullah Almalki**

He is the same age as Mr. Arar, has the same birthplace and is also in the high-tech business. Security agents were curious about Mr. Almalki's travels to Afghanistan and his exports of computer equipment to Pakistan.

Sept. 11, 2001: Not long after the attacks, Canadian security agents question Mr. Almalki at his home in Ottawa.

October, 2001: Police observe him having lunch with Maher Arar at a restaurant. Soon he travels to Malaysia, his wife's homeland, as global intelligence agencies track his movements.

Jan. 21, 2002: During their sweep across Ontario, RCMP agents question Mr. Almalki's friends and relatives about his computer business.

April, 2002: Mr. Almalki leaves Malaysia to visit family in Syria, where he is arrested upon arrival.

Sept. 19, 2003: Mr. Almalki sees Mr. Arar in the Syrian prison for the first time, and complains of being beaten with tires and two-inch-thick cables, and of being hung upside down. "He was very, very thin and pale," Mr. Arar later recalls. "He was very weak."

March, 2004: Almost two years after his arrest, Mr. Almalki is finally released from prison.

#### RECENT DEVELOPMENTS:

2006: Judge O'Connor's report exonerates Mr. Arar of any wrongdoing.

2007: Federal government settles with Mr. Arar for \$10.5-million, plus legal fees. Prime Minister Stephen Harper offers a formal apology.

July, 2007: Federal Court rules that some previously secret findings of the commission must be revealed after commission counsel challenges a government decision to censor 1,500 words from O'Connor report.

#### WORDS IN BOLD WERE CENSORED BY UNNAMED GOVERNMENT OFFICIALS UNTIL YESTERDAY

In October 2002, CSIS officials knew that the United States might have sent Mr. Arar to a country where he could be questioned in a firm manner. In a report to his superiors dated October 11, 2002, the CSIS security liaison officer (SLO) in Washington spoke of a trend they had noted lately that when the CIA or FBI cannot legally hold a terrorist subject, or wish a target questioned in a firm manner, they have them rendered to countries willing to fulfill that role. he said Mr. Arar was a case in point.

On October 10, 2002, Mr. Hooper stated in a memorandum: "I think the U.S. would like to get Arar to Jordan where they can have their way with him." Mr. Arar's whereabouts were unknown at the time.

#### RELEASED YESTERDAY BY COURT ORDER

forcement the CIA is seeking any evidence that can assist in the support of criminal charges.

Find attached request forwarded by the CIA with a list of questions. They would be most appreciative of any additional information you can supply on this subject. They further request that any response be channelled through the FBI for evidentiary purposes.

Due to time restrictions facing investigator in the U.S.; the CIA would be grateful for your attention to this matter.

This was the first contact Project A-Q Canada had with the CIA concerning Mr. Arar's detention; up to this point, the Project had been dealing solely with the FBI.

#### RELEASED YESTERDAY BY COURT ORDER

The RCMP did not give the following information to the presiding judge:

(i) the human rights record of Syria

(ii) the public record that the Syrian Military Intelligence (SMI) was known to torture detainees in order to get information while the detainees are held incommunicado at the Palestine Branch. At the material time, Mr. El Maati was held in was held incommunicado at the Palestine Branch by the SMI;

(iii) When reference was made that Mr. El Maati appeared to be in good physical condition by DFAIT, DFAIT observed Mr. El Maati in August 2002 while the "confession" given to the SMI was in November 2001, nine months earlier.

SOURCE: COMMISSION OF INQUIRY INTO THE ACTIONS AND OFFICIALS IN RELATION TO MAHER ARAR

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Key questions surrounding the Maher Arar scandal could finally be answered today after a judge ordered the Attorney-General to stop blocking publication of material that the federal government's lawyers have for years insisted must be kept secret for reasons of national security.

About 1,500 words of the O'Connor commission of inquiry are blacked out, with Ottawa arguing information from foreign intelligence partners should remain redacted.

Commission officials say the material to be released as early as today pertains to information about "human rights and torture issues."

The main portion that observers are keen to read relate to searches undertaken by the RCMP four months after 9/11.

"On Jan. 22, 2002, Canadian agencies conducted simultaneous searches, pursuant to a number of locations in Ottawa, Toronto, and other Canadian cities," the report reads. Then, government-imposed asterisks begin to blot out the remarks of the inquiry commissioner, Mr. Justice Dennis O'Connor:

"[Censored]... The reliability of such information is always in question ... If the information cannot be substantiated or corroborated, it is given little weight ... [Censored]"

Six small asterisks shield the substance of the section. But if lifted, they could speak to some much bigger issues.

After the al-Qaeda suicide attacks in the U.S., Canadian agencies zeroed in on several Arabs believed to have spent time in Afghanistan.

None of the targets was ever charged with a crime in Canada, but several were arrested during their international travels. It was in this period that Mr. Arar came to be wrongly defined by his connections to others.

One month after 9/11, he was spotted talking to a major target of the investigation, Abdullah Almalki. The fallout has been well chronicled by Judge O'Connor, who said police wrongly flagged Mr. Arar as an "Islamic extremist" in an international lookout database.

Observers will be looking at this week's release of information for a greater insight into intelligence exchanges between Canadian officials and possibly Syria, a country with a poor human-rights record.

Even for Judge O'Connor, the precise information flow seems murky. His inquiry was narrowly focused on Mr. Arar and he had no access to U.S. papers or officials after Washington refused to help Canada get to the bottom of the Arar debacle.

In November, 2001, a suspect named Ahmad El-Maati, a former *mujahedeen* fighter in Afghanistan who worked as a Toronto truck driver, was arrested flying into Damascus. The truck driver has publicly alleged he was tortured into falsely confessing to a Canadian bomb plot during the two years he was held in the Middle East.

Mr. El-Maati has also released a chronology that has received less attention, asserting he falsely placed Mr. Arar in Afghanistan - a year before the latter was forced into making a similar confession while jailed in Syria.

Within a few weeks, the RCMP was searching residences and trying to arrange interviews. Mountains of documents were sifted through, but no charges were ever laid in Canada.

And Mr. Arar, who was only sought as a possible witness to testify against others, was in Tunisia the day of the searches.

After the RCMP contacted him, he consented to an interview - but only under terms stipulated by his lawyer. In the fall of 2002, the telecommunications engineer was arrested in the United States. Citing his connections to Mr. El-Maati and Mr. Almalki, U.S. officials sent him to Syria where he was held for nearly a year. Mr. Arar was awarded \$10-million in a settlement with the Canadian government earlier this year. The related cases are now under review.

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# ProQuest

Databases selected: Multiple databases...

## Censored report raises doubts about security; [Final Edition]

Star - Phoenix. Saskatoon, Sask.: Aug 13, 2007. pg. A.6

### Abstract (Summary)

Long before the 1,500 previously censored words from the O'Connor report on the Maher Arar investigation were released last week, Canadians had a pretty good idea how this country's authorities colluded with foreigners who used torture as integral parts of their justice systems.

It also spells out how they knew early on that Syrian security officials didn't believe [Arar] to be a terrorist or anything other than a slight "nuisance." Yet they colluded in keeping him in a hellish prison, being tortured, for another 10 months and then went on to denigrate his reputation in the hope of salvaging something of theirs.

When it comes to the relative responsibility security officials played in Arar's Syrian adventure, Canadians learned very little new information with the release of these documents. But these 1,500 words make clear we can't trust these agencies -- or their political masters -- when they believe secrecy is needed in order to protect our best interests.

### Full Text (747 words)

(Copyright The StarPhoenix (Saskatoon) 2007)

Long before the 1,500 previously censored words from the O'Connor report on the Maher Arar investigation were released last week, Canadians had a pretty good idea how this country's authorities colluded with foreigners who used torture as integral parts of their justice systems.

What is shocking about this portion of the Arar report, however, is the lengths to which Canadian politicians and officials continued to go in order to protect the connections with these foreign agencies.

It was only because Justice Dennis O'Connor doggedly pursued legal means that these black-out documents were released at all. The judge argued that there was nothing in this part of his report that put in jeopardy the security of Canada or any of its allies.

Yet not only did the previous Liberal government insist on this coverup, that decision was approved at a cabinet meeting of the federal Conservatives.

There is no doubt the information is damning. It makes clear not only that both RCMP and CSIS officials knew that the CIA wanted to get Arar to a country where he could be tortured, but that this didn't inhibit their co-operation.

It also spells out how they knew early on that Syrian security officials didn't believe Arar to be a terrorist or anything other than a slight "nuisance." Yet they colluded in keeping him in a hellish prison, being tortured, for another 10 months and then went on to denigrate his reputation in the hope of salvaging something of theirs.

And the report spells out how RCMP officials used information gleaned through torture to secure search warrants and perhaps destroy the lives of the victims of the torture -- people in addition to Arar -- without letting justice officials know they how they came across the incriminating information.

This last act at least demonstrates that, at some level, the officials knew the validity of the information they were using was suspect enough that they wouldn't admit to how it was obtained.

It is worth remembering that the events detailed in this latest report started in the wake of the Sept. 11, 2001, terrorist attacks on the United States and the world was still in a state of shock. There was a belief among governments around the world that an unprecedented threat was raising its head and it would take an incredible amount of international co-operation if it was to be beaten.

But what Canadians should be concerned about is the complete lack of remorse these officials and their political overseers demonstrated once it became clear that their actions had dire consequences for people who were clearly innocent.

Even in trying to squelch the release of this report, government officials made clear their allegiance to organizations they knew resorted to immoral and ineffective means was more important than their duty to come clean to Canadians and protect Canadian citizens.

Almost universally, the blotted out passages that O'Connor doggedly fought to have released referred to the CIA or

information most likely derived from Syrian torture.

In arguing against their release, Canada's attorney general insisted national security would be put in danger if Canada divulged such state secrets received from foreign agencies. The argument is based on the assumption that these agencies will only share information with Canadians if they can be confident it won't expose their use of "extraordinary rendition" and torture to get information.

This would assume, however, that there is value in that information, and the Arar case makes clear that is not the case.

It also assumes that our allies don't have the right to know the ineffective means being used to protect them. The revulsion expressed by American lawmakers, media and citizens upon learning of the practice of sending people to countries to be tortured shows how unwise it was for Canadian officials to keep that information from them.

Not only did this collusion weaken Canadian security because it protected those who were using discredited means to obtain information, it showed that CSIS, the RCMP and Canada's governments care more for their relationships with officials willing to resort to torture than they do for the citizens of our closest allies.

When it comes to the relative responsibility security officials played in Arar's Syrian adventure, Canadians learned very little new information with the release of these documents. But these 1,500 words make clear we can't trust these agencies – or their political masters – when they believe secrecy is needed in order to protect our best interests.

Credit: The StarPhoenix

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# ProQuest

Databases selected: Multiple databases...

## Rule of law still needs crusaders

Lorne Waldman, *The Globe and Mail*, Toronto, Ont.: Aug 13, 2007. pg. A.13

### Abstract (Summary)

In the post-9/11 era, the strains on our democracy are even more acute. What Maher Arar's case has taught us is that the rule of law in this country is fragile indeed. We now know that he was a victim of incompetence and indifference or worse by national security agencies, the very agencies entrusted to protect Canadians, including Mr. Arar. We now know that the Mounties sent false and inflammatory information about him to their U.S. counterparts and that this led to Mr.

### Full Text (680 words)

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The rule of law is vital to our democracy. It requires adequate checks and balances between all three branches of government - the executive, the legislature and the judiciary - plus an accountable, responsible, independent press. It means that all people and institutions that exercise state authority must respect and obey the law, and be held accountable when they abuse their authority.

In the post-9/11 era, the strains on our democracy are even more acute. What Maher Arar's case has taught us is that the rule of law in this country is fragile indeed. We now know that he was a victim of incompetence and indifference or worse by national security agencies, the very agencies entrusted to protect Canadians, including Mr. Arar. We now know that the Mounties sent false and inflammatory information about him to their U.S. counterparts and that this led to Mr. Arar's rendition to Syria. We now know that senior CSIS officials were aware that Mr. Arar was at risk of torture in Syria, and that he had no reason to be there, but nevertheless resisted efforts to bring him home. We have learned that law-enforcement officers were neither honest nor candid when they went to the courts to obtain search warrants, neglecting to mention that the information being relied on was likely the product of torture.

This is all part of the legacy of the Arar inquiry, one that demonstrates the need for robust oversight of our national security and law-enforcement agencies and warns us about the need to be circumspect in the face of government claims to protect information on grounds of "national security."

But there is another lesson: Despite all the checks and balances, there are times when the rule of law needs the determination of brave individuals who seek to bring abuses to light. This is no easy task. In Mr. Arar's case, if it were not for the tenacity of his wife, Monia Mazigh, and a small group of supporters (including Alex Neve of Amnesty International), Mr. Arar would likely have rotted in that Syrian cell for far longer.

And after Mr. Arar was finally returned to Canada, he was joined by others who supported his campaign for a public inquiry. It was at this juncture that the media had an especially critical albeit contradictory role in what followed. Some Canadian media outlets supported Mr. Arar's call for an inquiry, while others leaked false information provided by the security agencies in an effort to undermine his campaign. Despite the perseverance of Mr. Arar and his supporters, the event that most likely precipitated the calling of the inquiry was the RCMP raid on Ottawa Citizen reporter Juliet O'Neill. So great was the media's rage at this event that pressure on the then-Liberal government to call an inquiry became insurmountable.

Once the inquiry was called, the national security agencies persisted in their efforts to prevent the truth from seeing the light of day, flagrantly abusing their authority to withhold evidence on grounds of "national security." We now know that much of the evidence it sought to withhold had little, if anything, to do with national security but much to do with covering up incompetence.

Indeed, were it not for the determination of Mr. Justice Dennis O'Connor and commission counsel Paul Cavalluzzo, these agencies might well have succeeded in sabotaging the inquiry. And if it were not for Mr. Justice Simon Noël's most recent Federal Court decision, we would not have learned the last little bits of the puzzle.

So, perhaps the key lesson of the Arar affair is that no system is infallible. Even after the government fulfills its promise to create a new oversight body for national security operations, mistakes will still happen. And then we will need other courageous individuals prepared to risk all for what is right. Canada owes a debt of gratitude to Maher Arar and to those like him who have demonstrated an unfailing determination to obtain justice for those who have been wronged.

Credit: Represented Maher Arar at the commission of inquiry by Mr. Justice Dennis O'Connor

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# ProQuest

Databases selected: Multiple databases...

## Ottawa sacrificed Arar to save face with U.S., Syria

John Ibbittson. *The Globe and Mail*. Toronto, Ont.: Aug 10, 2007. pg. A.1

### Abstract (Summary)

The revelations of Judge O'Connor's report revealed greater concerns: the ineptness of the RCMP in managing the information it had on Mr. [Arar]; (the very ease of communication that many of us feared would be compromised by the inquiry was proved not to exist during the Arar affair); the great danger in which the force placed Mr.

### Full Text (678 words)

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The federal government fought like blazes to keep the fact that the CIA sent Maher Arar to Syria from you - they fought so hard that it took a court order for you to hear it - because Ottawa doesn't want to lose face with the Americans, or the Syrians for that matter.

To preserve their trust, our government was prepared to sacrifice the trust of its own citizens. What are we to make of such a thing?

The blacked-out lines of Mr. Justice Dennis O'Connor's report that are now available for all to see offer little that should surprise.

Of course the Central Intelligence Agency was at the heart of the decision to deport Mr. Arar to Syria. That's what the CIA does. We already knew - because the inquiry report describes it in grim detail - that Canadian intelligence and justice officials were feeding the Americans wrong information, though we now know that some of that wrong information came from Syria, where it had been pried under duress from another Syrian-Canadian, Ahmad Abou El Maati.

And we discover that at least one Canadian official warned his colleagues, after Mr. Arar had already been deported, that the Yanks probably wanted to send him somewhere where he could be tortured.

### Big deal.

And yet the federal government refused to disclose this information, which Judge O'Connor wanted to make public, until a Federal Court judge ordered it to, because intelligence agencies will go to any length to avoid identifying each other as sources.

There is good reason to accept such secrecy as the necessary price of vigilance. Perhaps the single most important accomplishment of the American and Canadian governments in this decade has been preventing a second terrorist attack from occurring on either country's soil.

Since it is the first duty of government to secure the safety of its citizens, Ottawa and Washington deserve praise for carrying out that duty.

It also seemed reasonable for the federal government to insist that some portions of the Arar inquiry report be kept from the public.

There was always the risk that the inquiry could undermine trust and ease of communication between American and Canadian security and intelligence officials. That trust is crucial to strengthening the perimeter and to detecting and deterring future threats.

But the revelations of Judge O'Connor's report revealed greater concerns: the ineptness of the RCMP in managing the information it had on Mr. Arar; (the very ease of communication that many of us feared would be compromised by the inquiry was proved not to exist during the Arar affair); the great danger in which the force placed Mr. Arar by transmitting that information to the Americans without the proper caveats, and then the mendacity the Mounties employed in trying to cover up their responsibility.

By the time the report's findings were digested, the risk of damage to Canada's reputation among the spying fraternity was the least of our concerns. The more vital task was to restore Canadians' faith in the probity of their government and national police force.

For Ottawa to then fight to keep the public from hearing of the CIA's involvement in the affair - especially when any

reasonable reader of the report could have deduced that involvement - shows that it is still more interested in international proprieties than in telling the truth to the Canadian people.

It is ludicrous to suppose that Canadian-American relations have been damaged because the CIA has been outed by the O'Connor report. That troubled American intelligence service already has enough on its plate right now.

The only real damage the federal government has done, through both Liberal and Conservative administrations, is to itself. There are things about the Arar affair that you can't be told, our government informed us, for reasons of national security.

National security my ass. Foreign Affairs, CSIS and especially the RCMP were simply trying to keep hidden their incompetent, duplicitous, disgraceful handling of the Arar file. And they're still at it.

Why should anyone trust anything that our government says about Maher Arar any more?

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# Canwest News Service

## RCMP often rewrote critical reports, watchdog says

Friday, July 20, 2007  
Byline: Tim Naumetz  
Dateline: OTTAWA  
Source: CanWest News Service

OTTAWA -The past two RCMP commissioners before the recent appointment of a public servant to head the force effectively rewrote half of the rulings by a civilian watchdog agency that found Mounties used excessive force or acted improperly over a year-long period, the head of the independent agency says.

The RCMP Commission for Public Complaints issued 48 interim reports on public complaints against the RCMP between March, 2006, and last March. Half of the 184 findings in the reports went against the officers involved, the commission's annual report says.

But former commissioners Beverley Busson and Giuliano Zaccardelli challenged half of the adverse findings, questioning witness credibility, reweighing evidence, introducing new evidence and substituting their own findings of fact in the cases, said the report from commission chair Paul Kennedy.

The refusal of the RCMP commissioners to accept the findings of commission reviews over Mountie actions "strikes at the core of civilian accountability of the RCMP," the report said. "More than half of the commission's adverse findings have been overruled by the RCMP commissioner, enabling the RCMP, in effect, to ignore the merits of the commission's recommendations."

The report added the resistance "significantly undermines" civilian review of the RCMP and is "inherently biased" against the person who has lodged the complaint. Public Safety Minister Stockwell Day tabled the report in the Commons Thursday through a special procedure used when Parliament is not sitting.

The commission's annual report included two examples where the RCMP commissioner of the time essentially rejected adverse findings after a civilian review of incidents in which police dogs injured suspects or, in one of the cases, an unarmed suicidal young man in an argument with his father.

An RCMP dog handler unleashed his dog after the young man began running away after hiding in nearby bushes, even though the commission later found he was not threatening anyone and was not carrying a knife his father had claimed was present.

"The RCMP commissioner believes that the decision to release the dog was justified because the young man could have had a knife, was reported suicidal and was running away," the public complaints commission said in its report on the incident.

In another case, however, where an RCMP officer used a Taser stun gun on a handcuffed woman in a police station, the RCMP commissioner of the day agreed with the commission's findings that use of the Taser in that situation was "totally inappropriate" and denied the officer access to Tasers until he finished a new training course in their use.

The complaints commission - while finding the RCMP "generally" meets high standards of professionalism investigating complaints against its members - found "a few extremely poor" internal investigations raised public suspicion over the way the force polices itself.

A man who suffered injuries to his shoulder and a broken bone in police custody complained about his treatment, but the commission found later no notes were taken at the time by the officers involved and key witnesses were not interviewed during the internal investigation into the complaint.

The internal inquiry failed to determine how the man was injured and who injured him.

Kennedy said changes he is proposing for the law governing civilian review of the RCMP should require the police force to accept the findings of independent reviews of complaints.

"If this process is going to have any kind of credibility, once we have done our findings, we've made our findings, that should be it," he said in an interview. "There should be no discussion of what our analysis and what our findings are."

NDP MP Joe Comartin agreed, saying the lack of accountability over RCMP reaction to civilian oversight is one of the major problems the national police force faces. "If no disciplinary methods are taken, you're not going to change negative conduct. That has permeated the RCMP."

Ottawa Citizen

# Edmonton Journal

## RCMP rewrote critical rulings - report; Watchdog urges Mounties to abide by civilian reviews

Friday, July 20, 2007  
Page: A5  
Section: News  
Byline: Tim Naumetz  
Dateline: OTTAWA  
Source: CanWest News Service

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The refusal of the RCMP commissioners to accept the findings of commission reviews over Mountie actions "strikes at the core of civilian accountability of the RCMP," the report said. "More than half of the commission's adverse findings have been overruled by the RCMP commissioner, enabling the RCMP, in effect, to ignore the merits of the commission's recommendations."

The report added the resistance "significantly undermines" civilian review of the RCMP and is "inherently biased" against the person who has lodged the complaint. Public Safety Minister Stockwell Day tabled the report in the Commons Thursday through a special procedure used when Parliament is not sitting.

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# National Post

## RCMP bosses overruled civilian watchdog: report

Friday, July 20, 2007  
Page: A8  
Section: Canada  
Byline: Tim Naumetz  
Source: CanWest News Service

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"The RCMP commissioner believes that the decision to release the dog was justified because the young man could have had a knife, was reported suicidal and was running away," the public complaints commission said in its report on the incident.

# The Daily Courier (Vernon)

## Mounties dodge public scrutiny

Wednesday, July 25, 2007  
Page: A7  
Section: Opinion  
Source: From the Leambridge Herald

In the face of questionable conduct by Canada's storied national police force, the public can turn to one body with complaints and concerns. That body, the *Commission for Public Complaints Against the RCMP*, is not up to the challenge, handcuffed by a complaints-driven model that can't adequately oversee the Mounties' covert security operations, and limp authority that enables the force to override or ignore the commission's findings.

In its annual report released last week, commission chairman calls again for an updating of the oversight body's authority which continues to fall further behind the RCMP's broad powers.

The commission was established in 1988 to review the conduct of the 18,000-member police force. At that time, the commission had a budget of \$3.6 million. The budget for the oversight commission is now just \$5.1 million.

Meanwhile, demand for commission investigations of RCMP conduct has grown. In 2006-2007, the commission processed 1,124 public complaints by resolving them informally or forwarding them to the RCMP for investigation, the most serious complaints involving in-custody deaths and excessive use of force. If complainants aren't satisfied with the way a formal complaint is handled by RCMP, they can ask the commission for an independent review. The commission received just shy of 200 such requests, a 20-per-cent increase from the previous year.

"More important, an effective regime requires legislative authority to provide a level of review that is proportionate to the degree of intrusiveness exercised by the RCMP," the commission's report reads.

Whatever credibility the commission warrants has been seriously compromised by the actions of former Mountie bosses.

Former commissioner Giuliano Zaccardelli, who resigned after lying to a parliamentary committee about the force's botched handling of the Maher Arar case, and his interim replacement Bev Busson had a "persistent practice" of rewriting the findings of the civilian commission.

In the past year, the commission issued 48 interim reports containing 184 findings, about half of them going against the police involved.

Zaccardelli and Busson overruled more than half of those adverse findings. They took the commission's reports and added their own assessment of witness credibility, reweighed or added evidence and

substituted their own findings.

"This significantly undermines civilian review of the RCMP and is inherently biased against the complainant," the commission report states.

With a civilian, William Elliott, now boss at the RCMP and charged with cleaning up the scandal-riddled force, one would guess those commission reports won't be rewritten to look favourably on the Mounties.

The findings may well underscore just how "horribly broken" the national force has become.

# The Toronto Star

## CIA's terror blunders

Monday, August 27, 2007  
Page: A404  
Section: Editorial

Since 9/11, Canadian and American intelligence services have been busy swapping information on terror suspects. Just ask Maher Arar, the Ottawa computer engineer who was arrested by the Americans and deported to be tortured in his native Syria after the Mounties wrongly characterized him as an Islamic radical with ties to Al Qaeda.

When the embarrassing truth came out in Justice Dennis O'Connor's probe, Arar was vindicated and Ottawa paid him \$10.5 million in compensation. Even so, Canadian officials scrambled to shield the U.S. Central Intelligence Agency by blacking out sections of O'Connor's report that identified the CIA as an actor in the sordid drama.

Bad instinct, that. As a damning report on the CIA that was released last week makes clear, Ottawa was covering up for an ineptly managed agency that bungled its own surveillance of Al Qaeda and Osama bin Laden before the Sept. 11, 2001 attacks. The report confirms that Canadian officials had reason to be cautious, even skeptical, rather than complicit, in passing the CIA information about Arar or anyone else.

CIA Inspector General John Helgeson oversaw the report, prepared two years ago, but a summary was released only last week. The CIA wanted it kept under wraps. In the same way, Ottawa had to be forced by a Federal Court order to reveal bits of the O'Connor report that Ottawa tried to black out to protect the CIA and other actors.

The CIA document flays the agency's leadership and credibility.

It should be required reading for Canadian officials who deal with any foreign intelligence service.

CIA officers under then director George Tenet "worked hard" against Al Qaeda and Osama bin Laden. But "they did not always work effectively and co-operatively," the report found. While the CIA received extra counterterror funding, it misallocated some of it. Key agents lacked experience and training. Co-operation with agencies such as the FBI was spotty, at times hostile. Agencies did not share vital data. And the CIA's analysis was poor. The agency relied on too few covert operators, some of whom "were of questionable reliability."

Bottom line? The CIA wasn't blamed for failing to thwart the 9/11 attacks. But it failed to grasp the role played by Khalid Sheik Mohammed, who planned the attack. It also failed to act on two hijackers that it knew might be in the U.S.

Its war on terror was, in many ways, an amateurish,

slipshod affair.

CIA defenders say many of the problems have been fixed. But then again, Washington refuses to remove Arar from its terror watchlist.

In his report on Arar, Justice O'Connor emphasized that the RCMP must carefully screen information shared with agencies such as the CIA "for relevance, reliability and accuracy," to prevent future abuses. The CIA report shows how spot-on he was.

The picture that emerges from the CIA's pre-9/11 failures, and from Washington's attitude toward Arar, is sufficiently unsettling that Canadian officials should err on the side of prudence when weighing intelligence from the CIA or other foreign agencies, or passing it to them. They don't always get it right. Sometimes they don't get it at all.

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# Niagara Falls Review (On)

## Keeping the public in the dark is just wrong

Tuesday, August 14, 2007  
Page: A4  
Section: Editorial & Opinion

Brick: To secrecy. It is in nobody's best interests. During the last week, there were two incidents that should raise the ire of the public. One of local interest is the police service hanging on to a consultant's report that, among other things, recommends Niagara Regional Police consider constructing a new headquarters in a central location. This would result in the closure of the Niagara Falls division headquarters on Morrison Street, as well as the St. Catharines division and current headquarters operation in downtown St. Catharines. It was no secret that the service was considering options. Those options should have been made public as soon as the police services board had them. The second is the case of Maher Arar. It took a legal fight that pitted the Arar commission against the federal government to release information that showed this country suspected Arar would be sent to the Middle East to be tortured, yet released him to U.S. custody anyway. A senior Canadian Security Intelligence Service officer believed the "U.S. would like to get Arar to Jordan where they can have their way with him." The government had cited national security reasons for keeping the information under wraps. Perhaps it's more of a case of national embarrassment.

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Bouquet: To Frank Dancevic of Niagara Falls, who had some of the most phenomenal weeks in his professional tennis career so far. Dancevic reached the quarter-finals of the Rogers Cup tournament last week in Montreal, and nearly won a tournament in Indianapolis prior to that. Sports fans are beginning to take notice. The *Montreal Gazette* embraced him as a homegrown hero. It's the furthest a Canadian has advanced in the Rogers tournament since 1989. And, at just 22 years old he has established himself as the one to watch in Canadian tennis. It's great to see talent from Niagara Falls making it big on the national and international scene.

Brick: To outdated thinking that still has summer camp activities segregated for boys and girls. Last week in Nova Scotia, a nine-year-old girl was denied the opportunity to go fishing on camp day because it was determined it would only be an all-male event. Sure, there were some co-ed opportunities like a trip to the amusement park and a pirate-themed excursion, but fishing sounded more interesting to this youngster than a spa day - so she couldn't go. We should be breaking down barriers in this day and age, not building them.

Bouquet: To the organizers and re-enactors who came together in Fort Erie during the weekend to stage, among other things, Gen. Gordon Drummond's troops' failed attempt in 1814 to take back the fort from the Americans. What better way to learn about history than seeing it happen before your very eyes, as thousands of people did this weekend.

# Kingston Whig-Standard (On)

## No excuse for Arar abuse

Monday, August 13, 2007  
Page: 4  
Section: Editorial Page

Now that the lid has been pried off the jar of that toxic brew known as the Maher Arar case, the stench is as odious as was feared all along.

Arar's 10-month detention and torture in Syria on terrorist accusations, beginning in 2002, was not only abetted by Canadian authorities, but has been subject to a needless coverup. That is, until a court ruled last month that the heavily edited documents from the Arar commission inquiry had to be revealed.

Among the most disturbing revelations made public on Thursday:

Arar's downward spiral began when, several months before his arrest at a New York airport, he was referred to as a terrorist suspect three times in a Royal Canadian Mounted Police presentation to Federal Bureau of Investigation officials;

After interrogation, neither Arar's Syrian captors nor the FBI was convinced of his supposed terrorist connections, which had been based on information extracted from the Syrian torture-confession of another Canadian, Ahmad Abou el- Maati;

Two days before the Americans moved Arar secretly to Syria, a Canadian Security Intelligence Service official had anticipated in a memo that the practice known as rendering, in which the Central Intelligence Agency outsources torture to other countries, would be used.

Most inexcusable is that there existed enough knowledge among Canadian and U. S. government officials, and a number of RCMP, CSIS, CIA and FBI representatives, to get Arar out of his predicament long before the 10 months had transpired.

What we will begin to hear now is the chorus of excuse-makers telling us that, unfortunate as Arar's situation was, it was a byproduct of the times. That the post-9/11 climate made it necessary to follow up any lead that might strike at the heart of the al-Qaida terrorist network and reduce the general risk to Canadians and Americans.

The real lesson is that unwarranted secrecy and use of information based on torture and unfounded accusations only lead to more of the same, resulting in the inevitable violation of human rights.

Maher Arar is a living victim of that brutal cycle.

By extension, all Canadians should be concerned, indeed outraged, that their own police officers, spies and judges have been granted unprecedented powers to present and review alleged terrorist cases in secret

under the national security certificate system.

Until this spring, three terrorist suspects were being held near Kingston in a special unit inside Millhaven Penitentiary without the opportunity for review through an open court process.

Security certificates give federal authorities extraordinary powers of detention and the ability to conduct deportation hearings and reviews that should not exist in a democracy.

In February, the Supreme Court ruled that the certificates are a breach of the Charter of Rights and Freedoms and gave Parliament one year to rewrite them. The defence of this system by Prime Minister Stephen Harper's government is perplexing because it is a bad law inherited from their Liberal predecessors.

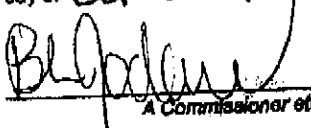
Yet it is not totally surprising. Lawyers employed by Harper's government tried to prevent the release of the uncensored Arar documents, once again in the name of protecting national security.

Harper said last week that he wants to "ensure that the events that occurred under the Liberals are not replicated for other Canadian citizens."

If that is true, a good place to start is with openness and transparency, not censorship and coverups.

Letters? Send them to [whiged@thewhig.com](mailto:whiged@thewhig.com)

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This is Exhibit <sup>" "</sup>B to the  
Affidavit of *Hadayat Nazami*  
Sworn before me this 2<sup>nd</sup>  
day of *Oct. 2007* A.D.  
  
A Commissioner etc.



14-07 17:40 FROM-31 Prince Arthur Ave 4169605456

T-017 P002/011 F-339

Barristers, Solicitors

## Copeland, Duncan

Thirty One Prince Arthur Avenue, Toronto, Ontario M5R 1B2  
Telephone 416-964-8126  
Fax 416-960-5456

June 14, 2007

Via Fax: 1 (613) 992-2366 & MAIL

The Honourable Frank Iacobucci  
Iacobucci Inquiry  
66 Slater Street  
17<sup>th</sup> Floor  
Suite 1720  
Ottawa, Ontario K1P 5H1

RECEIVED  
BY FAX  
JUN 15 2007

SUTTS, STROSBURG LLP

Dear Commissioner:

RE: Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah  
Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin

I am writing to you directly to express my concerns regarding developments at the  
Inquiry.

On May 31, 2007 counsel for the three men met with John Laskin and John Terry. One  
of the purposes of the meeting was to discuss how we might participate in the Inquiry by  
suggesting questions to be put to the people that Inquiry staff was going to interview.  
The meeting was held on the same day that your Ruling on Terms of Reference and  
Procedure for the Inquiry was released.

[REDACTED]

Paul D. Copeland, B.Sc., LL.B.  
paulcpe9@yahoo.com

Yamasa Duncan, B.A., LL.B.  
yamand1@bellnet.ca

T-017 P003/011 F-339

[illegible]

Copland, Duncan

[REDACTED]

[REDACTED]

I do not understand why CSIS gets to control what information we are given about the role played in the Almalki investigation by the CSIS people. In my view decisions as to what information we get should be decided by you or Commission counsel, not by CSIS. In my view CSIS will try to keep secret as much as they can and claim national security reasons for so doing. In that regard I am enclosing the Opening Submissions from the Law Union of Ontario to the Arar Inquiry. In the main, I wrote those submissions and they express my views formed over many years of involvement in so called national security matters.

Mr. Laskin and I litigated national security confidentiality issues in the Praxis matter many years ago. Based on my recollection of that case and other cases relating to "national security" CSIS used a boiler plate form of affidavit. Each time they relied on the following areas of concern if information were released:

- targets would be revealed.
- operational techniques would be revealed.
- a mosaic effect would allow informed observers to know what CSIS was doing and who they were targeting.
- confidential source might be disclosed.
- if information from international agencies was revealed, such information might no longer be available.

What justification has CSIS given for not telling us the role played by each of the 7 witnesses in the Almalki investigation?

I had mentioned to Mr. Laskin that the information I had was that CSIS was quite pleased that the Arar Inquiry had focussed on the RCMP and that CSIS had received little negative publicity from the Arar Commission Report.

I had hoped that your Inquiry would fully explore the work of CSIS in the Almalki matter and, if appropriate, comment on the competence of that work, or to put it another way, report on any deficiencies in that work.

[REDACTED]

After our last meeting I sent to Mr. Laskin a decision relating to the termination of the employment of Theresa Sullivan, the first CSIS employee to deal with Mr. Almalki.


Copeland, Duncan

---

I would urge you to provide us with information as to the role played by the CSIS witnesses in the Almalki investigation. And I would urge you to not allow CSIS to control the flow to us of information we regard as essential to the very modest role we now have in this inquiry.

Yours truly,

COPELAND, DUNCAN

  
Paul D. Copeland  
PDC/dm

- Cc: Jasminka Kalajdzic – Fax 1 (519) 258-9527  
Sutts, Strosberg
- Cc: Barbara Jackman - Fax: (416) 653-1036  
Barrister & Solicitor
- Cc: John Norris – Fax: (416) 964-8305  
Ruby, Edwardh
- Cc: Abullah Almalki

**SUTTS, STROSBERG**  
LAWYERS

**JASMINKA KALAJDZIC**

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June 27, 2007

Our file: 11-153-001

**Sent by fax to**

Name: John Laskin & John Terry  
Firm: Torys  
Fax: (416) 865-7380  
Phone: (416) 865-8245  
pages: 4

time sent: am/pm

This message is intended only for the use of the individual or entity to which it is addressed and contains information that is privileged and confidential. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify by a collect telephone call if necessary and return the original message to us at the above address at our cost.

Dear Counsel:

**Iacobucci Inquiry**

As you know, at each of our three meetings counsel for the participants have expressed concern about Commissioner Iacobucci's ruling, and the shortcomings of the process that has evolved since the ruling's release. We have attempted to be as helpful to you as the limits of the process permit, and have always assumed you have proceeded in good faith to fulfill your duties in a very unusual (in fact, unprecedented) Inquiry.

Over the past few weeks our discomfort with the process has not abated. We feel it is important that we identify for you the areas of concern, and equally important that you clarify how the Inquiry is to proceed. If our participation in this Inquiry will ultimately be used in the report to add credibility to the process, we must have confidence in it.

On behalf of the lawyers for the three men, I list the following concerns and questions:

1. **Clients' Reputational Interests:** Do you agree with the government's view that the Inquiry is not at all about restoring our clients' reputations and clearing their names? We note that the terms of reference for the Arar Commission did not specifically contain a directive to clear Mr. Arar's name, but of course, Commissioner O'Connor's Report very much had that effect.
2. **Process:** We are in need of clarification as to how the Inquiry is to proceed.

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- a. As we understand it, your team of lawyers (which includes very junior counsel) has reviewed and summarized the documents provided by the government. Did you review the summaries or the documents themselves before questioning government officials?
- b. Are you cross-examining the witnesses? The value of cross-examination cannot be underestimated (see Arar, *Analysis*, pp. 291-292).
- c. Further, we understand that you are presently conducting interviews to determine 'contentious' issues for the purposes of more formal examination of some of the government officials. What role will the Commissioner play in this second set of examinations? Will counsel for the three men be permitted to attend those examinations and if so, will we be permitted to test the evidence?
- d. Is the plan to provide the Commissioner with summaries of the evidence obtained via interviews and documentary production, and will he draw conclusions based on those summaries?
- e. We would appreciate it if you would outline what has been done and what will be done over the coming months so that we may share this with our clients.

**3. Disclosure:**

- a. We assume that you have made government officials aware that full disclosure is necessary and that to the extent that this has not happened further requests are being made for all documents in the government's possession. Please note that "numerous requests for documents" were ultimately made in the Arar Commission (*Analysis*, pp. 290, 299), presumably because counsel determined the initial request for documents was not fulfilled adequately. We say, respectfully, that you must be especially vigilant in ensuring all relevant documents are produced in this Inquiry.
- b. You have indicated that 26,000 documents have been produced to date. The number of documents alone gives rise to concern on our part that not all relevant documents have been disclosed. The Arar Commission, which concerned one individual and a much shorter time period, reviewed 21,500 documents. Do the 26,000 documents disclosed to you include the 21,500 documents produced in Arar?
- c. We have received no disclosure of documents or the document summaries. It is difficult to believe that of the thousands of documents which the Commission has received, all are subject to an NSC claim. We would like disclosure of documents/summaries which are not subject to a valid NSC claim.

- d. Further, both Commissioner O'Connor and Federal Court judges have recognized the ongoing obligation to provide disclosure in cases concerning national security (see, for example, *Justice Noel in Charkaoui*). A national security claim is not fixed forever in time and there are instances where a document can later be disclosed, either because the contents have become a matter of public knowledge or for some other reason.

4. **Witnesses:**

- a. We understand that witness interviews and possibly examinations in a formal hearing will occur without our presence or that of our clients. It is virtually impossible for us to advance our clients' interests in this Inquiry without, at the very least, being given expurgated transcripts of the interviews and examinations of witnesses. We do not accept that it would be too difficult or time consuming to produce such transcripts; the Security Intelligence Review Committee produces expurgated transcripts at its hearings on a regular basis, in a timely fashion (often overnight), in order for counsel to be able to effectively represent a client's interests. In those rarer instances where an expurgated transcript is not available, we would like to receive summaries of the evidence.
- b. The list of witnesses that has been disclosed to us is missing some key players, including Cabana, McTeague, Walsh and Zaccardelli, among others. We previously indicated that all of the people identified in the Chronology and examined in Arar have important evidence relevant to the Inquiry's mandate. We also suggested others in the course of a meeting. We will formally submit a list of witnesses who should be examined.

5. **Participation:** While our clients have been granted participant standing before the Commission, they are not 'participating' in the process. We cannot advance their interests without some knowledge of the case as it is proceeding. We cannot properly assist in suggesting areas for questioning. We cannot assist in formulating questions. We cannot assist in providing further documents of relevance. We do not know what is happening, what information is being obtained, and what are the areas of concern. It is not satisfactory to have oral 'briefings' from Commission counsel, which are little more than a list of the names of some of the witnesses and general impressions about snippets of the information obtained. At this stage of the Commission process, our clients believe that they have not had an effective opportunity to participate. Standing for them is illusory.

This is particularly important at the later stage of the inquiry. We cannot effectively make representations on any issue if we are not informed of the facts underlying the issue. So for example, if we are expected to make submissions on consular standards, we need to know how consular officials acted. It is not fair for our clients to be expected to make theoretical submissions, absent a grounding in the facts.

5. **Scope of Fact-Finding:** Our clients are concerned about the limited scope of the Inquiry's fact-finding. [REDACTED]

[REDACTED] Please explain how the limited scope of fact-finding does not affect the mandate of the Inquiry.

6. **Off-the-Record Discussions:** So far the little that we know about the conduct of the working of the Commission has been given to us off the record. Respectfully, this is not satisfactory. To the extent possible the Commission should be as open and transparent as possible. We would like the reporting to us to be public to the extent possible. Similarly, our serious concerns about the process should be on the record. Our clients are very uncomfortable with the conduct of this Commission, which in many ways has been like a security certificate proceeding, and not an inquiry under the *Public Inquiries Act*. We do not understand the need for such secrecy. It is an important function of the Inquiry that the participants and the public be kept informed about what is happening.

We ask that you provide us with a timely written response to our questions and concerns, certainly before July 10<sup>th</sup> when we are expected to meet with you next.

Yours truly,

Jasminka Kalajdzic

JK/mu  
ASU2617

cc by email to:  
Paul Copeland  
Barb Jackman  
John Norris  
Alex Neve  
Shirley Heafey  
Warren Allmand



**SUTTS, STROSBERG**  
LAWYERS

Commission Counsel  
June 27, 2007  
page 5

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James Kafieh  
Faisal Kutty

"C"  
This is Exhibit .....to the  
Affidavit of **Hedayt Nazami**  
Sworn before me this **2<sup>nd</sup>**  
day of **Oct. 2007** A.D.

**Bl. Podarone**  
A Commissioner etc.



# Amnesty International

CANADA

1-800-266-3789

www.amnesty.ca

Commissioner Frank Iacobucci  
Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki,  
Ahmad Abou-Elmaati and Muayyed Nureddin  
PO Box 1208, Station B  
Ottawa, ON K1P 5R3

By Fax: 613.992.2366

August 22, 2007

Dear Commissioner,

We are writing this letter in follow-up to our meeting with you on August 9, 2007 to confirm, clarify and underscore a number of the issues that we discussed. Let us begin, however, by thanking you for having met with us. We found it to be a constructive session and look forward to further opportunities to meet again in the future.

As we stated in person, we sought the meeting with you because our organizations have a number of very serious concerns about several aspects of the inquiry process. We prefaced our concerns in strong terms, indicating that we had come to a point of having lost confidence in the process. We continue to have serious concerns. We have emerged from our meeting, however, with an expectation that several of our concerns have been heard and will be addressed. We look forward now, in short order, to meeting further with Mr. Laskin and Mr. Terry to advance the discussion we have begun. We also look forward to hearing further from you about these points, through written reply to this letter.

At the meeting, we indicated that our concerns arise in four general areas. At this point we would like to raise a fifth area of concern as well, namely the Commission's practice to date of requesting that all meetings and exchanges of information be conducted "off the record."

## 1. The need to go "on the record"

Commissioner, over the past three months all of our dealings with the Commission have been "off the record", at the Commission's request. That has been the case for our various meetings with Commission counsel and again at our August 9<sup>th</sup> meeting with you. We have agreed to that approach in the past and we do recognize that it may, at times, facilitate a more open exchange of information and opinions. We are very concerned, however, that as a result of this approach, there is no record of our exchanges with the Commission.

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Fax: 416.363.3103  
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Pacific Regional Office  
430-319 W. Pender St.  
Vancouver, BC V6B 1T4  
Telephone: 604.294.5160  
Fax: 604.294.5130  
Email: piro@amnesty.ca

There is, in fact, no public indication that we are engaged with the process. We have not been able to readily and freely communicate with the legal teams for the three men, with parliamentarians who are interested in the process, with staff and members in our own organizations, with media, and with concerned members of the public.

We will, of course, honour agreements to date about the "off the record" nature of our exchanges. And we hope that there will be some occasions in the future when exchanges continue to be "off the record." However, it is also our position now that future exchanges about key issues need to be "on the record."

## 2. Secrecy

The inquiry is proceeding at this point entirely *in camera*. We feel that our ability to engage with and contribute to the process in a meaningful manner is thus significantly impaired. We spoke about the possibility of at the very least opening up possibilities for greater access to some written evidence.

We are particularly interested in hearing your response to the suggestions we made during the meeting that the following documents be made available:

- (1) redacted copies of any documents which you and your counsel believe are of key importance; and
- (2) redacted transcripts of interviews and, if convened, hearings in line with the approach adopted by the Security and Intelligence Review Committee.

We also discussed our continuing concern that you will inevitably face a challenge in ensuring that government departments and agencies do provide full and complete disclosure of all relevant documents. [REDACTED]

[REDACTED] We are also, however, cognizant of the fact that in the Arar Inquiry, with that same degree of diligence and expectation, obtaining full disclosure was difficult and time-consuming. We realize that you have valuable experience and expertise in this area, but you of course cannot be involved in the daily effort of pressing and following-up with regard to disclosure. We urge you to consider appointing an expert to assist the Commission in this area, someone with demonstrated experience regarding access to information issues in a national security context.

## 3. Thoroughness and Efficiency

We recognize that delivering justice demands a commitment to both thoroughness and efficiency. There is of course, however, an inherent tension between these two imperatives and the risk that thoroughness can at times be sacrificed to efficiency. We would like to highlight two of the issues that we covered in this regard.

3. We have drawn

### b) Public hearings

██████████ We urge that it is vital that there be hearings, as that will significantly strengthen the authoritative nature of the evidence gathering you have done. We consider it essential that counsel for Mr. Almalki, Mr. El Maati and Mr. Nureddin have an opportunity to cross-examine witnesses at that time.

We also believe it is vital that some of those hearings be open to the public. Your terms of reference, paragraph (e), authorize you to hold sessions in public when you believe it is essential for the effective conduct of the inquiry. A similar phase of the Arar Inquiry was, in our view, of considerable value. There is considerable public concern about the issues you are examining in this inquiry. Public trust in Canadian security agencies has recently been shaken by revelations of mistakes and wrongdoing that have been masked by unfounded claims of national security confidentiality. One critical means of restoring that faith is to ensure that concerns receive public and transparent attention. This cannot only be at the end of the process, with the eventual release of your report. It must offer the public some opportunity to follow and engage with the proceedings while underway.

We consider this particular issue to be perhaps the most critical of those we have raised with you. We are concerned, therefore, to learn from you as soon as possible about your intentions. Would you please advise when you will make a decision about hearings, including how much of any hearing phase will be open to the public.

\_\_\_\_\_

[REDACTED]

We stressed that there must be caution about how the question of government involvement in this aspect of the process is structured. Our concern is that the government be constrained from adopting an aggressive or unduly adversarial role in what needs to be a thorough, credible and sensitive process. [REDACTED]

[REDACTED]

#### 5. The Issue of Reputation

We discussed the importance of examining whether or not there was an appropriate evidentiary basis for any characterization or labeling of these three men as extremists or individuals with suspected links to terrorism. Commissioner O'Connor took that approach in the Arar Inquiry and reached the conclusion that there had not been evidence to support characterizing Mr. Arar in that manner.

We highlighted that our chronology documents several specific instances where Canadian officials and/or agencies characterized these men as terrorists in communications with media and/or foreign agencies and governments. We urged you to determine whether in these instances, and other instances we are not aware of, Canadian agencies and officials performed their duties deficiently when they characterized these men as terrorists.

We outlined that we believe this is an issue central to your mandate. If Canadian agencies and officials performed their duties deficiently when they characterized these men as terrorists, that finding would be relevant to all three of the issues you are reviewing: detention, consular assistance and mistreatment. We also stressed that the dictates of fairness are such that you cannot make any contrary finding as to allegations against any of these three men being well-founded. That is because the men have not been provided with any opportunity to know, let alone respond, to those allegations.

[REDACTED]

## 6. Next Steps

We look forward to an early written reply from you with respect to the suggestions and questions we raised in the meeting and have repeated here. We do intend to arrange an early meeting with your two lead counsel which could provide an opportune setting to receive and discuss your response.

Sincerely,



Alex Neve  
Secretary General  
Amnesty International Canada

On behalf of:

Amnesty International  
British Columbia Civil Liberties Association  
Canadian Arab Federation  
Canadian Council for American Islamic Relations  
Canadian Muslim Civil Liberties Association  
International Civil Liberties Monitoring Group

cc. Barbara Jackman, Hadayt Nazami, John Norris, Paul Copeland, Jasminka Kalajdzic



# Amnesty International

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www.amnesty.ca

Commissioner Frank Iacobucci  
Internal Inquiry into the Action of Canadian Officials in Relation to Abdullah Almalki,  
Ahmad Abou-Elmaati and Muayyed Nureddin

By fax 613 992-2366 and by email

September 17, 2007

Dear Commissioner,

We are writing this letter in response to John Laskin's most recent letter to us, dated August 30, 2007. You had asked Mr. Laskin to write to us in response to our August 22<sup>nd</sup> letter to you.

[REDACTED]

We were disappointed that the response to our letter was as brief as it was and did not provide responses to or further clarification of many of the important issues included in that letter. At this point in time we would like to come back to four major points.

## 1. On the record / Off the record

We continue to be troubled about the exclusive resort to "off the record" meetings and conversations as the means by which we engage with and participate in the inquiry. We were not suggesting that all future exchanges should now be on the record, but rather that it is our intention to request that a significant amount of those exchanges be on the record.

Related to this, we are concerned that from a public perspective there has been nothing "on the record" with respect to the inquiry since the release of your May 31<sup>st</sup> ruling. There has been no further information provided to the public in the more than three months since that time. We would like to request that a greater amount of information be made available to the public, most particularly by ensuring that it is posted on the Commission's website. At this time we particularly ask that you release:

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Email: toronto@amnesty.ca

**Pacific Regional Office**  
430-319 W. Pender St.  
Vancouver, BC V6B 1T4  
Telephone: 604.294.5160  
Fax: 604.294.5130  
Email: pro@amnesty.ca



- a list of those individuals who have been interviewed to date, recognizing that the personal identity of CSIS officials cannot be disclosed;
- a list of those individuals who will be interviewed in future;
- a list of individuals who will be witnesses in *in-camera* or public hearings, again recognizing that the personal identity of CSIS witnesses cannot be disclosed;
- an updated schedule outlining the next steps in the process; and
- the dates and nature of hearings and other sessions that will be open to the public.

Providing this information is an essential step in assisting the public, including media, to understand and follow the inquiry and is therefore, in our view, very much in the public interest. We do not believe that this is information that would be subject to a national security confidentiality claim and therefore hope that it can be released without delay.

## 2. Public hearings

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
 We remain deeply concerned that there have been only two public hearings, both at the outset of the process, dealing with standing and the rules of procedure. While we recognize that your terms of reference require an internal process, we are also aware that paragraph (e) of the Terms of Reference authorizes you to "conduct specific portions of the Inquiry in public if [you are] satisfied that it is essential to ensure the effective conduct of the Inquiry."

We have previously submitted to you that given the importance of the issues at stake in this inquiry and given the many ways in which the confidence of Canadians in the integrity and effectiveness of national security investigations has been shaken in recent years, it is vital that some of your proceedings be conducted in public. We believe that should include the testimony of key witnesses, in addition to sessions that may explore policy issues and ultimately the stage of final submissions.

We are not suggesting that these sessions should include witnesses or information where you believe there is a genuine question of national security confidentiality. But as was successfully demonstrated in the Arar Inquiry, it is possible to conduct a significant amount of an inquiry of this nature in public, even when there is also substantial information that remains shielded by national security confidentiality claims. That phase of the Arar Inquiry went far, in our view, to increasing public engagement with the inquiry process. That, of course, is of great benefit to the "effective conduct of the Inquiry," particularly in the extent to which it increases the level of public understanding of the issues when the report is eventually released.

Again, we urge you to indicate that there will be public hearings and to provide details about such sessions at an early date.

### 3. Redacted documents

When we met on August 9<sup>th</sup> and again in our August 22<sup>nd</sup> letter we urged that you identify a number of key documents that could be subjected to any necessary redaction and then released publicly. The lack of documentation to date has posed a significant obstacle to the ability of the legal teams for Messrs. Almalki, Abou-Elmaati and Nureddin as well as the intervening organizations to engage with the process and look ahead to submissions. In our view, a reasonable compromise would be for you to identify a number of important documents for redaction and release. We hope to hear more about this soon. In the meantime, we will begin to identify some documents that we feel are key, and would help inform our contributions to this process.

### 4. Interviews about torture

[REDACTED]

We understand that you have convened a meeting with the legal teams and government lawyers on September 17<sup>th</sup>. If the issue is not successfully resolved at that time and if it is then felt necessary to hold a hearing on this particular subject we strongly urge that any such hearing be held in public. We do not see any national security confidentiality issues at stake here and feel instead that the public interest here should militate in favour of a public hearing.

Thank you for your continued attention to our concerns. We are hoping that our meeting with your counsel can be organized in the very near future.

Sincerely,



Alex Neve  
Secretary General  
Amnesty International Canada

On behalf of:  
Amnesty International  
British Columbia Civil Liberties Association  
Canadian Arab Federation  
Canadian Council for American Islamic Relations  
Canadian Muslim Civil Liberties Association  
International Civil Liberties Monitoring Group

cc. Barbara Jackman, Hadayt Nazami, John Norris, Paul Copeland, Jasminka Kalajdzic

INTERNAL INQUIRY INTO THE ACTIONS  
OF CANADIAN OFFICIALS IN RELATION TO  
ABDULLAH ALMALKI,  
AHMAD ABOU-ELAMATI AND  
MUAYYED NUREDDIN

NOTICE OF APPLICATION

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