

# **Chronology of public information relating to the cases of *Messrs. Almalki, El Maati and Nureddin***

**April 11, 2007**

Researched and written by Kerry Pither for organizations with Intervenor Status at the Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou El Maati and Muayyed Nureddin<sup>1</sup>

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<sup>1</sup> *Amnesty International, British Columbia Civil Liberties Association, Canadian Arab Federation, Canadian Council on American Islamic Relations, Canadian Muslim Civil Liberties Association, International Civil Liberties Monitoring Group.*

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## **Chronology of public information relating to the cases of Messrs. Almalki, El Maati and Nureddin**

*The following timeline draws on information in the public domain: the Arar Commission Report released on September 18, 2006; public evidence presented at the Arar Commission; the Report of Professor Stephen J. Toope, Fact Finder, October 14, 2005; publicly accessible court documents; information in the media; and the public chronologies, biographies and other documents filed by Messrs. Arar, El Maati, Almalki and Nureddin as exhibits at the Arar Commission. Care has been taken to accurately record this information and it has been verified and corroborated where possible, however much of the information has not been entered as sworn testimony, or subjected to cross-examination. Please note that while care has been taken to consult and include a fulsome range of significant sources of information, this chronology is not intended to be an exhaustive survey of all information relevant to these cases. Because of privacy issues, some of those referred to in this chronology are described, but not named.*

### **Early summer 1998**

Abdullah Almalki says his first encounter with any security agency was when CSIS agent Theresa Sullivan telephoned and asked if they could meet. She asked Mr. Almalki about his family, education, and business, and discussed Syria's intention to open an embassy in Canada. She told him some Syrians were concerned that this would be used as a base for the Syrian intelligence to spy on the Syrian community in Canada.

Mr. Almalki voluntarily answered her questions and told her about his work in Pakistan and Afghanistan with Human Concern International (HCI). Agent Sullivan seemed surprised to learn this. Mr. Almalki explained he had left in 1994 because of disagreements with HCI's regional director, Ahmad Said Khadr, and they had not been in contact since. She asked if Mr. Almalki had received military training, and whether he knew any of the *mujahideen* in Afghanistan, and he said no. She spoke about American and Pakistani support for the Taliban, and asked if Mr. Almalki sold equipment to the Taliban, and he told her he had not. At the end of the meeting, Mr. Almalki asked her why she had come to talk with him, and she said CSIS does these interviews randomly.<sup>2</sup>

### **Late summer 1998**

Agent Sullivan questioned Mr. Almalki for the second time. She wanted to know more about Ahmad Said Khadr's relationship

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<sup>2</sup> *Almalki Chronology, Arar Commission Exhibit P-54, page 1.*

with Bin Laden, even if it was just speculation on his part. She asked again if Mr. Almalki sold equipment to the Taliban, and again, he said he did not.<sup>3</sup>

## 1999

Mr. Almalki says his employees noticed that starting in 1999, every box in every shipment they received had been opened and re-sealed with customs tape. This was highly unusual, as in the past, customs had only done spot checks, if any. They made inquiries and were told that these were just "random checks."<sup>4</sup>

## December 1999

Mr. Almalki was stopped in Vancouver on his way home from a two-week business trip to Hong Kong, where he had travelled with a Muslim Canadian friend (who was also a business associate) to meet suppliers and buy equipment. His friend had returned to Canada a week earlier. Mr. Almalki's luggage was thoroughly searched. Officials seemed particularly interested in his invoices, suppliers' and clients' names, and other work-related documents he was carrying. They took all his documents into another room. They asked him to name the companies he dealt with, places he shipped to, and to write details about how he conducted his business, such as how he transferred funds.

At home, an acquaintance from the Muslim community called him and asked to meet. This taxi driver had bought a two-way radio from Mr. Almalki some time before. The man told him CSIS had asked him to go into Mr. Almalki's house to look for bomb-making equipment. Mr. Almalki's company had never dealt with materials related to weapons of any kind.<sup>5</sup>

## Early January 2000

After having travelled frequently to the U.S. without incident for several years, Mr. Almalki was stopped by U.S. immigration officials on his way to Las Vegas for an annual consumer electronics show. He was questioned for less than fifteen minutes.

Mr. Almalki thinks that it was around this time in early 2000 that he was told people in the Muslim community were being questioned about him by CSIS.<sup>6</sup>

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<sup>3</sup> *Almalki Chronology, pages 1-2.*

<sup>4</sup> *Almalki Chronology, page 2.*

<sup>5</sup> *Almalki Chronology, page 2.*

<sup>6</sup> *Almalki Chronology, pages 2-3.*

## February 11, 2000

Mr. Almalki agreed to meet with CSIS agents Violaine Pepin (badge number W06175) and "Dave" (badge number W05337). They asked about what he had told customs agents in Vancouver, and about his trip to Hong Kong. Mr. Almalki was disturbed when they suggested he had said things he had not said to customs agents. For example, they implied that he had been evasive about travelling with his Muslim Canadian friend, and he had not. His friend had a commercial pilot's license. They also questioned him again about his business.

Mr. Almalki talked about the meeting with his wife. He described "Dave", and she said it sounded like this was the same man who had come to see their house twice, each time with a different real estate agency, while Mr. Almalki was in Hong Kong (their landlord was selling the house).

Mr. Almalki sought legal advice from Michael Neville, who advised him not to meet with CSIS again without a lawyer.<sup>7</sup>

## March 3, 2000

A Scotia Bank worker telephoned Mr. Almalki and said she needed information about a dormant account because he was under investigation.<sup>8</sup>

## Early July 2000

Mr. Almalki and his family were moving into a new home. He was able to move some things in early, and his family needed to clean before moving in a few days later. He was worried intelligence officials would bug the house, and sprinkled baby powder in the front hall so that he could tell if anyone went in. The next morning, he returned and found footsteps in the powder. Mr. Almalki called the Ottawa Police Service to report a break and enter. An officer took his name and the details but said they could not take it further. Mr. Almalki thinks he remembers being told this was because there was no evidence of forced entry and nothing was damaged or stolen.<sup>9</sup>

## Summer 2000

Mr. Almalki received copies of old credit card statements for his American Express card in the mail, dating back as far as 1998. On calling American Express, Mr. Almalki was told that on two

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<sup>7</sup> *Almalki Chronology, page 3.*

<sup>8</sup> *Almalki Chronology, page 3.*

<sup>9</sup> *Almalki Chronology, page 4. Mr. Almalki's call to the Ottawa Police may be referred to in paragraph 24 of the Information to Obtain the search warrants executed on January 22, 2002. The unredacted portion of the paragraph reads "I reviewed an OPS report dated the [redacted] submitted by Const. [redacted] of the OPS. He responded to a complaint of Break and Enter..." See Appendix "D" page 23.*

occasions he had requested copies of these and other statements from them. Mr. Almalki had not made the requests.<sup>10</sup>

### **Late 2000**

Someone who identified himself only as “Michel” from CSIS questioned Muayyed Nureddin. The agent asked whether he had been in Afghanistan and whether he knew people from al-Qaeda. Mr. Nureddin answered no to both questions. “Michel” asked him where he prayed, and Mr. Nureddin told him he prayed at the Salaheddin Islamic Centre and other mosques. A few months later, Mr. Nureddin’s roommate told him that two officers had come to speak to him, but did not leave a card. They did not return.<sup>11</sup>

### **April 2001**

Ahmad Abou El Maati and his mother, Samira Al Shallash, left Toronto for Damascus, Syria to meet a prospective bride. There, Mr. El Maati and the young woman were immediately attracted to each other, and after spending time together, Mr. El Maati proposed engagement. He left Syria about a month later to return to his work in Toronto, promising to work to bring his fiancée to Canada. As with his past travels to Syria in 1998 and several times throughout his childhood, Mr. El Maati had no problems with Syrian immigration or security officials.

While Mr. El Maati and his mother were in Syria, CSIS agents visited Mr. El Maati’s father, Badr El Maati, and his cousin, in Toronto. The agents told them they were asking questions about Mr. El Maati because his passport had been stolen, which they later learned from him was not true. This was the first time anyone in Mr. El Maati’s family was contacted by any law enforcement or security agency.<sup>12</sup>

### **May 2001**

After learning he needed a legal marriage certificate to sponsor his fiancée to come to Canada, Mr. El Maati went back to Syria to legalize the marriage. The couple planned to hold a formal wedding ceremony in Syria in December. As in the past, he had no problems with Syrian immigration or security officials.<sup>13</sup>

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<sup>10</sup> *Almalki Chronology, page 4.*

<sup>11</sup> *Nureddin Chronology, Arar Commission Exhibit P-256, page 1.*

<sup>12</sup> *El Maati Chronology, Arar Commission Exhibit P-255, page 1.*

<sup>13</sup> *Ibid., page 1.*

**June 2001**

In Toronto, Mr. El Maati hired an immigration lawyer and initiated sponsorship procedures for his wife to come to Canada.<sup>14</sup>

**Early August 2001**

After dropping off his delivery truck at the dealership for repairs, Mr. El Maati switched to a different truck, in which he found papers, a map and reading glasses. He bundled them up and put them in the truck's cab drawer.<sup>15</sup>

**August 16, 2001**

After making hundreds of deliveries to the U.S. since May, 1999 without incident, Mr. El Maati was stopped at the Buffalo border crossing by U.S. customs officials. They searched the truck and found the bundle Mr. El Maati had placed in the cab drawer. They questioned him about the map. It was a map of Ottawa with handwritten numbers on government buildings, including the offices of Atomic Energy Canada and virus labs. Mr. El Maati explained these items did not belong to him, that he did not use reading glasses, that the handwriting on the map was not his, and that he had never made deliveries in Ottawa and would have no use for the map. The officials continued to question him and search the truck, and took Mr. El Maati's fingerprints, a retina scan, and photographed him.

They photocopied the map and returned the original to him, warning he might have difficulties crossing the border in the future. He explained that this was how he earned his living, and that he could not stop driving trucks. After this eight-hour ordeal he was permitted to continue with his delivery in Philadelphia and then return to Canada. This was Mr. El Maati's first ever experience with law enforcement or security officials.<sup>16</sup>

**August 27, 2001**

Mr. El Maati's manager at Highland Transport wrote a letter about the border incident, explaining the map could have belonged to a previous driver. Mr. El Maati travelled to the U.S. twice more in August without incident.<sup>17</sup>

**September 11, 2001**

On the morning of the attacks in the U.S., Mr. El Maati returned his truck to Highland Transport. One of the supervisors told him he had heard about the incident with the map, and had looked

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<sup>14</sup> *Ibid.*, page 1.

<sup>15</sup> *Ibid.*, page 2.

<sup>16</sup> *Ibid.*, page 2.

<sup>17</sup> *Ibid.*, page 2.

into it, learning that one of their clients in Ottawa issued these maps to drivers.

Later that day, two CSIS agents arrived at Mr. El Maati's apartment. One of them identified himself as Adrian White. They questioned him about himself, his family, his travel, and the map. Mr. El Maati showed them the letter he had from Highland Transport, and they persisted with their questions. After answering their questions for ten to fifteen minutes, Mr. El Maati said he would prefer to continue with a lawyer present to ensure he was not misunderstood or misinterpreted. He says the officers then said that if he did not cooperate, they would block his wife from coming to Canada. They also told him that the intelligence services in Canada deal with citizens differently than the *mukhabarat* (they used the Arabic word for "intelligence") in Arab countries. Mr. El Maati felt they were threatening him.

Mr. El Maati then noticed that he was being followed everywhere in a conspicuous manner by numerous unmarked cars. This surveillance continued until he left the country on November 11, 2001.<sup>18</sup>

The Arar Commission's report says that for several months prior to the September 11 attacks, CSIS had been investigating a group of people in the Toronto area who they believed were connected to al-Qaeda. After 9/11, the primary concern of western agencies was the potential for a second wave of attacks. Jack Hooper, CSIS Deputy Director of Operations, testified during *in-camera* hearings at the Arar Commission that "among the Toronto targets were individuals CSIS believed could have the capability and intent of facilitating an act of terrorism, if not actually executing it." After 9/11, CSIS stepped up its intelligence gathering on these individuals, putting them "under intense scrutiny."<sup>19</sup> **It is not publicly known whether Mr. El Maati was one of these individuals.** Mr. Hooper described CSIS agents as working 12-hour days and being at "a breaking point." It was in this context that CSIS approached law enforcement agencies for help.<sup>20</sup>

Following 9/11 the RCMP set up "Project Shock" at headquarters to coordinate tips relating to the attacks, overseen

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<sup>18</sup> *Ibid.*, pages 2-3.

<sup>19</sup> *Report of the Events Relating to Maher Arar, Factual Background, Vol. I, page 14.*

<sup>20</sup> *Ibid.*, Vol. I, page 14.

by the National Security Intelligence Branch (NSIB). The National Security Investigations Section (NSIS) in "A" Division investigated tips relating to Ottawa.

Around this time, an anonymous caller contacted CSIS about what they deemed suspicious activity at the home of one of Mr. Almalki's brothers.<sup>21</sup> **It is not publicly known whether tips were received relating to Mr. Almalki himself, Mr. El Maati or Muayyed Nureddin.**

The RCMP also set up the Financial Intelligence Task Force (later known as the Financial Intelligence Branch) to "coordinate research on the financial transactions of suspected terrorist organizations."<sup>22</sup>

### September 12, 2001

The RCMP and its "domestic and foreign partner agencies" met at RCMP headquarters to discuss the need for increased coordination and cooperation, "including the need to share relevant information in a timely manner," so that appropriate preventative or disruptive actions could be taken"<sup>23</sup> These discussions began the information-sharing "that ultimately resulted in Project A-O Canada providing American agencies with information about a number of individuals, including Mr. Arar."<sup>24</sup>

### September 18, 2001

CSIS agent Alexander Gelvan went to Mr. Almalki's home at approximately 8:30 p.m., and despite Mr. Almalki's expressed concerns about the time and wanting a lawyer present, persisted in questioning him about the Muslim Canadian friend he had been questioned about on February 11, 2000. Agent Gelvan said he knew that this man had a commercial pilot's license, and seemed to imply he had been one of the hijackers that had attacked the U.S. and that he was missing. Mr. Almalki called his friend after Agent Gelvan left, and left him a message. The business associate called Mr. Almalki back the next day, and told him that CSIS had been coming to his office daily since the attacks in the U.S.<sup>25</sup>

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<sup>21</sup> See entry for December 13, 2004, below, and "RCMP raided townhouse on secret warrant: Owner was linked to two men held in Syria on terror suspicions," James Gordon, *Ottawa Citizen*, December 13, 2004, page B1.

<sup>22</sup> *Factual Background, Vol. I, page 13.*

<sup>23</sup> *Ibid., Vol. I, page 37.*

<sup>24</sup> *Ibid., Vol. I, page 37.*

<sup>25</sup> *Almalki Chronology, page 4.*



## September 22, 2001

CSIS hosted an all-agency meeting intended to promote cooperation among agencies tasked with national security work, attended by members of CSIS, the RCMP, the FBI and other law enforcement agencies. The FBI then sent a letter dated September 23, 2001, asking Canadian agencies to investigate and if possible, detain and interview people they believed had ties to others who they believed were terrorists. The RCMP did not act on this request "as it was not yet prepared to detain and interview the individuals named."<sup>26</sup> **It is not publicly known whether Mr. El Maati or Mr. Almalki was discussed in the letter or at this meeting.**

A second meeting was hosted at CSIS' office in Toronto, chaired by Mr. Hooper, and attended by representatives of CSIS, RCMP, Ontario Provincial Police, the Toronto Police Service and the Peel Regional Police. Mr. Hooper briefed them on people they were investigating, intending to elicit assistance through the provision of specialty investigators and surveillance teams. Mr. Hooper agreed to provide law enforcement officials with "an advisory letter with data on the targets, and a profile that would enable the police to compare the targets against what was known about al-Qaeda activists at that time."<sup>27</sup>

## September 24-27, 2001

Through two advisory letters, dated September 24 and 26, 2001, CSIS transferred responsibility for a number of national security investigations to the RCMP, believing the investigations into these people warranted criminal investigation and possible charges.<sup>28</sup> It has not been publicly confirmed who was named in these letters, though Mr. Arar was not.<sup>29</sup> **It has not been publicly confirmed whether Mr. El Maati and Mr. Almalki were named in these files.**

One letter advised of "an imminent threat to the public safety and security of Canada" and identified and provided detailed information about people from the Toronto area targeted by CSIS.<sup>30</sup> Mr. Hooper has testified that this letter "constituted an extraordinary disclosure of information to law enforcement agencies."<sup>31</sup> Mr. Hooper's decision to transfer the files was

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<sup>26</sup> *Factual Background, Vol. I, page 14.*

<sup>27</sup> *Ibid., Vol. I, page 15.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

“intended to address a threat to American security.”<sup>32</sup> The letter led to the creation of the RCMP’s Project O Canada based at the RCMP’s “O” Division in Toronto, involving other agencies including the Ontario Provincial Police and the Toronto Police Service.

At the request of the RCMP, a second letter was sent to the head of the RCMP’s Criminal Intelligence Directorate (CID), Assistant Commissioner Richard Proulx, transferring primary responsibility for the investigation of another person to the RCMP.<sup>33</sup> **It is not publicly known if this separate letter refers to Mr. Almalki.**

Mr. Hooper testified at the Arar Commission that the Crown Attorney determined that the information provided by CSIS was “tainted” and could not be used in criminal litigation. He said this meant the investigation moved from being about prosecution to “disruption,” “whereby police would assist CSIS in dismantling a group of alleged terrorists.”<sup>34</sup>

Following the transfer of the files, CSIS played less of a role in these investigations but continued to collect information on the people targeted by them. Justice O’Connor says in his report:

*It should be noted that at no time since this transfer of primary responsibility to the RCMP have any charges been laid against any of the targeted individuals described above. When Mr. Hooper was asked whether the decision to transfer responsibility could be considered premature in light of the lack of charges, he stated that it must be examined in the context of the environment immediately after 9/11. CSIS was aware of the principal actors and their links with each other, and believed that continued surveillance in the context of a security intelligence investigation was unlikely to lead to information that would advance the case. In short, CSIS had taken the investigations about as far as it could. In consultation with law enforcement agencies, it was agreed that the circumstances were better suited to a law enforcement investigation.*<sup>35</sup>

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<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*, page 117. See entry for May 29, 2006 for similar comments made by Mr. Hooper and RCMP Commissioner Zaccardelli in testimony before the Senate Standing Committee on National Security and Defence.

<sup>35</sup> *Ibid.*, Vol. I, page 16.

A video conference meeting was held on September 25 or 26, 2001, to advise officers working in Integrated Proceeds of Crime (IPOC) units across Canada of the creation of the Financial Intelligence Task Force, and its goals, which like all other post 9/11 investigations by law enforcement and intelligence agencies, were, in order, prevention, intelligence and prosecution. The Arar report notes "this was the first time that IPOC officers "had been directed to conduct their investigations with prevention, rather than prosecution, as the primary goal" and that these goals had been approved by the RCMP Commissioner.<sup>36</sup>

### Early October 2001

Mr. Almalki noticed he was being followed.<sup>37</sup>

### October 3, 2001

A "watch list" naming 370 people was obtained by United Press International (UPI) after it was posted on the Rahoitustarkastus (RATA or "Financial Supervision Authority") Web site in Finland. The FBI told UPI that the only list that had been circulated internationally was a continually updated "watch list" of people authorities were investigating regarding their possible connections to the 9/11 hijackers. Diplomatic sources said that the list had been initially circulated to them from the U.S. Justice Department. The list included Ahmad El Maati, his brother Amr El Maati and his father Badr El Maati. Within 24 hours, the list had been removed from the web site.<sup>38</sup> **It is not publicly known if Canadian officials provided the El Maatis' names to American officials.**

Project A-O Canada was set up in early October when Project O Canada asked "A" Division for assistance investigating Mr. Almalki. Like Project Shock and Project O Canada, the priorities were prevention first, intelligence second, and prosecution, which normally would have been the top priority, was now third.

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<sup>36</sup> *Ibid.*, Vol. I, page 13.

<sup>37</sup> *Almalki Chronology*, page 5. Mr. Almalki thinks that it was some time in October that he decided to confirm his suspicions about being followed by pulling to the side of the road and turning his lights off. The two cars that had been following him sped by, and seemed to be frantically searching for him, driving around the block while Mr. Almalki watched. It is possible that this incident is referred to in the redacted paragraph 42 of the RCMP's Information to Obtain the search warrants that were later executed on January 22, 2002, Information to Obtain search warrants executed January 22, 2002, Appendix "D," page 45.

<sup>38</sup> UPI, October 11, 2001.

Inspector Michel Cabana<sup>39</sup>, the Officer in Charge of Project A-O Canada testified that he understood this to mean that:

*...you do everything you can to make sure nothing happens anywhere. If at the end of the day we are successful prosecuting individuals or groups, that's fine. But right now the priority is not to accumulate the information in an admissible format; the priority is to make sure that nothing blows up.*<sup>40</sup>

Justice O'Connor writes that "sometime in the fall of 2001," Project A-O Canada expanded its targets to include Mr. El Maati, because it had learned from "confidential sources" that he was "allegedly implicated in a terrorist plot directed at a major Canadian target."<sup>41</sup> **It is not known when this information was provided to the RCMP —whether it was provided by the Americans after Mr. El Maati was stopped with the map, or whether it was based on the false confession Mr. El Maati says he was forced to make under torture in November in Syria.**

## October 12, 2001

The *Los Angeles Times* published a front-page story about leads being followed by the FBI in their investigation of the September 11 attacks. The article included the sentence:

*In Canada, U.S. agents were briefed on a 36-year old Kuwaiti man in whose belongings were discovered documents that identified specific buildings in an Ottawa government complex – notably the atomic energy building and the virus and disease control labs.*<sup>42</sup>

It was on October 12, 2001 that Mr. Arar first came to the attention of Project A-O Canada when he met with Mr. Al Malki for lunch.<sup>43</sup>

## October 13, 2001

*The Globe and Mail* published a front page article by Peter Cheney titled "Kuwaiti found with papers on sensitive Ottawa sites," saying again that U.S. officials were briefed in Canada about the case. The RCMP said it could not confirm that the man was arrested. RCMP spokesman Corporal Eric Simard said that infiltration of nuclear facilities was part of their focus, and

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<sup>39</sup> Michel Cabana was Officer in Charge of Project A-O Canada from early October 2001 until February 4, 2003. In January 2002 he became the Officer in Charge of "A" Division's International Proceeds of Crime (IPOC) unit.

<sup>40</sup> Arar Commission transcript, June 29, 2005, page 7784.

<sup>41</sup> Analysis and Recommendations, page 72.

<sup>42</sup> "U.S. strikes back: The investigation," *Los Angeles Times*, October 12, 2001, page A1.

<sup>43</sup> *Factual Background*, Vol.1, page 51.

"aside from that, we can only say that [this] is an ongoing criminal investigation and that details cannot be released."<sup>44</sup>

## October 15, 2001

Bill C-36, what would later become Canada's *Anti-terrorism Act*, was introduced in the House of Commons, establishing the facilitation of terrorist activities as a criminal offence.

The *National Post* published a story saying that according to David Harris, a former head of strategic planning for CSIS, "terrorists are clearly gathering information for their next move and the target could be Canada's nuclear facilities." The article said that the "information about the 36-year-old Kuwaiti man was part of a flood of tips and information intelligence officers have received since last month's terrorist attacks," and that "officials in the United States and Canada are not identifying the Kuwaiti man, or specifying where or how he was stopped."<sup>45</sup> The article also sourced a Canadian government official saying that the map must be out of date because "there is no longer any high-security biological material at the Ottawa site," and that "Health Canada moved its high-risk virus labs from Tunney's Pasture in Ottawa to a high-security facility in Winnipeg" three years earlier.<sup>46</sup>

Mr. El Maati wanted to know how this story ended up in the media and went to see lawyer Rocco Galati for advice. He gave Mr. Galati the map and the letter from Mr. El Maati's employer, and instructed him to contact CSIS and tell them he would meet with them with his lawyer. Mr. Galati left several messages for Agent White, who did not return the calls. **It is not publicly known why CSIS did not return these phone calls or agree to meet with Mr. El Maati and his counsel.**

On request from Mr. Galati, the General Manager of Motion Supply Inc and Manager of Recruiting and Training for Highland Transport, each wrote letters confirming that two other drivers used the truck Mr. El Maati had found the map and other items in, and that one of these drivers made deliveries in Ottawa.<sup>47</sup>

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<sup>44</sup> "Kuwaiti found with papers on sensitive Ottawa sites," *Globe and Mail*, page A1.

<sup>45</sup> "Terrorists eye nuclear plants, expert says: 'Ample evidence': Kuwaiti man had sensitive documents on N-plant, virus lab," Melanie Brooks, *National Post*, October 15, 2001, P. A8.

<sup>46</sup> *Ibid.*

<sup>47</sup> *El Maati Chronology*, page 5. In 2005, *Globe and Mail* reporter Jeff Sallot went to one of the buildings on the map, and learned from a commissionaire that this was a standard-issue map still handed out by commissionaires in Ottawa's Tunney's Pasture. All the maps are copied with the handwritten numbers that had been on the copy found by Mr. El Maati. Mr. Sallot

**October 22, 2001**

*The Ottawa Citizen* published a letter to the editor from Kuwait's Ambassador to Canada, Faisal Al-Mulaifi, saying:

*The Embassy of the State of Kuwait wishes to inform that after its inquiry to Canadian authorities, it has been confirmed that the reported individual is not a Kuwaiti citizen, but rather a Canadian citizen born in Kuwait.*<sup>48</sup>

**October 30, 2001**

Project A-O Canada obtained a copy of Mr. Arar's rental agreement and lease from Minto Developments. Mr. Almalki was identified as an emergency contact on the lease.<sup>49</sup>

**October 31, 2001**

The Arar Report says that on October 31:

*Project A-O Canada sent a request to U.S. Customs asking that individuals, including Mr. Arar and his wife, be included as lookouts in the TECS system. The request described the individuals as a "group of Islamic Extremist individuals suspected of being linked to Al Qaeda movement."*<sup>50</sup>

They similarly requested that border lookouts be placed for these people. **It is not publicly known whether other people of interest to the project would have been named and characterized in the same way, including Mr. El Maati and Mr. Almalki.**

**November 2, 2001**

In a memo, Corporal Randy Buffam asked the FBI to "conduct a check of Mr. Arar in the FBI database in an effort to further the investigation on Mr. Almalki." The memo also said Mr. Arar was a "close associate" of Mr. Almalki and that Mr. Almalki was listed as a contact on his lease.<sup>51</sup>

**November 11, 2001**

Work in the trucking business had slowed after the attacks on the U.S., and Mr. El Maati was worried that his wife would be blocked from coming to Canada, so he decided to go to Syria earlier than originally planned to be with her and to prepare for their marriage ceremony. Mr. El Maati and his mother, Samira Shallash, planned to travel together to Vienna via Frankfurt. In Vienna, his mother would continue to Cairo while Mr. El Maati

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*contacted both the RCMP and CSIS but neither would respond to questions about whether they had ever investigated the map and discovered its origin. See "It was hyped as a TERRORIST map It was cited by Egyptian TORTURERS It is a VISITOR'S GUIDE to Ottawa," Globe and Mail, September 6, 2005, page A1.*

<sup>48</sup> "Not a Kuwaiti," Letter to the Editor, *Ottawa Citizen*, page A15.

<sup>49</sup> *Factual Background*, Vol. I, page 55.

<sup>50</sup> *Ibid.*, Vol. I, page 57.

<sup>51</sup> *Ibid.*

would continue to Damascus. Mr. El Maati's mother planned to visit family in Cairo before joining him in Syria for the wedding ceremony.

At Pearson Airport they were each pulled aside and separated. One officer in plain clothes took Ms. Shallash aside and questioned her about their itineraries. He spoke Arabic and English. Two other officers, also in plain clothes, took Mr. El Maati downstairs into a room. They said they were with the Ontario Provincial Police. One of the officers was Scott Mills.<sup>52</sup> They asked Mr. El Maati about the map, where he would be staying in Syria, who would be going to Syria with him, how much money he had, and about his travel itinerary. Mr. El Maati noticed an open file on the table that had his photograph in it. They escorted Mr. El Maati and his mother through security to the gate, where they learned their seats had been re-assigned. It appeared the flight had been delayed because of them.

When they took their seats, a very talkative Lebanese man was sitting next to Mr. El Maati. In Frankfurt, Mr. El Maati and his mother were hurried onto their flight by the talkative man and noticed that that he was standing with two plain clothed German officials. One of them showed Mr. El Maati his badge and said he was with the border police. He asked Mr. El Maati and his mother for their passports, and read the information from their passports into a cell phone. Mr. El Maati noticed that the talkative man was on their flight to Vienna, but he did not sit with them. Mr. El Maati says that another talkative Arab man sat next to him on the flight to Damascus, and asked if he was a Canadian.<sup>53</sup>

**It is not publicly known whether German intelligence agencies were asked to monitor Mr. El Maati's movements in Frankfurt. Nor is it known whether either of the men who appear to have followed Mr. El Maati on his flights were from Canadian agencies.**

**November 12-21, 2001**

**Mr. El Maati was detained when he arrived at the airport in Damascus at about 3:00 p.m. on November 12, 2001.**

Immediately outside the airport he was handcuffed, hooded and

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<sup>52</sup> Scott Mills would later question Mr. El Maati's aunt, Sana Wassef, at her Toronto residence. See November 16, 2001, below.

<sup>53</sup> El Maati Chronology, pages 5-6.

driven off in a car. One person in the car told Mr. El Maati that he had been on his flight with him.

Mr. El Maati later learned he was taken to the *Far Falestin* (Palestine Branch) of the Syrian military intelligence, a detention facility notorious for systematically practicing torture. This is the same complex in which *Messrs.* Almalki, Arar, and Nureddin were later detained, interrogated and tortured.<sup>54</sup> He was taken into a room, still hooded, where officials opened his luggage, which contained about \$5,000 worth of wedding gifts. The officials distributed these among themselves.

He was then taken into the basement and down a hallway with common cells on either side. At the end of this hallway was another smaller dark hallway that went to the left and right. Mr. El Maati says the doors to the cells in this hallway looked like they led to closets, not to spaces where humans could be kept. He was placed in what was called cell number five. Dr. Stephen Toope, fact finder for the Arar Commission, recounts how Mr. El Maati described his cell to him:

*He remembered cell Number 5 with horror, describing it as a "hell hole". The cell was downstairs from the interrogation rooms, in a basement. It was approximately "190 cm high by 180 cm long by 90 cm wide". A small window in the door was blocked. There was a small hole in the ceiling covered by bars. Mr. ELMaati [sic] found two blankets that smelled of urine. The cell was freezing cold, as it was winter and there was no heating.*<sup>55</sup>

Later that night, he was taken from the cell, brought upstairs, blindfolded, and put in an interrogation room. He was interrogated and tortured for the next seven to ten days. His interrogators told him that they had received information about him. They had detailed information about his family, their addresses, and the make of his car.

Mr. El Maati was subjected first to beating and kicking all over his body. He was asked about the map and whether he went to Afghanistan. His interrogators threatened to bring in his wife and rape her in front of him. Dr. Stephen Toope, fact finder for the Arar Commission, says Mr. El Maati described being "subjected to a stripping down to his underwear, pouring of

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<sup>54</sup> See the *Report of the Events Relating to Maher Arar*, (hereafter referred to as the "Toope Report," page 12.

<sup>55</sup> *Ibid.*, page 6.



cold water over him, and intense beatings with what he described as a 'black electric cable roughly an inch thick.'"<sup>56</sup>

Mr. El Maati's chronology describes how this continued for two days before he agreed to say whatever they wanted him to say. He explained to Dr. Toope that "after three days of beatings he just could not resist any longer."<sup>57</sup> He was questioned about Mr. Arar and Mr. Almalki. Syrian interrogators wanted him to say he had seen Mr. Arar and Mr. Almalki in Afghanistan, and that his brother, Amr El Maati, had asked him to take flying lessons so he could be recruited into al-Qaeda.<sup>58</sup> When Mr. El Maati told them he had quit the lessons, his interrogators wanted him to say that his brother had sent him the map and had asked him to launch a suicide attack using a truck full of explosives against the U.S. Embassy. In the end, Mr. El Maati says he falsely confessed that the target was the Parliament buildings.<sup>59</sup> He was asked to write a statement, but says he did not want to implicate himself and his brother in writing so wrote how he had found the map. When this was discovered, he was dragged back to the interrogation room by his hair and beard, and burned on his shins with cigarettes. Mr. El Maati's shins are scarred from this torture.

His interrogators eventually wrote the statement themselves. Mr. El Maati was not permitted to read it, but was forced to sign and place his thumbprint on it. Mr. El Maati says he was later brought before a general and told that they wanted him to work as an informant, and to go to Afghanistan to find his brother and bring him to them. Mr. El Maati refused.<sup>60</sup>

Project A-O Canada learned of Mr. El Maati's plans to travel to Syria sometime in November. Prior to Mr. El Maati's November 11, 2001 departure from Canada for Syria, the RCMP exchanged information with U.S. authorities. Justice O'Connor

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<sup>56</sup> *Ibid.*, page 7. Dr. Stephen Toope was appointed by the Arar Commission "investigate and report to the Commission on Maher Arar's treatment during his detention in Jordan and Syria and its effects upon him and his family." Dr. Toope interviewed Mr. El Maati, who provided a detailed account of his torture and interrogation about the map in Syria. Dr. Toope concluded that Mr. El Maati's story was credible, and that he and the others had suffered "severe physical and psychological trauma while in detention in Syria."

<sup>57</sup> *Ibid.*

<sup>58</sup> Mr. El Maati's public biography says he took flying lessons in 1999, but found it frightening and expensive and gave it up after only five interrupted hours of lessons.

<sup>59</sup> Neither the Parliament Buildings or the U.S. Embassy are on the map, which only shows an area west of Ottawa's downtown core.

<sup>60</sup> *El Maati Chronology*, pages 7-10.

notes the following communication, which may refer to Mr. El Maati:

*The RCMP had given the American authorities the information concerning the departure of the Canadian. The justification given for this information sharing was that Canada has international obligations in relation to the movement of known terrorists. Upon his arrival in the Middle Eastern country, the Canadian was detained and tortured.<sup>62</sup>*

Justice O'Connor also finds that:

*In light of American practice at the time, it is reasonable to assume that Syria was informed of his arrival by American authorities. It is also reasonable to conclude that Project A-O Canada would have been aware that the Americans had informed the Syrians of Mr. El Maati's arrival in Syria. In his testimony, Inspector Cabana agreed that in all likelihood Mr. El Maati was detained as a result of information the Americans gave to the Syrians.<sup>63</sup>*

**It is not publicly known whether Canadian officials requested either directly, or through American agencies, that Mr. El Maati be detained in Syria, or whether any Canadian officials were aware of any expectation on the part of U.S. officials that Mr. El Maati would be detained when he arrived in Syria.**

**Nor is it publicly known whether Mr. El Maati was one of the individuals characterized as an Islamic extremist with suspected links to al-Qaeda in information shared with the Americans, and whether this could have played a role in his detention.**

**It is not publicly known whether Canadian officials were in direct contact with Syrian officials prior to Mr. El Maati's November 12, 2001 arrival there, or whether CSIS had already established a working relationship with the Syrian Military Intelligence at that time.**

**Justice O'Connor finds that the RCMP did not send questions for Mr. El Maati to any foreign agency, but it is not publicly known whether CSIS or another Canadian**

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<sup>62</sup> *Analysis and Recommendations, page 276.*

<sup>63</sup> *Factual Background, Vol. I, page 64. The Intervenor note that the Arar Commission did not have the benefit of all relevant information with respect to Mr. El Maati.*

**agency provided information directly or indirectly to Syrian officials.<sup>64</sup>**

**Mid-November 2001**

Mr. El Maati's wife and her family had waited for him at the airport. They contacted his family, who contacted the Department of Foreign Affairs and International Trade (DFAIT) to see if they could help locate him. DFAIT was not able to confirm that Mr. El Maati was in Syrian detention until the end of December 2001.

Within a few days of Mr. El Maati's disappearance, his mother was called in for questioning by Egyptian security officials. She was asked about her family and her sons, and more of the same questions she had been asked at the Toronto airport.<sup>65</sup>

**It is not publicly known whether Canadian agencies either directly, or indirectly provided information to Egyptian authorities that were used when they questioned Mr. El Maati's mother.**

It is not publicly known whether Canadian agencies other than DFAIT knew about Mr. El Maati's detention prior to DFAIT becoming aware in late December.

**November 16, 2001**

Detectives Sergeant Dave Truax and Scott Mills from the OPP arrived at the Toronto residence of Mr. El Maati's aunt, Sana Wassef. They asked her why Mr. El Maati had gone to Syria and what she knew of his disappearance. They asked how religious Mr. El Maati is. Officer Mills seemed surprised to learn that Mr. El Maati went to Syria for a wedding, saying that if he had known, he would have advised Mr. El Maati not to go when he stopped him at the airport.<sup>66</sup>

**November 18 & 22, 2001**

According to a chronology prepared by DFAIT, diplomatic notes were sent to the Syrian Ministry of Foreign Affairs about Mr. El Maati.<sup>67</sup>

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<sup>64</sup> *Ibid.*, Vol. I, page 106.

<sup>65</sup> *El Maati Chronology*, page 11. According to a chronology prepared by DFAIT, Mr. El Maati's family contacted them on November 16, 2001. See October 28, 2003 email from Ms. Myra Pasty-Lupul, case management officer for the Middle East region at DFAIT, to Badr El Maati, filed at Arar Commission with Mr. El Maati's chronology and biography.

<sup>66</sup> *Ibid.*

<sup>67</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

**November 20, 2001**

In the ITO for the January 22, 2002 search warrants, Sergeant Randy Walsh<sup>68</sup> refers to two RCMP fax messages that may refer to Mr. El Maati and his travel to and detention in Syria:

*I reviewed the RCMP fax message dated the [redacted] which was sent by Insp [redacted] of Project "OCANADA" which advised that [redacted] departed Canada and travelled from [redacted] the [redacted] [redacted] I later reviewed an RCMP fax dated the 20<sup>th</sup> of November, 2001 from the RCMP Headquarters Criminal Intelligence Directorate advising that [redacted] had been arrested by the [redacted] authorities upon his arrival in [redacted].<sup>69</sup>*

**November 26, 2001**

Mr. El Maati's father, Badr El Maati, agreed to meet with Detectives Sergeant Mills and Truax of the OPP. They asked about his family's religious beliefs and whether they pray. They asked him to rate how religious he was from a scale of one to ten, and to compare this with his sons.<sup>70</sup>

Justice O'Connor notes that by the end of November, 2001, Project O Canada "was becoming less active" and had moved on to other priorities."<sup>71</sup> **It is not publicly known if this is because Mr. El Maati was now in Syrian detention.**

**November 27, 2001**

Mr. Almalki left for Malaysia. He and his family were feeling harassed and were uncomfortable with the discrimination against Muslims after the September 11 attacks. They had not been to Malaysia since 1996, and were concerned about his wife's mother, who lives in Malaysia, and who was ill. They decided to spend several weeks there and return at the end of December.<sup>72</sup>

While Justice O'Connor finds that the RCMP was not aware of the Almalki family's destination when they left Canada, this appears to contradict what the Almalki family says they later learned: that sometime soon after they left, the RCMP obtained their itineraries from their travel agent.<sup>73</sup>

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<sup>68</sup> Sergeant Randy Walsh was the lead investigator at the start of Project A-O Canada, later becoming the affiant.

<sup>69</sup> Information to Obtain Search Warrants executed January 22, 2002, Appendix "D" page 50.

<sup>70</sup> El Maati Chronology, pages 11-12.

<sup>71</sup> Factual Background, Vol. I, page 27.

<sup>72</sup> Almalki Chronology, page 6.

<sup>73</sup> Ibid., page 6.

**November 30, 2001**

When the Almalki family went to pick up their luggage in Kuala Lumpur, the bag containing their desktop computer had not arrived. The bag arrived in Malaysia a week later. The Almalkis would later learn that the bag was searched, and the hard drive on the computer copied.<sup>74</sup>

**Early December 2001**

Sometime in early December, two CSIS agents, Adrian White and Rob Cassolato, went to Badr El Maati's home and questioned him about his son.

It was sometime in December that Mr. El Maati's father met with his Member of Parliament, John Godfrey, to tell him his son was missing. Mr. Godfrey advised him that he would try to raise it with the Prime Minister and that he should write the Prime Minister and contact DFAIT. Badr El Maati continued to contact Mr. Godfrey about Mr. El Maati's case over the next two years.<sup>75</sup>

It was around this time that Mr. Almalki was told that Malaysian officials had questioned a family friend about him and his business. The officials told this man that Canadian officials had told them that Mr. Almalki had sold equipment to a Pakistani company, which dealt with the Pakistani army, and that the equipment was later found in Afghanistan.<sup>76</sup>

**December 3, 2001**

Mr. El Maati's lawyer met with the RCMP and gave them the map and the letter written by Mr. El Maati's employer. The RCMP signed for the documents.<sup>77</sup>

**December 4, 2001**

According to a chronology of events prepared by DFAIT, a meeting was held between Canadian and Syrian officials about Mr. El Maati's case. **It is not publicly known whether information was exchanged at this time.**<sup>78</sup>

**December 9, 2001**

Mr. El Maati's father wrote to then Prime Minister Jean Chrétien to inform him that his son was missing. The Prime Minister's office later advised that the matter had been referred to John Manley, then Minister of Foreign Affairs.<sup>79</sup>

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<sup>74</sup> *Ibid.*, page 6. See also entry for January 6, 2004 in this chronology.

<sup>75</sup> *El Maati Chronology*, page 12.

<sup>76</sup> *Almalki Chronology*, page 6.

<sup>77</sup> *El Maati Chronology*, page 12.

<sup>78</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>79</sup> *El Maati Chronology*, page 12.

## December 17, 2001

According to the ITO for the search warrants executed on January 22, 2002, on December 17, 2001:

*...a General Warrant pursuant to Section 487.01 of the Criminal Code was issued by Madame Justice C. Dorval of the Ontario Court of Justice authorizing covert entries into [redacted] Ottawa, Ontario and to surreptitiously search the residence for evidence linking [redacted] and his companies to the [redacted] terrorist network and others suspected of being associated with terrorism [redacted].<sup>80</sup>*

The ITO also reads that:

*I reviewed a report dated the 17<sup>th</sup> day of December, 2001 that documented an anonymous phone call made to the RCMP's National Hotline taking information from the public concerning terrorist actions and future threats. A call had been received and the only notation about reliability was that this caller appeared "serious". The caller identified [redacted] by name and advised that [redacted] [redacted] [redacted] The caller also provided [redacted] where [redacted] [redacted] In the subject heading for this call, it was marked that it was in relation to the terrorist actions of the 11<sup>th</sup> of September, 2001.<sup>81</sup>*

The ITO goes on to say that Sergeant Walsh could not confirm the reliability of this caller, and that he did not "know what prompted this caller to pass along this information."<sup>82</sup> **It is not publicly known whether the call was about either Mr. El Maati or Mr. Almalki, and if so, how this information was used.**

## December 27, 2001

According to a chronology of events prepared by DFAIT, Canada's Ambassador to Syria spoke with the Syrian Vice Minister about Mr. El Maati's case.<sup>83</sup> **It is not publicly known what was discussed.**

## December 29-30, 2001

Syria's Ministry of Foreign Affairs (MFA) had so far been refusing to confirm whether Mr. El Maati was in detention in Syria. Gar Parly, Director of Consular Affairs at DFAIT, asked Ambassador Pillarella to contact high-level officials in the Syrian MFA. Syrian Foreign Vice-Minister Haddad's office confirmed on

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<sup>80</sup> Information to Obtain search warrants executed January 22, 2002, Appendix "D," page 75.

<sup>81</sup> Ibid., page 76.

<sup>82</sup> Ibid.

<sup>83</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

December 29 or 30 that Mr. El Maati was in Syrian custody. They advised, however, that consular access would be denied because, they claimed, Mr. El Maati was a Syrian citizen.<sup>84</sup>

Consular officials contacted Mr. El Maati's family to say they had confirmed Mr. El Maati was in Syrian detention, and asked his family to confirm that Mr. El Maati held only Canadian and Egyptian citizenship, not Syrian, which they did.<sup>85</sup>

### January 2, 2002

Ambassador Pillarella contacted Steve Covey, then the RCMP's Liaison Officer in Rome accredited to Syria, to inform him that the Syrian Vice Minister had confirmed Mr. El Maati was in detention, and that the embassy would be seeking consular access to him.<sup>86</sup> **It is not publicly known whether Mr. Covey already knew.**

### January 4, 2002

After learning about complications with his wife's pregnancy, Mr. Almalki and his family decided to stay in Malaysia for the birth. On January 4 Mr. Almalki travelled to the Singapore border for a day to renew his visa, which was set to expire in February, around the same time the baby was due.

Travelling by bus back into Malaysia, Mr. Almalki was pulled aside by Malaysian immigration officials. He was taken to a police station and questioned about when he would be returning to Canada, his religion, and his business. The regional chief, whose badge identified him as "Mr. Tan," appeared to be getting questions and sharing answers with someone on the phone. He told Mr. Almalki that the Canadian government had asked them to question him.<sup>87</sup> **It is not publicly known if Canadian agencies provided information to Malaysian officials about Mr. Almalki.**

### January 9, 2002

An RCMP fax dated January 9, 2002 referred to efforts underway to secure an interview with Mr. El Maati, and American assistance to that end, and requested another attempt, emphasizing a criminal investigation underway in Canada at the time.<sup>88</sup> Garry Clement, Assistant Criminal

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<sup>84</sup> Arar Commission transcripts, June 17, 2005; *Factual Background, Vol. I*, page 65.

<sup>85</sup> *El Maati Chronology*, page 13. Mr. El Maati holds Egyptian citizenship through his father. His mother is Syrian/Canadian. See *El Maati biography*.

<sup>86</sup> Memo to OIC Project AO Canada from RCMP Rome Liaison Officer Covey re: Contact with Embassy in Syria, Arar Commission Exhibit P-171.

<sup>87</sup> *Almalki Chronology*, page 7.

<sup>88</sup> *Factual Background, Vol. I*, page 104.

Operations (CROPS) Officer for “A” Division, testified that A-O Canada’s goal was to gather information for its investigation, and that torture was not an issue — they were more concerned that any statement be admissible in court.<sup>89</sup>

## January 22, 2002

The RCMP executed seven search warrants, raiding the homes of Ahmed Said Khadr, Abdullah Almalki (he was living with his parents), Mr. Almalki’s second youngest brother, and Badr and Ahmad El Maati.<sup>90</sup>

On March 17, 2007, the *Globe and Mail* published a report saying that the home of Mr. Elzahabi’s brother was also searched.<sup>91</sup>

The RCMP requested a sealing order on the warrants, in part because “...information and material was obtained by the RCMP in confidence from CSIS and from several institutions of foreign states, such as the FBI...”<sup>92</sup> **It is not publicly known if the information referred to here includes information obtained either directly from Syria or through American authorities from Syria and/or is related to the interrogation and torture of Mr. El Maati, or the statement he signed.**

Justice O’Connor finds that the RCMP hoped to interview Mr. Arar “and use him later as a witness against Mr. Almalki and Mr. El Maati.”<sup>93</sup>

The RCMP also went to the homes of Mr. Almalki’s three brothers in Ottawa and London, Ontario. Mr. Almalki’s eldest brother was escorted from his residence for questioning at 7:30 a.m. He asked if he needed a lawyer and the officer told him he did not.

The RCMP went to the London, Ontario apartment of Mr. Almalki’s youngest brother, Youssef Almalki. They insisted he go with them to answer questions about his brother, Abdullah, and his family history. Youssef Almalki stalled them until he could have a lawyer present. The RCMP questioned Youssef Almalki about his medical studies, and whether he received gifts

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<sup>89</sup> *Ibid.*, Vol. I, page 105.

<sup>90</sup> *Federal court ruling, December 22, 2006, Docket: DES-1-04.*

<sup>91</sup> “Torture, radios and why the U.S. just won’t let go,” Colin Freeze, *Globe and Mail*, March 17, 2007, page A8.

<sup>92</sup> *Information to Obtain search warrants executed January 22, 2002, Appendix “D,” page 97.*

<sup>93</sup> *Ibid.*, page 72.



from his brother. The RCMP said they were questioning him because they suspected that his brother had sold computer equipment to companies in Pakistan, which had in turn sold it to others, and that the equipment eventually made it into the hands of terrorists. Youssef Almalki's lawyer pointed out the absurdity of the accusation, and the RCMP officers just shrugged. When asked, the officers said they had no evidence that Abdullah Almalki had knowingly done what they had said.<sup>94</sup> The officers also questioned Youssef Almalki about Mr. Arar. Justice O'Connor finds that:

*In the interview notes, Youssef Almalki states that he was "not sure" if his brother had a business relationship with Mr. Arar. However, a "statement synopsis" of the interview indicates that Youssef Almalki said Mr. Arar had a business relationship with his brother, but that Youssef did not know the details.<sup>95</sup>*

These interview notes were later shared with the FBI.<sup>96</sup>

Mr. Almalki's third brother asked to have a lawyer present and the RCMP decided not to question him.

The RCMP also told Mr. Almalki's extended family they had evidence that Mr. Almalki had meant for equipment to end up in the hands of terrorists. RCMP Captain Erika Sheridan and another woman who would not identify herself told Mr. Almalki's cousin that they had confirmed that Mr. Almalki was al-Qaeda, and asked if the cousin thought Mr. Almalki would go to Syria.

They also searched the home where Mr. Almalki lived with his parents. His parents were in Syria at the time and his brothers later found the home ransacked. The RCMP had seized numerous items, including photos, video and audio tapes, address books, CAA maps, expired passports, tax documents, computers, computer games, CD's, floppy disks, business correspondence, business cards, bills, high school notebooks, Syrian Military Service deferral documents and filing cabinets. Mr. Almalki learned about the searches from his family in Canada.<sup>97</sup>

Officers searched the home that Mr. El Maati shared with his father, copied information from their computer, and seized his

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<sup>94</sup> *Almalki Chronology, pages 7-9.*

<sup>95</sup> *Factual Background, Vol. I, page 74. This information was later shared with the FBI.*

<sup>96</sup> *Factual Background, Vol. II, page 562.*

<sup>97</sup> *Almalki Chronology, pages 7-9.*

trucking travel log books and other personal information and records including a will he had prepared before going to Mecca in 1999.<sup>98</sup>

## January 25, 2002

Justice O'Connor writes:

*Inspector Clement's notes for January 25, 2002 refer to an interesting conversation between Inspector Cabana and the Americans, in which they discussed Mr. El Maati's potential interview.*

*Asked what Project A-O Canada's position would be if Mr. El Maati claimed to have been tortured, Inspector Clement responded that any allegations would be reported to the Canadian ambassador to Syria. The Ambassador would then meet with Mr. El Maati to determine his general demeanour and whether he had any injuries, and to try and obtain a statement.*

*According to Inspector Clement, DFAIT was responsible for addressing any issue of torture. Inspector Clement said there was no evidence that Mr. El Maati had been tortured. Nor did he think it appropriate to cast aspersions on a country without having any facts indicating torture, even if the country was known to have a poor human rights record.<sup>99</sup>*

Mr. El Maati believes that it was sometime after midnight on January 25 that he was removed from his cell at the Palestine Branch, hooded and handcuffed, and taken by car to a waiting airplane. He and his escorts, of which he estimated there were at least ten, seemed to be the only passengers on the flight.

He was taken to what he would later learn was the main intelligence headquarters (Mukhabarat Al Ama) in Cairo. His hood was removed so he could be photographed, and then the hood was put back on. Someone came in the room and checked his pulse and blood pressure. He was given a blue prison uniform.

Still hooded, he was taken to an interrogation room. Mr. El Maati told his interrogators that the information he had provided to the Syrians was false. He was beaten and insulted and told that his sister, who was living in Egypt at the time, was in the next room and would be raped. Under torture, Mr. El Maati says he repeated the false confession he had given in Syria. His

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<sup>98</sup> *El Maati Chronology, pages 13-14. Every couple of months after this, officers Scott Mills and Drew Kyle went to Badr' El Maati's home to ask him to sign renewal orders that allowed them to continue to hold those items. Ibid.*

<sup>99</sup> *Factual Background, Vol. I, page 105.*

interrogators said they had a lie detector. They seemed to believe that the confession was false.

He was taken to a cell where the prison guards removed the hood, but left his hands cuffed behind his back. He was later questioned again. Mr. El Maati told his interrogator about his false confession, as well as the map and the letter he had from his employer. The man asked a guard to get the letter from his luggage. He read the letter, said he would verify the story, and threatened more torture if he learned Mr. El Maati was lying.

The Arar Report says that DFAIT officials were not informed about Mr. El Maati's removal to Egypt.<sup>100</sup> **It is not publicly known whether DFAIT's intelligence officials, or other Canadian agencies, were aware that Mr. El Maati would be transferred to Egypt, or when they found out he was.**

## February 2002

Mr. El Maati was kept at the Mukhabarat Al Ama location for four and a half months, until mid-June. During that time, one of the guards told Mr. El Maati that information had come from Canada. The interrogations continued intermittently. He was questioned about whether he had known any Egyptians during his time in Afghanistan, and about his brother, Amr. Mr. El Maati was not questioned about Mr. Arar, Mr. Almalki or other Canadians while he was in Egypt.<sup>101</sup>

The Arar Report says that following the January 22, 2002 searches, the RCMP's dealings with American agencies became "more frequent" and "less formal."<sup>102</sup> There were four meetings between the RCMP and American agencies in February, at which the fruits of the searches were discussed and/or shared.<sup>103</sup>

## February 5, 2002

Inspector Cabana and Staff Sergeants Callaghan and Corcoran met with American agents and discussed information sharing and "other topics related to the investigation, including Mr. El Maati."<sup>104</sup>

## February 11, 2002

Inspector Clement learned that Mr. El Maati had been transferred to Egypt. In the months that followed, the RCMP

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<sup>100</sup> *Factual Background, Vol. I, page 65.*

<sup>101</sup> *El Maati Chronology, page 16.*

<sup>102</sup> *Factual Background, Vol. I, page 85.*

<sup>103</sup> *Ibid.*

<sup>104</sup> *Ibid.*

had numerous discussions about attempts to interview him in Egypt.<sup>105</sup>

### February 19-21, 2002

Informal sharing of information between Canadian and U.S. officials began by February 6. By February 21, American officials had a portion of the paper documents seized in the searches, as well as copies of the seized hard drives, and a summary of the ITO used for the searches.<sup>106</sup> On February 19, 20 and 21, the FBI visited Project A-O Canada's offices and, while Justice O'Connor says it is unclear whether documents were exchanged at the time, he says that "at a minimum, the FBI spent three days engaged in a rigorous review of Project A-O Canada information, including material from the January 22 searches and other material contained in the files."<sup>107</sup> Justice O'Connor notes that any information provided to the FBI would have been shared with the CIA, as per a Presidential Direction issued after 9/11.

### Late February 2002

Mr. El Maati remembers that in late February or early March the nature of the questions he was being asked by his Egyptian interrogators changed. **It is not publicly known whether this is a direct result of information obtained in the January 22, 2002 searches, and whether new information was provided to Egyptian authorities either directly from Canadian agencies, or through American agencies.**

Mr. El Maati was blindfolded and taken into an interrogation room with a video screen. His blindfold was removed, and he was shown a tiny portion of the map he had been questioned about in the U.S., Canada and Syria. His interrogators yelled at him when he did not recognize it. He recognized the map when they eventually showed it to him on paper. He was later questioned about a remote control he had bought for his television in 2001 in Toronto.

Mr. El Maati was accused of having tried to destroy the passport he had obtained from the Canadian Embassy in Pakistan. He explained he had accidentally washed it, which is why he had applied for a new passport in Toronto in 1999. He was beaten and kicked in the stomach and the Egyptians had him sign a statement saying that he had deliberately destroyed the passport. This was the first time he was beaten since the

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<sup>105</sup> *Ibid.*, Vol. I, page 105.

<sup>106</sup> *Ibid.*, Vol. I, page 88.

<sup>107</sup> *Ibid.*, Vol. I, page 89.

first day there, and the first time in Egypt that he was forced to sign a false statement.<sup>108</sup>

## March/April 2002

In late March or early April:

*Project A-O Canada prepared CDs containing the entire Supertext database and provided them to the American agencies. The database contained all documents pertaining to the Project A-O Canada investigation, including the documents seized during the January 22, 2002 searches and a considerable amount of information about Mr. Arar.*<sup>109</sup>

Justice O'Connor finds that much of the information contained about Mr. Arar was erroneous, including that Mr. Arar had travelled to Montreal to meet Mr. Almalki. The information included "an analysis of names found on Mr. Arar's personal digital assistant (PDA)...in which the analyst speculated that some of the people whose names were found on the PDA might have links to extremist activity."<sup>110</sup> **It is not publicly known whether the database contained other erroneous information or characterizations referring to other Canadian citizens such as Mr. El Maati or Mr. Almalki.**

## April 2002

Starting in April, 2002, Project A-O Canada gave a number of presentations to a number of agencies, including American agencies, addressing Project A-O Canada's mandate, the ongoing investigation and the team structure, as well as more recent developments, such as the search results and Mr. Almalki's departure from Canada. Justice O'Connor writes that "under the heading, 'Present Situation,' the presentations invariably devoted significant attention to certain individuals, including Abdullah Almalki and Ahmad El Maati."<sup>111</sup>

Mr. Almalki learned his grandmother in Syria was ill. His parents were in Syria with her, and more family planned to travel there. Mr. Almalki had not been there since he left as a teenager.<sup>112</sup> His parents checked with Syrian authorities to ensure they were aware that their son had legally deferred his military service, so

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<sup>108</sup> *El Maati Chronology, pages 16-17.*

<sup>109</sup> *Factual Background, Vol. I, pages 91, 100.*

<sup>110</sup> *Ibid., Vol. II, page 562.*

<sup>111</sup> *Ibid., Vol. I, pages 100-101.*

<sup>112</sup> *Mr. Almalki moved to Canada in 1987, when he was sixteen years old, with his parents and three brothers. He became a Canadian citizen in 1991. See Mr. Almalki's biography.*

that Mr. Almalki could join them in Syria.<sup>113</sup> **It is not publicly known if Canadian officials were monitoring the Almalki family's communications, or otherwise knew of Mr. Almalki's plans to travel to Syria.**

**April 4, 2002**

According to a chronology prepared by DFAIT, the Syrian Ministry of Foreign Affairs confirmed Mr. El Maati had left Syria for Egypt.<sup>114</sup>

**April 18, 2002**

Project A-O Canada met with the FBI and requested information about Mr. Arar's activities while he was in the U.S., including the possibility that he communicated with Mr. Almalki.<sup>115</sup>

**May 2002**

Abdurahman Khadr says he was detained in Kabul, Afghanistan, in April or May 2002, that he began working for the CIA, and was questioned by various intelligence agencies. He says that four RCMP officers came to question him on video, in the presence of U.S. officials. The RCMP asked him about other Canadian citizens, including Mahmoud Jaballah, Mohammad Mahjoub, Ahmad and Amr El Maati and Mr. Arar.<sup>116</sup>

**May 3, 2002**

Mr. Almalki was detained when he arrived at the Damascus airport at about 4:00 p.m. His parents had arranged to welcome him in the VIP lounge. After greeting his mother, he was asked to follow a Syrian officer. He went into an office with three officers. They pulled out a report, and Mr. Almalki heard the man in charge explaining to the others that this was a recent report they had received on April 22, 2002 from an embassy. **It is not publicly known whether a report had been provided to Syrian officials by Canadian officials through the embassy or other means. Nor is it publicly known whether Syrian officials detained Mr. Almalki as a result of information or a request from Canadian officials.**

Mr. Almalki learned that he would be transferred to the *Far Falestin* (Palestine Branch) of Syrian Military Intelligence. There he was blindfolded and asked what he had been doing and planning on doing in Canada, and why so many countries were interested in him.

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<sup>113</sup> *Almalki Chronology, pages 7-9.*

<sup>114</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>115</sup> *Factual Background, Vol. II, page 562.*

<sup>116</sup> *The Khadr Effect, "Colin Freeze, the Globe and Mail, October 3, 2005, page A10.*

They asked about the Muslim Canadian friend he had been questioned about by CSIS, Ahmad Abou El Maati, and someone named Mamdah or Wadah. Mr. Almalki told them that he knew his Muslim Canadian friend, but did not recognize Mr. El Maati's name. An interrogator slapped him on the face, and as he described to Dr. Toope, he felt "transferred...to another world."<sup>117</sup>

Dr. Toope describes what Mr. Almalki testified to him happened over the next seven and eight hours:

*...he was asked to strip to his underwear and to lie on his stomach on the floor. The "whole point [was] to have my legs at 90 degrees". They started "hammering my soles. Basically it felt like lava just being poured over". In later session when he was not blindfolded, Mr. Almalki saw that the interrogators used a black cable that "looks something like a, the alternator belt in the car". He also saw black hoses "but they didn't use them too much because they said this is not as painful as the cables". Mr. Almalki specified that there were different styles of the cables used at different times, of "different thicknesses, different length, different ways of putting it together and taping it and twisting it on itself". After enduring beatings on his soles for some time, Mr. Almalki felt he could bear no more, and he flipped over. The five or six interrogators were angry, so they began kicking Mr. Almalki, and beating him all over with the cable. They stood on his back to restrain him. After more lashes on Mr. Almalki's soles, the interrogators used the cooling method (cold water and running in place) described previously. The interrogation only stopped when Mr. Almalki lost consciousness, and woke up with a doctor checking his blood pressure.<sup>118</sup>*

Mr. Almalki says they questioned him while they beat him, asking if he sold equipment to al-Qaeda or the Taliban or others, and if he had ever met, communicated with or dealt with Osama Bin Laden or al-Qaeda. They asked what computer equipment he had sold to them. Mr. Almalki denied ever dealing with al-Qaeda or selling them anything, and told them he does not sell computers. Finally, under torture, Mr. Almalki says he told them what they wanted to hear — that he knew Bin Laden.

A few minutes later they accused him of lying, started the beating again, and threatened to torture him with the tire, and then the chair, electric shocks and nail pulling. They continued

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<sup>117</sup> Toope Report, page 8.

<sup>118</sup> *Ibid.*, pages 8-9.

questioning him all night about his family, his brothers, and why he had not been in Syria for so long. They repeatedly threatened to bring in his parents to be interrogated.<sup>119</sup>

## May 4, 2002

Around dawn, Mr. Almalki's interrogators took the rubber blindfold off his eyes, and he saw he had blood all over his legs. They told him to strip, and he stood naked as they searched his things, then let him dress and took him to his cell. His interrogators later told him that he had been beaten for seven hours and had received over 1000 lashes with the cable on his first day there.

He was taken to a dark and small cell, measuring roughly six feet long, three feet wide and just over six and a half feet tall, in the same row of cells that Mr. El Maati had been kept in, and which Mr. Arar would later be kept in. He described to Dr. Toope how at first, this cell was a "refuge" from the torture.<sup>120</sup>

In the early morning, he was taken upstairs again for eighteen hours of interrogation. He was again threatened with the tire, chair and electric shock. As Dr. Toope reports, "the focus was on intense questioning, not intense physical pressure."<sup>121</sup> He was questioned about everything again, and for the first time, about his relationship with Ahmad Said Khadr, whom they claimed was his link to al-Qaeda.<sup>122</sup>

## May 5, 2002

Mr. Almalki reported in his chronology, and to Dr. Toope, that on the third day of his detention, he was taken from his cell to an interrogation room, blindfolded, and told to strip down to his underwear. He "was forced into a car tire, his neck shoved against an inner rim, his back bent double and his knees against the other side of the inner rim" and "beaten severely, especially on his head, his soles and his genitals." Dr. Toope says "the motivation was clear," quoting Mr. Almalki describing how they beat him until he gave them the answers they wanted.<sup>123</sup>

Mr. Almalki says he was again questioned about Ahmad Said Khadr, and all the Muslims he knew in Canada. The interrogators told him that he was wanted in Canada, and that authorities everywhere were searching for him. They asked again about his Muslim Canadian friend, saying they knew this

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<sup>119</sup> *Almalki Chronology, pages 9-13.*

<sup>120</sup> *Toope Report, page 9.*

<sup>121</sup> *Ibid.*

<sup>122</sup> *Almalki Chronology, pages 13-14.*

<sup>123</sup> *Toope Report, page 9.*



man was plotting another 9/11. The interrogators asked for Mr. Almalki's email addresses and the passwords for his and his wife's email. The interrogator eventually ordered the guards to take Mr. Almalki to his cell.<sup>124</sup>

## May-June 2002

For the next few days Mr. Almalki says he was taken for questioning every morning, and taken back to his cell at night. He was informed his interrogation would last for a month or two. Mr. Almalki asked to be sent to Canada was told that Canadians wanted him but he was Syrian and they did not hand Syrians over to other countries.

The interrogations got shorter, starting at four or five in the evening and ending at eleven or midnight. This continued for about a month. Mr. Almalki became familiar with his interrogators, learning that they were from the terrorism division of the Palestine branch of the Syrian Military Intelligence.<sup>125</sup>

## May 22, 2002

Corporal Robert Lemay sent a letter to the FBI requesting information about Mr. Arar and others. **It is not publicly known if Mr. El Maati or Mr. Almalki were mentioned.**<sup>126</sup>

## May 27, 2002

According to a chronology of events prepared by DFAIT, Canadian officials met with Egyptian officials about Mr. El Maati's case.<sup>127</sup> **It is not publicly known whether information was exchanged at this time.**

## May 31, 2002

Justice O'Connor finds that Project O Canada only learned that Mr. Almalki was in Syria on May 31, 2002, but that DFAIT's intelligence division already knew. **It is not publicly known how DFAIT's intelligence knew, or whether others in the RCMP or CSIS were aware of Mr. Almalki's detention sooner.**<sup>128</sup>

Inspector Cabana and Staff Sergeants Callaghan and Corcoran of Project A-O Canada gave a presentation to representatives of the FBI and other American agencies including the Department of Justice, at FBI headquarters in Washington, D.C. Both the

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<sup>124</sup> *Almalki Chronology, pages 14-15.*

<sup>125</sup> *Ibid., pages 15-17.*

<sup>126</sup> *Factual Background, Vol. II, page 562.*

<sup>127</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>128</sup> *Factual Background, Vol. I, pages 107-108.*

FBI and Project A-O Canada hoped the presentation would help convince American prosecutors to initiate a criminal investigation into Mr. Almalki and people he knew in the United States.

The presentation named a number of people, including Ahmad and Amr El Maati, Mr. Almalki and his second youngest brother, and Mr. Arar. Justice O'Connor finds that the presentation contained many inaccurate facts about Mr. Arar, but **it is not publicly known whether inaccurate facts were relayed about Mr. El Maati, Mr. Almalki or other Canadians.**<sup>130</sup> The presentation indicated that Canadian authorities wished to conduct an investigative hearing (under Bill C-36) with Mr. Almalki's second youngest brother, Mr. Arar and two other individuals.<sup>131</sup>

### June 3, 2002

The RCMP asked that American authorities be advised of Mr. Almalki's detention in Syria, and Project A-O Canada indicated it wanted to interview him.<sup>132</sup> **It is not publicly known whether American agencies were already aware of Mr. Almalki's detention.** At this time, CSIS asked the RCMP to lay charges against Mr. Almalki. However, as with Mr. El Maati, the RCMP did not have sufficient evidence to lay charges.<sup>133</sup> The RCMP appears to have been under the impression that CSIS was in a position to secure Mr. Almalki's release, an allegation denied by a CSIS witness at the Arar Inquiry.<sup>134</sup> **It is not publicly known why the RCMP was under this impression.**

### June 10, 2002

Mr. El Maati estimates that around June 10, he was transferred to the *Markaz Amen El Dawla* (State Security Intelligence Headquarters) in Nasr City. He describes the torture he experienced here as the worst of his entire detention.

He was placed in a cell, about three to four feet wide and about ten feet long, with a Turkish toilet and a bench. The toilet water ran constantly, which Mr. El Maati says drove him crazy. To drink water, he had to push on a tap on the wall with his leg, and suck from it, he says, like an animal. The torture rooms

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<sup>129</sup> *Ibid.*, Vol. I, pages 101-102.

<sup>130</sup> *Analysis and Recommendations*, page 126.

<sup>131</sup> *Factual Background*, Vol. II, page 563. The presentation was later updated and shared with the FBI on July 22, 2002. See, *ibid.*, Vol. I, page 103.

<sup>132</sup> *Ibid.*, Vol. I, page 108. Citing Staff Sergeant Corcoran's notes of 3 June 2002.

<sup>133</sup> *Ibid.*, Vol. I, page 108.

<sup>134</sup> *Ibid.*

were close by and he could hear other prisoners being tortured with electric shock and screaming.

He was kept handcuffed with his hands behind his back the entire time, except for about ten minutes a day when the cuffs would be switched to the front so he could eat and use the toilet. He says the cuffs were tight and made his wrists bleed, and his shoulder felt as if it were coming away from his body. He pleaded for the cuffs to be removed but was ignored. He was also tightly blindfolded the entire time, which hurt his eyes and caused a rash on his face. Mr. El Maati says he was in extreme pain and could not help but scream and cry out in agony. The intense pain prevented him from sleeping, though he says he would occasionally pass out.

The guards would sometimes throw his food into the room on the floor of his cell, and cockroaches and rats that would eat the food with him.

He says his Egyptian interrogators seemed more skilled than his Syrian interrogators had been. His interrogation and torture sessions sometimes lasted for more than ten continuous hours. Although blindfolded, he could feel that his interrogators had a metal stick with an electrical current in it, which they used on his handcuffs, hands, shoulders, legs, stomach and genitals.<sup>135</sup>

## June 12-16, 2002

Mr. Almalki was taken upstairs, blindfolded and put in a room. A man was there who he would later learn was George Saloum, head of the investigation team.<sup>136</sup> Mr. Saloum asked Mr. Almalki very specific questions about around twenty people in Canada, some of whom he knew, including Mr. Arar and Helmi Al Shareef. He was also asked to provide detailed information on

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<sup>135</sup> *El Maati Chronology, pages 17-19. Dr. Toope's report does not discuss Mr. El Maati's experience in Egypt, as this would have been beyond his mandate, which was to examine Mr. Arar's experience in Syria. Mr. El Maati's reports of torture in Egypt, however, are consistent with reports by human rights organizations such as Amnesty International and Human Rights Watch, as well as reports by the U.S. State Department, which said in its 2002, 2003 and 2004 reports on Egypt that "principal methods of torture reportedly employed by the police included: Being stripped and blindfolded; suspended from a ceiling or doorframe with feet just touching the floor; beaten with fists, whips, metal rods, or other objects; subjected to electrical shocks; and doused with cold water. Victims frequently reported being subjected to threats and forced to sign blank papers to be used against the victim or the victim's family in the future should the victim complain of abuse. Some victims, including male and female detainees, reported that they were sexually assaulted or threatened with the rape of themselves or family members. See <http://www.state.gov/g/drl/rls/hrrpt/>.*

<sup>136</sup> *Mr. Almalki would later learn that Saloum was one of Arar's interrogators as well.*

his sales — on every step from when he was asked for a price quote to when equipment was delivered. Mr. Almalki had to describe this process several times over the next eight months. The interrogators also asked about trade names he had used, including names he had registered in Ontario and which he had unsuccessfully tried to register with Industry Canada. His interrogators eventually showed him the first lines of a report which claimed he was an active member of al-Qaeda.<sup>137</sup> **It is not publicly known whether this report had come, directly or indirectly, from Canadian agencies.**

## June 21, 2002

Corporal Rick Flewelling, the officer at the RCMP's Criminal Intelligence Directorate (CID) assigned to monitor Project A-O Canada, wrote in his personal notes about someone who may likely be Mr. Almalki, as there is no other information to suggest that there was any other Canadian citizen of interest to them in Syrian custody at this time. His notes say that the "assessment has been completed and that it is time to proceed with the next step in the process." The question, says the notes, is one of intelligence versus criminal. "Do we want him back? Do we have enough to charge? How is Syria going to play? We may have to take and be satisfied with the prevention side of the mandate and hope that additional information can be gleaned with respect to: his plan, other plans we are not aware of, other individuals or groups, etc."<sup>138</sup>

**It is not publicly known whether Corporal Flewelling was apprised of the status of Mr. Almalki's interrogations.**

## June 26, 2002

Chief Superintendent Antoine Couture, Officer in Charge of "A" Division's CROPS unit, wrote on behalf of Project A-O Canada to the U.S. Embassy to highlight several outstanding requests from the RCMP for information from U.S. authorities.<sup>139</sup>

## July 2002

Mr. El Maati thinks that it was in July that he was moved to the Lazogley State Security Branch for Cairo.<sup>140</sup> They did not take him to a cell, but put him in a hallway with other prisoners. He was still blindfolded, and his hands were now handcuffed in front. He was kept in the hallway for about two weeks, sitting on the floor packed next to other prisoners. There were

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<sup>137</sup> *Almalki Chronology, pages 17-18.*

<sup>138</sup> *Arar Commission transcripts, August 23, 2005, pages 9983-8; Exhibit P-211, pages 21 to 23.*

<sup>139</sup> *Factual Background, Vol. II, page 563.*

<sup>140</sup> *It appears that Mr. El Maati was held during this period at the headquarters of the State Security Intelligence at Lazoghly Square.*

interrogation rooms off the hallway, and he could hear other people being tortured and screaming.

It was very difficult to sleep because detainees were not able to lie down. If anyone started to lean to the side, they would be beaten. He developed anal inflammation and bleeding and remembers other prisoners saying they had the same problem.

Mr. El Maati was only interrogated once or twice at this location, and told them he had nothing new to say.

Later he was taken to a bigger cell crammed with people. The cell was about fifteen by twenty feet with a smaller room inside with a toilet and a tap to drink from and wash with. This was the first time since his arrest in Syria eight months earlier that he could freely speak with other people.<sup>141</sup>

**July 2, 2002**

DFAIT received a diplomatic note from the Syrian Ministry of Foreign Affairs about Mr. El Maati, saying that he “had declared that he would leave Syria for Egypt.”<sup>142</sup>

**July 4, 2002**

Ambassador Pillarella facilitated a meeting between General Hassan Khalil, the head of the Syrian Military Intelligence, and Mr. Covey.<sup>143</sup> **It is not publicly known whether at this time, information was exchanged about Mr. Almalki or Mr. El Maati.**

Sometime around July 2002, Staff Sergeant Fiorido appears to have replaced Mr. Covey. He was accredited to ten countries, including Syria and Egypt. Justice O’Connor writes:

*...he did not recall ever receiving a copy of DFAIT’s annual report on Syria or on any of the nine other countries over which he had jurisdiction, except possibly Italy. He was not given any training on human rights conditions in Syria, and his personal understanding from open sources was that “Syria was one of those countries in which the abuse of human rights was or may be a concern.”<sup>144</sup>*

**It is not publicly known whether Staff Sergeant Fiorido received any human rights training or information with respect to Egypt.** Staff Sergeant Fiorido “dealt exclusively with

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<sup>141</sup> *El Maati Chronology, pages 19-20.*

<sup>142</sup> “Chronology of events” contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>143</sup> *Factual Background, Vol. I, page 106.*

<sup>144</sup> *Ibid., Vol. I, page 336.*

Ambassador Pillarella and no one at DFAIT.”<sup>145</sup> **It is not publicly known whom Staff Sergeant Fiorido dealt with in Egypt.**

**July 7, 2002**

Mr. Almalki received a visit from a relative in Syria. The prison manager monitored the visit.<sup>147</sup>

**July 8, 2002**

Two senior interrogators from the terrorism division questioned Mr. Almalki. They had a print out of his interrogation report, with comments and questions written on it. One of the questions was whether his Muslim Canadian friend had taken terrorism training.<sup>148</sup> **It is not publicly known whether this interrogation report was shared with Canadian officials.**

**July 10, 2002**

According to Justice O’Connor “Project A-O Canada officials discussed among themselves the possibility of sharing information with the Syrians in order to gain access to Mr. Almalki.”<sup>149</sup>

**July 16, 2002**

Mr. Covey met with Project A-O Canada officers and justice department officials. **It is not publicly known whether Mr. Covey had information with him that he received from Syrian authorities, or specifically from his meeting with General Khalil.** Mr. Covey briefed them on “his efforts to broker a deal,” saying that “in his view (name redacted) will never be returning to Canada.” They “subsequently discussed protocol for sharing of project info with Syrians to reciprocate.”<sup>150</sup> The Arar Report confirms that this discussion was in reference to Mr. Almalki and it was decided that “any relationship between Project A-O Canada and Syrian intelligence would have to be coordinated through the RCMP Liaison Officer in Rome.”<sup>151</sup>

Inspector Cabana later briefed Chief Superintendent Couture and Superintendent Wayne Watson, Assistant CROPS Officer, about the meeting with Mr. Covey and the “decision to share project info with the Syrian authorities.” Superintendent Watson said “he agreed it would be appropriate to share with the

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<sup>145</sup> *Ibid.*

<sup>146</sup> *Almalki Chronology, page 19.*

<sup>147</sup> *Almalki Chronology, page 19.*

<sup>148</sup> *Almalki Chronology, page 19.*

<sup>149</sup> *Factual Background, Vol. I, page 108.*

<sup>150</sup> *Arar Commission transcripts, June 29, 2005, pages 7868-7869; Exhibit P-166, page 40 of 68.*

<sup>151</sup> *Factual Background, Vol. I, page 108.*

Syrians as it might assist (redacted) should the exchange of info continue.”<sup>152</sup>

**It is not publicly known if Canadian officials sent information, either directly or indirectly, to Syrian officials at this time.**<sup>153</sup>

**July 17-21, 2002**

Mr. Almalki says everything changed in mid-July — his interrogators had a new report, and accused him of having lied to them. Dr. Toope describes in detail Mr. Almalki’s testimony to him about this period of torture and interrogation. He describes how Mr. Almalki was beaten with a cable all over his body and on the soles of his feet. Mr. Almalki’s interrogators told him they had been instructed to beat him until he had to be hospitalized. Then, says Dr. Toope:

*...Mr. Almalki was brought back to a different, high-ceilinged, interrogation room. More brutal questioning began. He was partially stripped and slapped. The room had a border at the bottom of the wall, a cement projection about 10 cm wide, which was probably part of the building’s foundation. At the top of the wall there was a metal window with bars. Mr. Almalki was forced to face outward with his back against the wall, his hands above his head holding the bars on the window while standing on the cement projection at the bottom of the wall. He then had to let his feet slide from the ledge and hang, the window sill cutting into his wrists. When he slid down or fell, he would be beaten and told to suspend himself again. His hands and wrists were bleeding and the pain was intense. He was finally tied in this same manner to the bars, using strips of cloth, with his hands behind his head. The slapping continued, and Mr. Almalki was also hit with a belt and a black cable. Mr. Almalki cannot remember how long he was kept in this position, as the pain blocked out his mental faculties. Finally, he was let down, but beatings continued all night. After this experience, Mr. Almalki gave in to the interrogators completely...<sup>154</sup>*

Mr. Almalki says they asked him about funding Bin Laden and terrorist training in Afghanistan. They said that someone named Abou Ahmad had trained him. He remembers that later he was sitting on the floor and realized he could not move or feel his hands.

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<sup>152</sup> Arar Commission transcripts, June 29, 2005, pages 7869-70; Exhibit P-166, page 41 of 68.

<sup>153</sup> Witnesses were not permitted to answer these questions at the Arar Inquiry because of government NSC claims. See Arar Commission transcripts for August 9, 2005.

<sup>154</sup> Toope Report, pages 10-11.

The interrogators told him that they had planned to release him until they had received a new report. The beatings, insults and threats continued until July 21<sup>st</sup>. Then he was taken up every second or third day for interrogation. The tone continued to be very intense, with threats of more torture and the threat that they would bring in his parents.

During this time Mr. Almalki says he saw the report they had received. Mr. Almalki could see that it claimed that a search of his parents' home had turned up weapons and proof that he was an aid to Bin Laden and a high-ranking member of al-Qaeda.<sup>155</sup> **It is not publicly known whether the report Mr. Almalki says he saw came, directly or indirectly, from Canadian officials.**

**July 18, 2002**

A briefing note from Superintendent Wayne Pilgrim, the Officer in Charge of the National Security Investigations Branch (NSIB) at RCMP Headquarters, to RCMP Commissioner, Guiliano Zaccardelli, said there were indications that Mr. El Maati had been exposed to "extreme treatment" in Egyptian detention. The RCMP continued to believe that torture was an issue for DFAIT to deal with.<sup>156</sup> **It is not publicly known how or when Canadian authorities learned this information. It is also not publicly known why the RCMP felt it should not be concerned about reports that a Canadian citizen might have experienced "extreme treatment", a possible euphemism for torture, a criminal offence under Canadian law. At the time, DFAIT consular officials had not yet confirmed that Mr. El Maati was being detained in Egypt.**

**July 22, 2002**

An updated version of the May 31, 2002 presentation was shared with American authorities.<sup>157</sup> **It is not publicly known whether information shared with the U.S. included information obtained from Syrian or Egyptian authorities.**

**July 29, 2002**

DFAIT's Foreign Intelligence Division (ISI) met with Inspector Cabana and initiated a discussion on sharing questions for Mr. Almalki with the Syrians. Justice O'Connor finds there are conflicting perspectives on the meeting. Inspector Cabana thought everyone was in agreement that sharing questions was

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<sup>155</sup> *Almalki Chronology, pages 20-22.*

<sup>156</sup> *Factual Background, Vol. I, page 106.*

<sup>157</sup> *Ibid., Vol. I, pages 103.*



the thing to do, while James Gould of DFAIT's ISI says there was no agreement on this.<sup>158</sup>

## July 31, 2002

Mr. El Maati was transferred to Tora prison, just south of Cairo. There was no interrogation at this prison. He later learned the Ministry of the Interior had taken over his case from the intelligence.

He met a Canadian political prisoner at Tora who said he was serving a three-year sentence. Mr. El Maati gave him his name, passport details and his father's phone number so that he could follow up with the Canadian Embassy if he was released. He told Mr. El Maati he received regular visits from Canadian embassy officials.

Not long after this Badr El Maati received a phone call from this prisoner's family in the U.S., telling him Mr. El Maati was in prison in Egypt. Badr El Maati believes it was after this that Canadian consular officials told him they had confirmed his son was in Egypt, but that they did not know where he was being held.<sup>159</sup>

## August 2002

Members of Mr. Almalki's family in Canada met with Senator Terry Stratton to discuss Mr. Almalki's case and ask for his help. Soon afterwards DFAIT sent a diplomatic note about Mr. Almalki to the Syrian Ministry of Foreign Affairs.<sup>160</sup> **It is not publicly known why DFAIT waited five months before sending a diplomatic note.**

## August 4, 2002

According to a chronology prepared by DFAIT, Egyptian state security authorities confirmed they were holding Mr. El Maati as "an extremist element."<sup>161</sup>

## August 12, 2002

Mr. El Maati received his first consular visit. The meeting took place in the State Security officer's office at the Tora prison. Mr. El Maati remembers that Canadian representatives included Stuart Bale, another person with a French name, and an interpreter named Mira Wassef. **It is not publicly known why a visit was not granted until August.**

Mr. El Maati says he spoke quickly so he would not be stopped, telling consular officials he had been tortured and forced to make a false confession in Syria. Mr. Bale asked what the

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<sup>158</sup> *Ibid.*, Vol. I, page 336.

<sup>159</sup> *El Maati Chronology*, page 20.

<sup>160</sup> *Ibid.*

<sup>161</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

substance of the confession was, and Mr. El Maati said he would not discuss the details with him. Mr. Bale suggested that Mr. El Maati speak with Canadian intelligence officials in Egypt. Mr. El Maati said he would only speak with Canadian officials in Canada.

Mr. El Maati says he did not feel able to speak freely about his torture in Egypt but told the Canadians that although he had been treated well there, he was having trouble with his asthma, and had not had fresh air or sunshine since he had been first detained. He told them to contact his family and tell them he was okay.

Mr. El Maati reports a disturbing trend in this and subsequent consular visits — in five out of the six visits he remembers having, Canadian consular officials pressed him to consent to be interviewed, in Egyptian detention, by Canadian security officials. Mr. El Maati reports sensing that this became a preoccupation of consular officers. In March 2003, Mr. El Maati reports being pressed to agree to these Canadian requests while being tortured with electric shock.<sup>162</sup> **It is not publicly known how these requests might have impacted on efforts to secure Mr. El Maati's release, for example, by sending mixed messages to Egyptian authorities.**

Consular officials later informed Badr El Maati that the Canadian Embassy had confirmed his son was being held at the Abou Zabel Jail in Cairo and they had had their first consular visit with him.<sup>163</sup>

## August 13, 2002

Project A-O Canada was informed that consular officials had visited Mr. El Maati. The account is consistent with Mr. El Maati's recollection of the visit:

*Mr. El Maati said he wanted to return to Canada, and that he had been beaten, subjected to electric shock, and forced to give false information while incarcerated in Syria. However, he did not give details of these admissions. Mr. El Maati also said he had been held in four different prisons in Egypt. He wanted his family advised; he wanted a lawyer; and he wanted to talk to CSIS officials in Toronto. The fax indicated that consular officers were looking into the possibility of arranging for*

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<sup>162</sup> See entries in *El Maati Chronology* for other consular visits on September 1, 2002; January 21, 2003; February 27, 2003; September 24, 2003; and in late 2003. See also entry for March, 2003.

<sup>163</sup> *El Maati Chronology*, pages 21-22.

*legal counsel through Mr. El Maati's mother or other relatives in Cairo.*<sup>164</sup>

That day, Chief Superintendent Couture approved a request to Egyptian authorities to gain access to Mr. El Maati for an interview.<sup>165</sup> Despite concerns raised by Mr. Gould about Mr. El Maati's report that he had been tortured in Syria, the RCMP continued to pursue information from the Syrians, and continued to try to access Mr. Almalki, believing the possibility of torture was not their concern.<sup>166</sup>

Notably, while the RCMP was informed of Mr. El Maati's allegation that he had been tortured, Minister Graham was not.<sup>167</sup>

## August 15, 2002

Project A-O Canada met with other agencies, including CSIS and DFAIT, to discuss media strategy. DFAIT was working to arrange a family visit to Mr. El Maati. Agencies were concerned that allegations of torture, combined with the RCMP's January 22, 2002 search of Mr. El Maati's home, "would lead to intense media scrutiny."<sup>168</sup> Those at the meeting agreed that minimal information would be made public because of the ongoing police investigation.<sup>169</sup>

DFAIT officials asked the RCMP whether they would lay charges against Mr. El Maati if he returned to Canada. The RCMP said they did not have enough evidence to do so.<sup>170</sup>

Project A-O Canada felt that if Mr. El Maati was released and returned to Canada, he would be a threat to national security, because of alleged threats he had made. Justice O'Connor says this was "despite the possibility that the threats had been obtained through torture."<sup>171</sup>

**It is not publicly known whether this reference to the "alleged threats" indicates that Canadian officials had obtained the fruits of Mr. El Maati's Syrian or Egyptian interrogations.**

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<sup>164</sup> *Factual Background, Vol. I, page 106.*

<sup>165</sup> *Ibid., Vol. I, page 107.*

<sup>166</sup> *Ibid., Vol. I, pages 106, 108.*

<sup>167</sup> *Analysis and Recommendations, page 353.*

<sup>168</sup> *Factual Background, Vol. I, pages 106-107.*

<sup>169</sup> *Arar Commission transcripts, June 29, 2005, pages 7916-7; Exhibit P-84, Tab 1, page 182*

<sup>170</sup> *Factual Background, Vol. I, page 107.*

<sup>171</sup> *Ibid., Vol. I, page 107.*

**August 15, 2002**

Project A-O Canada asked Staff Sergeant Fiorido to contact Egyptian authorities and request access to Mr. El Maati for an interview.<sup>172</sup>

**August 19, 2002**

Staff Sergeant Callaghan sent a fax to Staff Sergeant Fiorido about Mr. El Maati's report that he had been tortured in Syria.<sup>173</sup>

**August 20, 2002**

Corporal Flewelling's personal notes say the head of Project A-O Canada wanted to "invite the Syrians to review what Project A-O Canada has on (redacted) and provide them with a series of questions they want the Syrians to ask (redacted) on our behalf."<sup>174</sup> The Arar Report confirms that this note was in reference to Mr. Almalki, and that Project A-O Canada met on August 20 to consider inviting Syrian officials to Canada.<sup>175</sup>

**August 24-25, 2002**

On August 24, Mr. Almalki was beaten and interrogated again. He was questioned about Malaysia, and his wife and her family. The next day he was taken to another interrogation branch, where he was asked questions in English which were translated into Arabic by a Syrian interpreter. Their first questions were about his wife, her post-graduate studies, when he had been in Malaysia, where he had stayed and went and whom he knew there. They asked why Mr. Almalki and his family did not live in Malaysia.

Mr. Almalki was also asked about his company, and about the time he worked in Pakistan and Afghanistan. Mr. Almalki could see from under his blindfold that there were two reports on the table, one in English marked secret and the other in Malay.

After the meeting Mr. Almalki's usual interrogator told him that the Canadians had been asking to interrogate him directly. He said that headquarters had refused the Canadian request but that the decision was not yet final.<sup>176</sup>

**It is not publicly known whether the report Mr. Almalki saw originated with Canadian officials.**

**August 28, 2002**

Project A-O Canada prepared questions for Mr. El Maati in case they were able to interview him.<sup>177</sup> **It is not publicly known if**

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<sup>172</sup> *Ibid.*

<sup>173</sup> *Ibid.*, Vol. I, page 337.

<sup>174</sup> *Arar Commission transcripts, August 22, 2005, pages 9765-9769; Exhibit P-211, pages 29-30.*

<sup>175</sup> *Factual Background, Vol. I, page 108.*

<sup>176</sup> *Almalki Chronology, pages 22-24.*

<sup>177</sup> *Factual Background, Vol. I, page 107.*

**these questions were ever sent, directly or indirectly, to Egyptian officials.**

**September 1, 2002**

Mr. El Maati received his second consular visit at the Tora prison. His sister and brother-in-law attended along with Mr. Bale and Ms. Wassef. This was the first time Mr. El Maati had seen any of his family in ten months. Mr. Bale again asked if he would meet with a Canadian Intelligence officer, and Mr. El Maati repeated that he would, but only in Canada.<sup>178</sup>

**September 10, 2002**

Ambassador Pillarella met with representatives of DFAIT's intelligence division and the RCMP. Justice O'Connor writes that "the meeting dealt primarily with the type of assistance DFAIT could provide the RCMP, either for sending Mr. Almalki questions, or for arranging an interview."<sup>179</sup>

Inspector Cabana's notes about that meeting say that the RCMP briefed the ambassador on the "reason for their interest" in Mr. Almalki, and that "Mr. Pillarella agreed to facilitate any future request to Syrian authorities" and "suggested that the Syrian authorities would likely be expecting us to share with them." The notes say that the RCMP intended to "share (illegible) any of our project information relevant to whatever investigation Syria is conducting with them... packages have already been prepared to this end."<sup>180</sup>

Concerns about torture were raised by a junior DFAIT official, Jonathon Solomon, but were seemingly disregarded. He asked whether, if they were going to send questions for Mr. Almalki, they would ask the Syrians not to torture him.<sup>181</sup> Justice O'Connor quotes a memo written after the meeting by Mr. Solomon:

*The RCMP are ready to send their Syrian counterparts a request that Al Malki be asked questions provided by the RCMP, questions relating to other members of his organization. Both ISI and DMSCUS/HOM [Ambassador Pillarella] have pointed out to the RCMP that such questioning may involve torture. The RCMP are aware of this but have nonetheless decided to send their request.*<sup>182</sup>

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<sup>178</sup> *El Maati Chronology, page 22.*

<sup>179</sup> *Factual Background, Vol. I, page 109.*

<sup>180</sup> *Arar Commission transcripts, June 29, 2002, pages 7871-3; Exhibit P-166, page 44-45.*

<sup>181</sup> *Factual Background, Vol. I, p. 109.*

<sup>182</sup> *Analysis and Recommendations, page 209.*

Inspector Cabana commented that it was possible that El Maati was lying about having been tortured.<sup>183</sup>

A fax was sent that day to Staff Sergeant Fiorido, who testified at the Arar Inquiry that at the time, he was aware of El Maati's allegation of torture, but assumed that Mr. El Maati was just "looking for some leverage to gain whatever he was intending to gain."<sup>184</sup> He testified that he did not raise human rights concerns and relied on others to raise those concerns. The fax cover read:

*It is our understanding that the Syrians are prepared to question ALMALKI on our behalf. While their offer is appreciated, it obviously would be in our best interests to interview ourselves.*

*We would request that you approach your Syrian contact to see if they will grant us access to conduct our own interview of this individual. The Syrians have been most cooperative with our earlier requests and we are hoping that our requests will meet with favourable review. In the alternative, we are contemplating providing the Syrian officials with questions for ALMALKI.*

*The Syrian authorities have expressed an interest in information we have on ALMALKI and we are lead to believe that they would like access to our information to assist them in their inquiries. I would propose that the Syrians be approached and advised that we would like to extend an invitation for their investigators to come to Canada and meet with our team to share information of common interest.<sup>185</sup>*

Staff Sergeant Fiorido was also asked that day to "get further information from the Syrian authorities in preparation for their proposed interview of Mr. El Maati in Egypt."<sup>186</sup>

## **Mid-September 2002**

Mr. El Maati was transferred to the Abou Zabel prison in Cairo. When he arrived, the guards went through his luggage and stole some of his clothes. They put him in solitary confinement in a small cell for two weeks or more.<sup>187</sup>

## **September 26, 2002**

**U.S. officials detained Mr. Arar in New York on his way home from Tunisia.** Project A-O Canada faxed a list of

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<sup>183</sup> *Factual Background, Vol. I, page 109.*

<sup>184</sup> *Ibid., Vol. I, page 249.*

<sup>185</sup> *Ibid., Vol. I, pages 108-110.*

<sup>186</sup> *Ibid., Vol. I, page 107.*

<sup>187</sup> *El Maati Chronology, page 22.*

questions for him to the FBI the same day. There were no caveats attached to this information, which included questions about why Mr. Almalki was listed as a contact on Mr. Arar's lease, about his business relationship with Mr. Almalki, about his meeting with Mr. Almalki at Mango's restaurant, and about his relationship with Mr. El Maati.<sup>188</sup> Justice O'Connor finds that the fax contained erroneous information about Mr. Arar. **It is not publicly known whether this fax contained erroneous information about Messrs. El Maati, Almalki, or other Canadian citizens.**

**September 30, 2002**

Mr. Almalki was taken from his cell to an interrogation room and questioned about Mr. Arar.<sup>189</sup>

**October 1, 2002**

Mr. Almalki was questioned twice about Mr. Arar.<sup>190</sup>

**October 3, 2002**

An American agency sent a fax to RCMP headquarters, which "included seven questions regarding Mr. Arar's connections with other individuals, sleeper cell members or known terrorists."<sup>191</sup> The request was passed on to Project A-O Canada.

Mr. Almalki says that on October 3 he was questioned about Mr. Arar again by Mr. Saloum and then by another interrogator. His answers were written down. They asked if Mr. Arar had been in Pakistan or Afghanistan. Mr. Saloum instructed the interrogator to send the report before noon to headquarters, so they could fax it somewhere. **It is not publicly known whether this information was faxed to Canadian or American officials.**

Mr. Saloum told Mr. Almalki that Mr. Arar would be there soon, and that if Mr. Almalki had lied, he would put him in a barrel of excrement, reduce his food and drink rations, and put him in the chair until he was paralyzed.<sup>192</sup>

**October 4, 2002**

Project A-O Canada provided American agencies with a response to their October 3 request, which included information about Mr. Almalki.<sup>193</sup> The response also contained information

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<sup>188</sup> *Factual Background, Vol. I, page 152.*

<sup>189</sup> *Almalki Chronology, page 24.*

<sup>190</sup> *Almalki Chronology, page 25.*

<sup>191</sup> *Factual Background, Vol. I, page 158.*

<sup>192</sup> *Almalki Chronology, page 25.*

<sup>193</sup> *Factual Background, Vol. I, page 160.*

from CSIS, information sent without CSIS' consent.<sup>194</sup> **It is not publicly known whether this information may have included information obtained by CSIS from Syria or Egypt.**

**October 7, 2002**

Staff Sergeant Callaghan spoke with an FBI official who asked if Project A-O Canada could link Mr. Arar with al-Qaeda. He replied that the only possible link was through Mr. Almalki.<sup>195</sup>

Mr. Almalki recalls being questioned again about Mr. Arar on October 7.<sup>196</sup>

**October 8, 2002**

Mr. Arar was presented with a removal order, the public portions of which say that he was being removed to Syria because he knew and had business associations with Mr. Almalki and his second youngest brother, and Ahmad El Maati.<sup>197</sup> **Mr. Arar was removed to Jordan.** Justice O'Connor concludes that the U.S. decision to send Mr. Arar to Syria was "very likely" based on the erroneous information supplied by Canada that described Mr. Arar and his wife as "Islamic extremists" with suspected links to al-Qaeda.

**October 9, 2002**

**Mr. Arar was driven from Jordan to Syria, arriving at the Palestine Branch on October 9.** Project A-O Canada confirmed through American authorities that Mr. Arar had been sent to Syria.<sup>198</sup>

In Syria, Mr. Almalki says he was questioned about Mr. Arar again, and that interrogators went back and forth between questioning him and Mr. Arar for about two hours before taking Mr. Almalki back to his cell.<sup>199</sup>

**October 10-16, 2002**

Mr. Arar says it was during this period that he was subjected to intense interrogation and torture and was questioned about military training in Afghanistan and his relationship with Mr. Almalki. The interrogators insisted he saw Mr. Almalki in Afghanistan.<sup>200</sup>

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<sup>194</sup> *Ibid.*, Vol. I, page 162.

<sup>195</sup> *Ibid.*, Vol. I, page 171.

<sup>196</sup> *Almalki Chronology*, page 25.

<sup>197</sup> *Factual Background*, Vol. I, page 205.

<sup>198</sup> *Ibid.*, Vol. I, page 176.

<sup>199</sup> *Almalki Chronology*, page 25.

<sup>200</sup> *Maher Arar's public chronology*



**October 15, 2002**

Egypt's State Security Supreme Court issued orders for Mr. El Maati's release. The guards took Mr. El Maati and other detainees to the Lazogley prison where he was held in a common cell for five days. A new detention order was issued and Mr. El Maati was taken back to Abou Zabel and into solitary confinement.<sup>201</sup> **It is not publicly known whether there was any contact between Egyptian and Canadian officials regarding the decision to issue a new detention order, or further detention orders issued in November 2002 and August 2003..**

Minister Graham met with U.S. Ambassador Paul Cellucci and protested the U.S. treatment of Mr. Arar. Ambassador Cellucci told the minister "there was evidence Mr. Arar had contacts with people that made him a danger to the United States."<sup>202</sup>

**October 16, 2002**

Ambassador Cellucci gave a speech on U.S.-Canada relations to business leaders in Toronto. When questioned by journalists about why the U.S. arrested and deported Mr. Arar to Syria, Ambassador Cellucci responded "I think you may want to check with your local people on that."<sup>203</sup>

Mr. Pardy called an interdepartmental meeting with CSIS and the RCMP. The RCMP informed DFAIT that their primary interest in Mr. Arar was his associations with Mr. El Maati and Mr. Almalki.<sup>204</sup>

**October 17, 2002**

The RCMP faxed a list of questions to the RCMP's liaison officer for the Middle East, which included questions for Mr. Arar in case he decided to "voluntarily provide statements to law enforcement officials."<sup>205</sup>

The *Globe and Mail* reported:

*Although U.S. officials have provided no rationale for holding and deporting Arar, Canadian sources say an acquaintance of Arar's may have led to his inclusion on a list of Al-Qaeda suspects. According to a well-connected Ottawa source, Arar was friends with a man in Ottawa's Syrian community who was targeted by RCMP investigators as part of a post-9/11 intelligence*

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<sup>201</sup> *El Maati Chronology, page 23.*

<sup>202</sup> *Factual Background, Vol. I, page 232.*

<sup>203</sup> "The alarming case of Maher Arar", *Globe and Mail, Editorial, Oct. 19, 2002: A24.*

<sup>204</sup> *Factual Background, Vol. I, page 233.*

<sup>205</sup> "Garvie Report," *Arar Commission Exhibit P-19, pages 28-29.*

operation. As a result, Arar was also flagged and was questioned by the RCMP.<sup>206</sup>

**The identity of the “well-placed Ottawa source” cited in this article is not publicly known.**

**October 18-19, 2002**

Mr. Almalki was called up for more questioning from what he believes was Mr. Arar’s interrogation report. Mr. Almalki thinks he could hear Mr. Arar shouting in another room. They questioned him about Mr. Arar the following day as well.<sup>207</sup>

**October 21, 2002**

Mr. Gould called Inspector Cabana to say they had confirmed Mr. Arar was in Syria. Mr. Gould asked if there was information the RCMP would like passed on to the Syrians. Inspector Cabana replied that they have information they would be happy to share if it would assist the Syrian investigation.<sup>208</sup>

Justice O’Connor writes:

*Mr. Gould prepared a draft memorandum that same day that stated that “[t]he RCMP is prepared to share with Syrian authorities the information they have generated about Arar in the course of their investigation of al-Malki [sic] (see note about similar offer with regard to al-Malki [sic]).” It also stated that “[t]he RCMP has generated a great deal of information about al-Malki [sic] and they are prepared to share this information with Syrian authorities is [sic] they wish to send someone to Ottawa (this offer may already have been passed to the Syrians by the RCMP LO).<sup>209</sup>*

Inspector Cabana says he made this offer because the Syrians had shared information with the RCMP in the past. At the Arar Inquiry, when asked what information the Syrians had provided in the past, the Government of Canada claimed national security confidentiality over the response, so **it is not publicly known whether this refers to information shared about Mr. Almalki or Mr. El Maati.**<sup>210</sup>

**October 22, 2002**

Ambassador Pillarella met General Khalil and discussed Mr. Arar. The General told the Ambassador that Mr. Arar had just

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<sup>206</sup> “Graham takes on U.S. over deported Canadian,” Peter Cheney, *Globe and Mail*, Oct. 17, 2002: A1.

<sup>207</sup> *Almalki Chronology*, pages 26.

<sup>208</sup> *Factual Background*, Vol. I, page 339.

<sup>209</sup> *Ibid.*

<sup>210</sup> *Notes of Inspector Cabana, Arar Commission Exhibit P-166*, pages 54–55; *Testimony of Inspector Cabana, Transcript of Proceedings, June 29, 2005*, pages 8005 - 8009

arrived in Syria, and had admitted ties to Pakistani terror organizations.<sup>211</sup> **It is not publicly known if there was any discussion about either Mr. El Maati or Mr. Almalki or if any information regarding their cases was exchanged.**

**October 23, 2002**

Mr. Arar received his first visit from Léo Martel, the consul in Damascus. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>212</sup>

**October 24, 2002**

Justice O'Connor writes:

*On October 24, Staff Sergeant Fiorido spoke to Ambassador Pillarella about the Almalki file for the first time. The Ambassador advised him that General Khalil did not like to deal with police agencies and there was not much chance of the RCMP getting contact, but he offered his continued support of RCMP efforts.*<sup>213</sup>

**It is not publicly known whether this indicates that Ambassador Pillarella was aware of prior interactions between CSIS and the Syrian Military Intelligence.**

**October 25, 2002**

DFAIT's ISI and RCMP met to follow up on the September 10 meeting. The issue of sending questions for Mr. Almalki, and concerns about torture, were raised again. Mr. Solomon testified that DFAIT left the meeting "displeased" and planned to have their deputy minister send a "strict" letter to Assistant Commissioner Proulx asking that questions not be sent. In his notes, he wrote:

*RCMP Al-Malki [sic] letter (international law prohibits torture absolutely; there is no justification that may be invoked as a reason for torture).*<sup>214</sup>

**October 29, 2002**

Mr. Arar received his second consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>215</sup>

**October 30, 2002**

Mr. Solomon drafted a memo, dated October 30, 2002, for Dan Livermore, the Director General of DFAIT's Security and

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<sup>211</sup> *Factual Background, Vol. I, page 251.*

<sup>212</sup> *Ibid., Vol. I, page 256-259.*

<sup>213</sup> *Ibid., Vol. I, pages 339-340.*

<sup>214</sup> *Ibid., Vol. I, page 340.*

<sup>215</sup> *Ibid., Vol. I, page 269.*

Intelligence Bureau (ISD), to sign, outlining concerns about sending questions for Mr. Almalki:

*The RCMP are seeking either to directly interview Al-Malki [sic] or to send their Syrian counterparts a request that Al-Malki [sic] be asked questions provided by the RCMP...Both ISI and DMCUS/HOM have pointed out to the RCMP that if such questioning is carried out by the Syrian security services, there is a credible risk that it would involve torture. Another Canadian citizen who was recently held in a Syrian prison, Ahmad Al-Maati [sic], has alleged he was tortured by the Syrians. To make our position clear, we propose that MJW send a letter to Assistant Commissioner Richard Proulx (draft attached) indicating that DFAIT will not support or assist in this matter if there is any risk of a Canadian citizen being question[ed] under duress at the behest of the Government of Canada.<sup>216</sup>*

Ambassador Pillarella testified that, despite the wording in the memo about him (DMCUS/HOM is short for the Ambassador), he did not recall ever expressing this concern to the RCMP.<sup>217</sup> Inspector Cabana does not recall attending any meetings where the credible risk of torture was raised as a reason not to send questions for Mr. Almalki.<sup>218</sup>

In the end, Justice O'Connor finds that the proposed letter to Assistant Commissioner Proulx was never drafted or sent, because, as Mr. Solomon, Mr. Livermore and Scott Heatherington, the Director of DFAIT's ISI, say, they were left with the impression that the RCMP had agreed questions would not be sent. Inspector Cabana said that his "understanding was to the contrary because Ambassador Pillarella was facilitating the exchange with the Syrian authorities."<sup>219</sup>

## **November 3, 2002**

Ambassador Pillarella met with General Khalil who said he was now positive that Mr. Arar was linked to al-Qaeda, and that his task was to recruit others. Khalil said that Mr. Arar had named people in a "sleeper cell" including Mr. El Maati and Mr. Almalki, and that he had admitted to having received training in Afghanistan.<sup>220</sup> General Khalil promised to pass on whatever else they learned. Justice O'Connor notes that "at the request of Mr. Pardy, Ambassador Pillarella also raised the case of Mr.

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<sup>216</sup> *Factual Background, Vol. I, page 340.*

<sup>217</sup> *Ibid.*

<sup>218</sup> *Ibid.*

<sup>219</sup> *Ibid., Vol. I, page 341.*

<sup>220</sup> *Ibid., Vol. I, pages 274-275.*

Almalki, and observed that General Khalil “seemed now disposed to accept that he could meet with a Canadian official.”<sup>221</sup> **It is not publicly known whether at this time the ambassador requested consular access to Mr. Almalki, or merely discussed access for law enforcement or intelligence officials. Nor is it publicly known whether information about his case or Mr. El Maati’s case was exchanged at this time.**

Egypt's State Security Supreme Court issued a second release order. Mr. El Maati was again transferred to Lazogley and again a new detention order was issued and he was sent back to Abou Zabel.<sup>222</sup>

#### **November 4, 2002**

DFAIT informed Project A-O Canada that “General Khalil had reportedly confirmed links between Mr. Arar and al-Qaeda, and that Mr. Arar had undergone training in Afghanistan.”<sup>223</sup> General Khalil also indicated a willingness to have intelligence officials come to Syria to review their information on Mr. Arar. **It is not publicly known whether the DFAIT briefing included information on Mr. Almalki or Mr. El Maati.**

#### **November 6, 2002**

CSIS, DFAIT ISI and the RCMP met to discuss a CSIS trip to Syria. They discussed information that had been provided by the Syrian Military Intelligence to Ambassador Pillarella, and the need for more detailed information. The RCMP warned that if CSIS met with Mr. Arar it could taint any future possible evidence about Mr. El Maati or Mr. Almalki.<sup>224</sup>

#### **November 11, 2002**

Two days before U.S. Secretary of State Colin Powell’s first official visit to Canada, the FBI issued an alert for Mr. El Maati’s brother, Amr El Maati. The notice, which remains on the FBI’s web site at <http://www.fbi.gov/terrorinfo/elmaati.htm>, is signed by Robert Mueller, director of the FBI, and says “Amer El-Maati [*sic*] is being sought in connection with possible terrorist threats in the United States.” This was the first time that Amr El Maati’s name was publicly cited by officials and publicly linked to terrorist threats or al-Qaeda.

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<sup>221</sup> *Ibid.*, Vol. I, page 275.

<sup>222</sup> *El Maati Chronology*, page 23.

<sup>223</sup> *Factual Background*, Vol. II, page 499.

<sup>224</sup> *Ibid.*, Vol. I, pages 308-309.

November 12, 2002

Mr. Arar received his third consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>225</sup>

November 13, 2002

Media reported on the FBI alert, quoting FBI spokesman, Paul Bresson, who said that on November 16, 2001, documents were found by Northern Alliance troops in a building in Kabul that authorities said they believed housed al-Qaeda operatives. One was a 1996 letter addressed to Amr El Maati from the Canadian government, saying his Canadian citizenship document was enclosed. Another was his Toronto General Hospital patient card. It is not known how reporters obtained the letter and hospital card — they went to the address on the letter in Longueuil, Quebec, and questioned neighbours who said the RCMP had been there recently as well. They also went to the Toronto address on the hospital card and questioned Mr. El Maati's relatives.

Bresson would not say, when asked by reporters, why they did not publicize their interest in Amr El Maati for full year, saying only "Information continues to pour in and, over time, it becomes more specific, corroborated, and substantiated."<sup>226</sup> **It is not publicly known whether the FBI was referring to information received from Syria, either directly, or through Canadian agencies. Nor is it publicly known when Canadian agencies were informed of this, or whether they learned at the same time as the media.**

The FBI said that Amr El Maati should be considered "armed and dangerous."<sup>227</sup> Robert Mueller, Director of the FBI, commented on the case at a Department of Justice news conference, saying "He's an individual we believe has associations with al-Qaeda, and we're looking to find him."<sup>228</sup>

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<sup>225</sup> *Ibid.*, Vol. I, pages 283-284.

<sup>226</sup> "FBI seeks Canadian terror suspect: Authorities vague on reasons for year-long delay in seeking shadowy Kuwaiti immigrant," David Guy, *the Ottawa Citizen*, November 13, 2002, page A4; "FBI won't explain sudden interest in terrorism suspect," *Edmonton Journal*, November 13, 2002. *The National Post* reported that a business card and an envelope addressed to a British Columbia company was also found in the building in Kabul. The article says that when the RCMP investigated the business, 4-U Enterprises, it found the company existed only on paper and that the address was a rented post-office box at a convenience store. See "FBI seeks terror suspect with Toronto ID," *National Post*, November 14, 2002, Page: A10.

<sup>227</sup> *Ibid.*

<sup>228</sup> "FBI seeks terror suspect with Toronto ID," *National Post*, November 14, 2002, Page: A10.

**November 14, 2002**

On the day U.S. Secretary of State Colin Powell visited Canada, the *Canadian Press* published the first media article in which unnamed government officials publicly linked Mr. El Maati and Mr. Almalki to al-Qaeda. This reporter withheld Mr. Almalki's name on request of his family, but it appears the Canadian official he spoke with named Mr. Almalki:

*Government sources say a Canadian man who disappeared eight months ago is a suspected al-Qaida operative who has been jailed in his native Syria, but Syrian authorities have refused to confirm it... The source, who spoke on condition of anonymity said the man is a suspected member of Osama bin Laden's al-Qaida terrorist network. He added that the man has been linked with two other Canadian citizens now in Middle East jails while under investigation for suspected al-Qaida connections.*

*One of those Canadians, Syrian-born Maher Arar, was declared an al-Qaida member by the United States and deported last summer to Syria. He has been visited by Canadian officials and is reported to be in good health. The other Canadian \_ 28-year-old Ahmad Al Maati, also known as Ahmad Abou Elmaati \_ is in prison in Egypt. Al Maati's 29-year-old brother Amr Badr Abou Elmaati, a Canadian citizen born in Kuwait, is being sought by the U.S. Federal Bureau of Investigation. He has been a Canadian citizen since 1995. The missing Canadian, who also holds a Syrian passport, is believed to have been arrested by Syrian authorities around mid-August, a source said. His Ottawa home was raided by RCMP last spring, the source said, but police refused to confirm that.<sup>229</sup>*

Justice O'Connor finds that in Mr. Arar's case, "government officials took it upon themselves to leak information to the media, much of which was unfair to Mr. Arar and damaging to his reputation."<sup>230</sup>

Justice O'Connor writes:

*Over a period of time, Government of Canada officials intentionally released selected classified information about Mr. Arar or his case to the media... Typically, the leaked information was attributed to an unnamed government official, an official closely involved in the case, or some similar source... Several of the leaks were inaccurate, unsupported by the information available from the investigations, and grossly unfair to*

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<sup>229</sup> "Officials say missing Canadian citizen is al-Qaida held by Syrians," Stephen Thorne, *Canadian Press Newswire*, November 14, 2002.

<sup>230</sup> *Analysis and Recommendations*, page 46.

*Mr. Arar....Quite predictably, the leaks had a devastating effect on Mr. Arar's reputation and on him personally. The impact on an individual's reputation of being called a terrorist in the national media is severe. As I have stated elsewhere, labels, even unfair and inaccurate ones, have a tendency to stick. Professor Toope, the fact-finder I appointed to report on the circumstances of Mr. Arar's detention in Syria, has indicated that the leaks have had severe psychological and emotional impacts on Mr. Arar. Moreover, Mr. Arar, an educated, hard-working engineer, has had great difficulty finding employment. It seems likely that the smear of his reputation by the leakers has taken its toll.<sup>231</sup>*

**It is not publicly known whether through this, and subsequent articles, there was an intentional campaign by Canadian officials to harm the reputations of Mr. El Maati and Mr. Almalki in the same way, and what impact this may have had on their treatment in detention, and on efforts to secure their release.**

Media also reported that shortly after the September 11, 2001 attacks, the FBI inadvertently posted on the Internet a memo listing 345 people it wanted to question in connection with the attacks, and the list included Amr El Maati. The media reports did not mention that Mr. El Maati and his father Badr El Maati were also named on that list. CBC's *The National* and several other Canadian media reported on the alert. *The National* reported that the RCMP did not have a warrant for Amr El Maati's release, and did not have information for public use at this time.

At his meeting with Minister Graham, Secretary of State Powell appeared well briefed on Mr. Arar and "other consular cases."<sup>232</sup>

**It is not publicly known what might have been said at this meeting about Ahmad or Amr El Maati, Mr. Almalki, or other Canadian citizens.**

## **Mid-November 2002**

It was around this time, on the first day of Ramadan, that Mr. Almalki received his second family visit.<sup>233</sup>

## **November 18, 2002**

An "Investigational Summary on Ahmed ELMAATI" dated November 18, 2002, refers to Mr. Arar as a 'Principle Target'

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<sup>231</sup> *Ibid.*, pages 46-47.

<sup>232</sup> *Factual Background, Vol. I, page 298.*

<sup>233</sup> *Almalki Chronology, pages 27.*



and 'trained jihadist.'" **It is not publicly known who prepared this document, for what purpose, or if it was shared with foreign agencies.**

According to an email sent to Mr. El Maati's father on November 20, 2002, embassy officials visited Mr. El Maati at the Abou Zabel prison.<sup>234</sup> The email includes notes on the visit, and says that "Consul has asked him again about his willingness to talk to officers from RCMP or CSIS, subj advises he is willing to talk to them but only on Canadian soil."<sup>235</sup>

Southam News published an article written by Mike Trickey saying:

*"an unidentified Syrian Canadian man living in Ottawa who had disappeared earlier this year after travelling in Indonesia and Malaysia also turned up last week in a Syrian jail, apparently after being arrested in August for reasons not being disclosed by either Syrian or Canadian officials. The unidentified 31-year-old businessman was apparently arrested on information provided by the RCMP who raided the house he was living in last spring. According to Canadian officials, the unidentified man has links to Arar and to Ahmad Elmaati, a 28-year-old Kuwaiti-born Canadian now in prison in Egypt for suspected terrorist ties."*<sup>236</sup>

## November 19, 2002

Minister Graham had scheduled a telephone call to Syrian Foreign Minister, Farouk Shara'a to discuss Iraq and Mr. Arar's case. The call was cancelled, and it is not clear whether this was because Minister Graham wanted a briefing on CSIS' visit to Syria first.<sup>237</sup>

## November 20, 2002

CSIS travelled to Syria between November 19th and 24<sup>th</sup> 2002, arriving in Damascus on November 20. Much of what Justice O'Connor sought to say about the visit in his public report has been redacted. He does note that one of the CSIS delegates had travelled to Syria "many times before this visit." **It is not publicly known when CSIS developed its relationship with the Syrian Military Intelligence, or with General Khalil in particular, or whether previous visits were related to the**

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<sup>234</sup> Note that Mr. El Maati's public chronology does not refer to this visit.

<sup>235</sup> October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>236</sup> "Mix-up over al-Qaeda connection to deportee: Ottawa officials didn't know RCMP had U.S. evidence," Southam News, November 18, 2002.

<sup>237</sup> Factual Background, Vol. I, pages 303-304.

**detention, interrogation or treatment of Mr. El Maati or Mr. Almalki.**

The CSIS delegation met with Ambassador Pillarella on November 20.<sup>238</sup> **It is not publicly known whether the ambassador and CSIS discussed how the visit might impact on the treatment of either Mr. Arar or Mr. Almalki.**

**November 21, 2002**

A revised version of a November 15, 2002 briefing note was sent from Assistant Commissioner Proulx to Commissioner Zaccardelli, regarding “the RCMP’s exchange of information with the Americans prior to Mr. El Maati’s departure from Canada.” The note says “the RCMP can be considered complicit in Mr. El Maati’s detention in Syria.” Assistant Commissioner Proulx testified at the Arar Commission that he did not mean that the RCMP was complicit, only that the media and public might consider them to be.<sup>239</sup>

**November 23, 2002**

CSIS delegates met with General Khalil and four Syrian officials. Then they met with two Syrian officials who provided “lengthy briefings on other matters.” **It is not publicly known whether this might refer to information exchanged about Mr. Almalki or Mr. El Maati.**<sup>240</sup> In a May 9, 2003 briefing note to the Solicitor General, CSIS says it had received information about Mr. Arar from the Syrians, but it is not publicly known if they received information about Mr. El Maati or Mr. Almalki.<sup>241</sup>

As for CSIS’ use of information obtained from Syrian officials, Justice O’Connor writes:

*Although CSIS may have had some questions about the importance of the information it received from the Syrians, it is clear that it subsequently relied on this information.... Other than a passing comment in the trip report, CSIS made no assessment of whether the information obtained from the SMI might have been the product of torture. Furthermore, when it relied on this information, CSIS made no reference to Syria’s human rights record or the possibility of torture.*<sup>242</sup>

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<sup>238</sup> *Ibid.*, Vol. I, pages 314-315.

<sup>239</sup> *Ibid.*, Vol. I, page 64.

<sup>240</sup> CSIS testified that it received only a verbal briefing on Mr. Arar, and that no information was provided to the Syrians about Mr. Arar. The following section in the public Arar Report is still redacted. See *Factual Background*, Vol. I, page 315.

<sup>241</sup> *Factual Background*, Vol. I, page 364.

<sup>242</sup> *Ibid.*, Vol. I, page 322.

**November 24, 2002**

A new interrogator questioned Mr. Almalki. He had handwritten papers. He asked about Ahmad Said Khadr. Mr. Almalki says he repeated his previous answers and this time, his interrogators appeared to believe him. Mr. Almalki reports that his interrogators had very detailed information about the family of his Muslim Canadian friend.

Later in December, Mr. Almalki saw the title of the document interrogators had with them on November 24, which said in Arabic, "Meeting with Canadian delegation of November 24, 2002" It was addressed to head of the Palestine Branch and to the head of the Military Intelligence.<sup>243</sup> **It is not publicly known whether this might refer to a report provided to the Syrian Military Intelligence by CSIS.**

**November 26, 2002**

Mr. Arar received his fourth consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>244</sup>

**Late November 2002**

In late November, Mr. El Maati was transferred to Tora and then taken to the State Security Headquarters in Nasr City where he was placed in solitary confinement. He was interrogated again but was not physically tortured. He was kept there for a week to ten days before being sent to Tora and then back to Abou Zabel.

Mr. El Maati's father, Badr El Maati, believes that it was around this time that two CSIS agents, Adrian White and "Steve" called and asked to meet. They told him they might go to Egypt to convince authorities to release his son if he would promise to stay in Egypt and not return to Canada.<sup>245</sup> **It is not publicly known if this indicates that CSIS would have been able to secure Mr. El Maati's release.**

**November 28, 2002**

Mr. Almalki was questioned again based on a new report from Canada. They wanted details about how his company operated, from the initial quote request stage to product delivery. They wanted to know how he shipped from one country to another without the goods ever passing through Canada. The interrogator accused him of lying, saying that he had received this information from the Canadian consul.

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<sup>243</sup> *Almalki Chronology, page 27.*

<sup>244</sup> *Factual Background, Vol. I, pages 322-324.*

<sup>245</sup> *El Maati Chronology, pages 23-24.*

The interrogators told him that the serial numbers on equipment found in Afghanistan proved that the equipment had come from him. They also asked him about telephone calls he had made in Canada. Mr. Almalki told them they should ask the Canadians for proof of their claims, and the interrogators told him that he was not supposed to know that this report had come from Canada. He sensed that the interrogators were beginning to question the credibility of Canadian agencies.<sup>246</sup>

## December 2002

The TV show America's Most Wanted reported that Amr El Maati was an airline pilot who may have "snuck back into the U.S." to work with al-Qaeda sleeper cells (the web page [www.stopdoomsday.com](http://www.stopdoomsday.com) still urges Americans to call the America's Most Wanted and ask them to feature El Maati on the show).

Mr. Almalki was told in December 2002 that Canadian intelligence officials were still asking for permission to question him in Syria. He was questioned around this time about another Muslim Canadian engineer he knew in Canada. He found out after returning to Canada that CSIS had been questioning this man at this time.

Around the end of December Mr. Almalki received another family visit.<sup>247</sup>

## December 10, 2002

A fax was sent to Staff Sergeant Fiorido containing a "synopsis time line" about Mr. Arar. Inspector Cabana explained that Staff Sergeant Fiorido wanted this information because he was "probably planning on attending Syria"<sup>248</sup>

Mr. Arar received his fifth consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>249</sup>

## December 11, 2002

By December 11, it was decided that questions should be sent for Mr. Almalki, rather than continuing to pursue an interview.<sup>250</sup> Justice O'Connor finds that Ambassador Pillarella had advised Staff Sergeant Fiorido that trying to gain direct access to Mr.

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<sup>246</sup> *Almalki Chronology*, page 28.

<sup>247</sup> *Ibid.*, page 29.

<sup>248</sup> *Arar Commission transcripts*, June 29, 2005, page 8064.

<sup>249</sup> *Factual Background*, Vol. I, pages 324-325.

<sup>250</sup> *Ibid.*, Vol. I, page 341.

Almalki was futile, and that Staff Sergeant Fiorido in turn advised Inspector Cabana that sending questions was the best option.

Inspector Cabana wrote in his notes that Staff Sergeant Fiorido had advised he would be travelling to Syria "very shortly," and that "based on his discussions with (redacted) he feels that our best approach would be to share our list of questions with Syrian authorities." The notes also say that it was "also suggested that our document should be translated into Arabic if possible." The notes go on to say that "the writer advised (redacted) that we would make the necessary arrangements."<sup>251</sup>

**It is not publicly known whether it is Ambassador Pillarella's name that is redacted.** Inspector Cabana testified that someone in DFAIT knew the questions were being translated into Arabic and would be sent.<sup>252</sup>

## December 24, 2002

Justice O'Connor writes:

*On December 24, Staff Sergeant Fiorido received a fax from Staff Sergeant Callaghan and Inspector Cabana to which was attached a draft list of questions for Mr. Almalki in English, along with the Arabic translation. An information copy of the fax was sent to Corporal Flewelling and the International Liaison and Protective Operations (ILPO) branch at Headquarters, and approved by Chief Superintendent Couture and Superintendent Pilgrim. Inspector Cabana testified that his CROPS superiors had been directly involved in this process, starting with taskings by Inspector Clement and Chief Superintendent Couture earlier in the year. Assistant Commissioner Proulx was under the impression that no questions had been sent.*<sup>253</sup>

## January 2003

Mr. El Maati believes it was in January 2003, while he was in Abou Zabel, that he received his first visit from his mother. Mr. El Maati's mother was able to visit Mr. El Maati about once every two months after the first visit. All visits were in the company of Egyptian officials.<sup>254</sup>

Mr. Almalki thinks he remembers being told again in January that Canadian intelligence officials were still asking for permission to question him in Syria.

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<sup>251</sup> Arar Commission transcripts, June 29, 2005, pages 8055; Exhibit P-166, page 61 of 68.

<sup>252</sup> Factual Background, Vol. I, page 342.

<sup>253</sup> Ibid., Vol. I, page 342.

<sup>254</sup> El Maati Chronology, page 24.

Youssef Almalki appeared in court in Ottawa to argue against the RCMP and Crown Prosecutor's application to extend their right to hold items seized on January 22, 2002.<sup>255</sup>

**January 7, 2003**

Staff Sergeant Callaghan and Inspector Cabana sent the final English questions for Mr. Almalki to Staff Sergeant Fiorido. Justice O'Connor writes that:

*Among the questions for Mr. Almalki were some about his relationships with a number of individuals, most of whom the SMI would have considered to be very heavily involved in terrorist activities. Mr. Arar, although only a person of interest and not a terrorist suspect, was included with these individuals.*<sup>256</sup>

**It is not publicly known whether these questions inaccurately characterized Mr. Almalki's relationships with other people.**

Mr. Arar received his sixth consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>257</sup>

**January 9, 2003**

Ambassador Pillarella met with General Khalil. **It is not publicly known if they discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>258</sup>

**January 10, 2003**

Staff Sergeant Fiorido was informed again that Mr. El Maati had reported he had been tortured in Syria, but this did not spark concern about the impact of passing on questions for Mr. Almalki.<sup>259</sup> Staff Sergeant Fiorido testified that his lack of concern was linked to his dealings with another "international organization" at the time.<sup>260</sup> **It is not publicly known whether this organization might have been an American agency, such as the CIA, or CSIS.** Staff Sergeant Fiorido also testified that no one he dealt with regarding the questions raised the

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<sup>255</sup> *Almalki Chronology, pages 29.*

<sup>256</sup> *Analysis and Recommendations, page 38.*

<sup>257</sup> *Ibid., Vol. I, pages 325-327.*

<sup>258</sup> *Ibid., Vol. I, page 327.*

<sup>259</sup> *Ibid., Vol. I, page 343.*

<sup>260</sup> *Ibid.*

issue of the risk of torture, or mentioned that torture had been raised in the September 10, 2002 meeting.<sup>261</sup>

Inspector Cabana felt that sending the questions was appropriate despite the risk of torture, because of an “imminent threat.”<sup>262</sup>

Justice O’Connor notes, however, that the questions were not sent until January 2003, by which time the threat could no longer have been “imminent:”

*Sixteen months had passed since the attacks of 9/11 and the last specific threat — a threat to blow up a prominent building in the National Capital Region — was over a year old. Moreover, the two main targets of the Project A-OCanada investigation, Messrs. Almalki and El Maati, were in custody overseas. Without diminishing the importance of the Project’s investigation, I think it fair to say that, by that time, the threats being investigated fell short of being “imminent.”*<sup>263</sup>

Ambassador Pillarella felt that because Mr. Arar appeared to not have been mistreated, that he did not believe Mr. Almalki would be mistreated.<sup>264</sup> He could not have known Mr. Almalki’s condition at this time, as Mr. Almalki never received a consular visit.

## January 12-14, 2003

Staff Sergeant Fiorido was in Damascus January 12 to 14, and passed on the questions and a cover letter, in a sealed envelope, to Ambassador Pillarella.<sup>265</sup> Ambassador Pillarella was aware of the contents of the envelope and was supportive of the RCMP’s efforts. Indeed, Staff Sergeant Fiorido was very appreciative of this unprecedented assistance.<sup>266</sup> The two did not discuss the potential impact of the questions on Mr. Arar, or the issue of torture.<sup>267</sup> **It is not publicly known whether the RCMP would have been able to pass these questions on without this assistance from Ambassador Pillarella,** given his, and Staff Sergeant Fiorido’s view that the Syrian Military Intelligence preferred not to deal with law enforcement agencies.

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<sup>261</sup> *Ibid.*, Vol. I, page 345.

<sup>262</sup> *Ibid.*, Vol. I, page 344.

<sup>263</sup> *Analysis and Recommendations*, page 213.

<sup>264</sup> *Ibid.*, Vol. I, page 345.

<sup>265</sup> *Ibid.*, Vol. I, page 344.

<sup>266</sup> *Ibid.*

<sup>267</sup> *Ibid.*

Staff Sergeant Fiorido wrote a “continuation report” following meetings on January 13 and 14, 2003, saying that in both cases, no new information was obtained.” **It is not publicly known who, besides Ambassador Pillarella, Staff Sergeant Fiorido might have met with on his trip.**<sup>268</sup>

**January 15, 2003**

Ambassador Pillarella delivered the questions prepared by the RCMP for Mr. Almalki to the Syrian Military Intelligence through Mr. Martel, who says he was not aware of the contents of the envelope.<sup>269</sup> With the knowledge of DFAIT, the questions for Mr. Almalki had been translated to Arabic and a cover letter was attached. The cover letter was written by Staff Sergeant Fiorido and approved by Inspector Cabana. **It is not publicly known who else approved the cover letter because this section of the public report is redacted.**<sup>270</sup> Staff Sergeant Fiorido may have provided Ambassador Pillarella with a copy of the cover letter.<sup>271</sup> The cover letter read:

*.... Depending on his [Mr. Almalki's] willingness to answer truthfully and depending on the answers he provides to you, a second series of questions has been prepared for him.... we cannot disclose this second set of questions to him until we favourably assess the quality and accuracy of his answers.... Once we assess the answers to the first series of questions, we can then inform you if we are prepared to proceed to the second series of questions...The police unit investigating this matter in Canada is an integrated team composed of personnel from both the law enforcement community and from our intelligence community, the Canadian Security Intelligence Service.... Both agencies are working together in this matter.... I would like to propose that during my next visit to Damascus, [...] I meet with personnel from your agency in order to further discuss this matter.... Also be aware that we are in possession of large volumes of highly sensitive documents and information, seized during investigative efforts or obtained from confidential informants associated to terrorist cells operating in Canada. Our Service is readily willing to share this information with your Service....<sup>272</sup>*

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<sup>268</sup> Arar Commission Exhibit P-85, tabs 117-118.

<sup>269</sup> Factual Background, Vol. I, pages 343-345.

<sup>270</sup> Ibid., Vol. I, page 342.

<sup>271</sup> Ibid., Vol. I, page 445 (note 1018).

<sup>272</sup> Ibid., Vol. I, page 343.



Justice O'Connor makes two conclusions about the fact these questions were sent. First, he says, there was a "startling breakdown in communications" with DFAIT ISI believing the questions would not be sent, and the RCMP and Ambassador Pillarella believing DFAIT ISI had approved the exchange. "Incredibly," Justice O'Connor says, "there is virtually no written record of the communications among the various parties involved."<sup>273</sup>

Second, Justice O'Connor concludes this had the potential to leave the impression of mixed messages about Mr. Arar, and put Mr. Almalki at risk:

*...sending the questions in the particular circumstances was unwise and increased the risk that Syria would not respond favourably to Minister Graham's entreaties that it release Mr. Arar. In addition, sending the questions created an unacceptable risk that the Syrians would harm Mr. Almalki when asking the questions.*<sup>274</sup>

## January 16, 2003

One day after the questions were sent, Minister Graham made his phone call to Syrian Foreign Minister Shara'a. They discussed Mr. Arar's case, but **it is not publicly known whether Mr. Almalki was mentioned.**<sup>275</sup>

That same day, Mr. Almalki was questioned again on the basis of a report. His interrogators were open about it having come from Canada. They told Mr. Almalki that the Canadians said he was very smart and had implied that he was deceiving his interrogators. Mr. Almalki says that he was not physically tortured at this time, but could hear others being tortured, and this was happening just to terrorize him.<sup>276</sup>

Mr. Almalki says this report included two long pages of questions about whether his Muslim Canadian friend had made a long distance call from his home. The report claimed that Mr. Almalki was linked to al-Qaeda through Ahmad El Maati or his Muslim Canadian friend's family in Canada, which was the opposite of what he was originally told (that he was their link to al-Qaeda). The report also said that he had been to a military training camp in Afghanistan. Mr. Almalki says he sensed from the way his interrogator was wording his questions and

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<sup>273</sup> *Analysis and Recommendations, page 212.*

<sup>274</sup> *Ibid., page 213.*

<sup>275</sup> *Factual Background, Vol. I, page 332.*

<sup>276</sup> *Almalki Chronology, pages 29-30.*

statements that he had recently met directly with Canadian intelligence officials.<sup>277</sup>

**January 21, 2003**

Mr. El Maati received his fourth consular visit, and again he felt that consular official Bale seemed preoccupied not with his well being, but with whether he would allow a Canadian intelligence officer to question him. Mr. El Maati again told Mr. Bale that he would only meet them in Canada.<sup>278</sup>

**It is not publicly known whether Canadian officials in Egypt, such as consular officers and the ambassador, considered it a greater priority to meet the needs of Canadian investigators than to actively look out for Mr. El Maati's well-being. It is not publicly known what steps, if any, were taken to secure his release.**

**February 2003**

Mr. Almalki was called up, not for interrogation, but to ask about his health. The interrogator told him that the Canadians still wanted to see him but that this was up to headquarters. Mr. Almalki thinks they were checking his condition to see whether they would present him to embassy officials.<sup>279</sup>

**February 18, 2003**

Mr. Arar received his seventh consular visit from Mr. Martel. **It is not publicly known if Mr. Martel discussed Mr. El Maati or Mr. Almalki or if information regarding their cases was exchanged with Syrian officials at the time of this visit.**<sup>280</sup>

**February 27, 2003**

Mr. El Maati received his fifth consular visit, this time with consular officials Bale and Anna Papas. Mr. Bale asked Mr. El Maati again if would meet with Canadian intelligence officer, and again this seemed to be the main preoccupation of the Canadian officials. After the visit the State Security Officer had Mr. El Maati brought back into his office and asked why Mr. El Maati would not agree with the consul's suggestion that he meet with Canadian intelligence officials in Egypt.<sup>281</sup>

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<sup>277</sup> *Ibid.*

<sup>278</sup> *El Maati Chronology, page 25. Note that this is referred to as his third visit in his public chronology, but with the addition of the November 18, 2002 visit, this becomes his fourth consular visit.*

<sup>279</sup> *Almalki Chronology, page 30.*

<sup>280</sup> *Factual Background, Vol. I, pages 327-328. Evidence given by Ambassador Pillarella and Mr. Martel differ with respect to whether questions for Mr. Almalki were delivered at this time. See Vol. I, page 445, footnote 1040.*

<sup>281</sup> *El Maati Chronology, page 25. Note this is referred to as his fourth visit in Mrf. El Maati's public chronology.*

## March 2003

Around this time, Mr. El Maati says he was transferred again to Tora. The first night he was there, around midnight, the guards came and handcuffed and blindfolded him and took him out into a van. He was forced to lie on the floor and was covered. He was taken to the State Security Headquarters in Nasr City where he was placed in solitary confinement.

Mr. El Maati was subjected to electric shock and questioned about having prepared a will before going to the Hajj in 1999. This was the will that had been seized by the RCMP when they searched his home in January 2002. Interrogators pressed Mr. El Maati to agree to meet with a Canadian intelligence officer in Egypt, and Mr. El Maati said he would.

Mr. El Maati says that it was here that he saw an interrogator face to face for the first time in Egypt. He also saw that there was a one-way window in the wall. **It is not publicly known whether any foreign officials attended any of Mr. El Maati's interrogation sessions in Egypt. Nor is it publicly known whether Canadian officials provided the will to Egyptian authorities.**

After about ten days, he was transferred back to Tora and then to Abou Zabel. Mr. El Maati believes that it was sometime late in March 2003 when he was transferred back to Tora where he was kept in a common cell for about five months.<sup>282</sup>

## March 1, 2003

Mr. Almalki says this is when he was questioned for the last time at the Palestine Branch. He was asked if he used to raise money in Canada for al-Qaeda. Mr. Almalki told him that he had already told them he had not. The interrogator said that this time was more official. The interrogator also told Mr. Almalki that the Canadians were still asking to see him, but this was a decision for Syrian headquarters.<sup>283</sup>

## April 2003

Mr. Almalki received another family visit.

DFAIT received their first reply to the diplomatic note they sent to the Syrian Ministry of Foreign Affairs eight months earlier on August 18, 2002. It said Mr. Almalki was in detention in Syria because he had defaulted on his military service. Mr. Almalki's military service deferral had expired in March 2003. Around this

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<sup>282</sup> *Ibid.*, pages 25-26.

<sup>283</sup> *Almalki Chronology*, pages 30-31.

time the RCMP successfully renewed their seizure application for another six months.<sup>284</sup>

**April 7, 2003**

An Action Memorandum prepared for the Minister of Foreign Affairs by Mr. Pardy says “Mr. El Maati seems to be a case of little evidence to support the allegations of involvement in terrorist activities but rather one of associating with others who may have.”<sup>285</sup> **It is not publicly known why Mr. Pardy wrote this.**

**April 22, 2003**

Parliamentarians Marlene Catterall and Sarkis Assadourian, along with Ambassador Pillarella, met with Minister Mouallem to discuss Mr. Arar. They then met with Mr. Saloum and other officials, and then with Mr. Arar.<sup>286</sup> **It is not publicly known whether Mr. Almalki’s case was raised at these meetings with Syrian officials.**

**May 9, 2003**

It was around this time, in the context of growing pressure on the Canadian government to find a way to secure Mr. Arar’s release, that CSIS and the RCMP were resisting attempts to send a “one voice” letter to the Syrians, signed by the Minister of Foreign Affairs and CSIS or Solicitor General Wayne Easter. Justice O’Connor discusses a May 9 briefing note prepared by CSIS for the Solicitor General, which emphasized that such an initiative might lead the U.S. to question Canada’s resolve.<sup>287</sup> Justice O’Connor finds that at around this time, “the RCMP’s response to the growing political momentum for Mr. Arar’s release was to highlight the embarrassment that politicians could face if they secured his release from Syrian custody and his return to Canada.”<sup>288</sup>

**It is not publicly known whether Canadian efforts to secure the release of Mr. El Maati or Mr. Almalki were similarly discouraged in any way by the RCMP or CSIS.**

**June 2003**

Mr. Almalki received another family visit.<sup>289</sup>

**July 25, 2003**

Canwest News published front-page stories by Robert Fife in the *National Post*, *Ottawa Citizen* and several other

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<sup>284</sup> *Ibid.*, page 31.

<sup>285</sup> *Arar Commission Exhibit P-238.*

<sup>286</sup> *Factual Background, Vol. I, pages 352-354.*

<sup>287</sup> *Ibid.*, Vol. I, pages 364-365.

<sup>288</sup> *Ibid.*, Vol. I, page 365.

<sup>289</sup> *Almalki Chronology, page 31.*

newspapers, at a time of growing public awareness around Mr. Arar's case, and increasing pressure on the government to secure his release.<sup>290</sup>

Fife cites unnamed "American intelligence sources" confirming an earlier report by U.S. author Seymour Hersh that Syrian authorities provided information to the CIA which helped avert an "al-Qaeda conspiracy" to attack the U.S. Embassy in Ottawa. Fife quotes "one high level source" as saying "we were basically able to round up a network that was going to carry out the plot." Fife writes that "sources would not give a time frame for the attack nor say whether it involved a bomb, but credited Syrian intelligence for alerting the CIA, which passed on the information to Canadian authorities." **It is not publicly known whether this refers to the plot Syrian interrogators asked Mr. El Maati to confess to under torture.**

Fife quotes Flynt Leverett, a former CIA analyst confirming the existence of a plot, describing the "intelligence" received from Syria: "We could break up networks. Bad guys got arrested. It was useful stuff." **It is not publicly known whether Mr. Leverett's comments, and the comments of the unnamed source, accurately describe what led to the arrests of Messrs. El Maati, Almalki and Arar.**<sup>291</sup>

Fife writes "one official would only tell Can West News Service that Mr. Arar, a 36-year old engineer, is a 'very bad guy'" who received training at an al-Qaeda base. Fife writes:

*Foreign Affairs says two other Canadian men are also being detained overseas, but each has asked the department to keep his identity secret for reasons of privacy. One, who holds dual Canadian-Syrian citizenship, is being held in Syria. The other man holds Canadian and Egyptian citizenship and is considered by authorities to be a serious security risk.*

This may refer to Mr. Almalki and Mr. El Maati. Fife's unnamed U.S. source says the Canadian government "knows much more about Arar than they are telling Canadians," and "the RCMP quietly asked the U.S. government to arrest Mr. Arar in New

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<sup>290</sup> Report of the Events Relating to Maher Arar, Factual Background, Vol. II, page 485.

<sup>291</sup> Ambassador Pillarella and Leo Martel called Mr. Leverett to testify at the Arar Inquiry as an expert on Syrian politics from 1963 to the present, on U.S.-Syria relations, Syrian decision-making and Syrian foreign policy. See also Mr. Hooper's testimony before the Senate Standing Committee on National Security and Defence, May 29, 2006.

York City and deport him." Curiously, RCMP Inspector André Guertin says in the article that the RCMP had no knowledge of this plot.<sup>292</sup>

**It is not publicly known whether the unnamed sources in these articles were Canadian officials from CSIS, the RCMP or other agencies.**

### August 2003

Mr. El Maati believes that it was around August, 2003 that he was transferred back to Abou Zabel.<sup>293</sup>

### August 11, 2003

The RCMP had not received a reply regarding the questions they had sent to Syria for Mr. Almalki. Staff Sergeant Fiorido approached Ambassador Pillarella to ask what steps might be taken, and the ambassador said relations with the Syrian Military Intelligence had deteriorated, and he thought this might be related to Mr. Almalki. Mr. Arar had not been permitted a consular visit since February. The ambassador did not see any link between this and the questions for Mr. Almalki, which included a question about Mr. Arar.<sup>294</sup>

### August 14, 2003

Ambassador Pillarella met with General Khalil, and then Mr. Arar received his eighth consular visit from Mr. Martel.<sup>295</sup>

Ambassador Pillarella discussed Mr. Almalki's case with General Khalil, who informed him they did not like dealing with a police force. The ambassador felt that in the Syrian's view, the Arar and Almalki cases were linked.<sup>296</sup> The Syrians were apparently angry with Staff Sergeant Fiorido for making inquiries about Mr. Almalki.<sup>297</sup> **It is not publicly known whether this means that Staff Sergeant Fiorido had been in direct communication with the Syrian Military Intelligence.**

Another set of questions for Mr. Almalki was dated August 14, 2002.<sup>298</sup> The RCMP did not send these questions to Syria, but **it is not publicly known if they were sent by other means.**<sup>299</sup>

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<sup>292</sup> "Al-Qaeda Ottawa plot foiled: U.S.: Tipoff from Syria bears fruit: 'Bad guys got arrested': Sources say terrorist objective was to at least kill Marines guarding diplomatic site," Robert Fife, *National Post*, July 25, 2003, page A1.

<sup>293</sup> *El Maati Chronology*, page 26.

<sup>294</sup> *Factual Background, Vol. I*, page 346.

<sup>295</sup> *Ibid.*, Vol. I, pages 388-394.

<sup>296</sup> *Ibid.*, Vol. I, page 346.

<sup>297</sup> *Ibid.*

<sup>298</sup> *Ibid.*, Vol. I, page 446, footnote 1005.

<sup>299</sup> *Ibid.*, Vol. I, page 343.

**August 20, 2003**

The El Maatis' Egyptian lawyer obtained a third release order from the Office of the Public Prosecutor in the Egyptian Ministry of Justice. Mr. El Maati was transferred to the Giza State Security Branch, and again a new detention order was issued and he was sent back to Abou Zabel.<sup>300</sup>

After ten months and ten days of detention in the grave-like cell at the Palestine Branch, Mr. Arar was transferred, after one night in another investigative branch, to Sednaya prison.

**August 25, 2003**

Mr. Almalki told by an interrogator that he would be sent to a more comfortable place and would see Mr. Arar there.<sup>301</sup>

**August 27, 2003**

Mr. Almalki was told he would have to sign some official papers. The interrogator had a handwritten report from which he dictated to Mr. Almalki to write another report. When Mr. Almalki finished writing, he was asked to thumbprint and sign each page. He was also asked to sign and thumbprint another form about his family's names and the report the interrogator had.

The interrogator told him that he would be transferred the next day, and then taken to a court, which would order his release, because they found no proof of wrongdoing.<sup>302</sup>

**It is not publicly known if the report Mr. Almalki signed was passed on to Canadian officials.**

**August 28, 2003**

After living in the grave-like cell for one year, three months and twenty five days, Mr. Almalki was transferred to the *Fara'a Tahkek* (Interrogation Branch of the Syrian Military Intelligence). He was held in a cell, about five by five metres and was packed with more than twenty-five people. To sleep, everyone had to lie on their sides and could not move. He met a man there named Nouras Ramadan, who had been brought from Sednaya for a few days. He told Mr. Almalki about another Canadian man, Arwad Al Boushi, who was being kept there.<sup>303</sup>

**September 2003**

The RCMP renewed their seizure application for materials seized on January 22, 2002, for another six months, over one and a half years after the search warrant was executed.

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<sup>300</sup> *Ibid.*, Vol. I, page 26.

<sup>301</sup> *Almalki Chronology*, page 32.

<sup>302</sup> *Ibid.*

<sup>303</sup> *Ibid.*

## September 6, 2003

After ten days at the Interrogation Branch, Mr. Almalki was transferred in a bus with four other prisoners to the Sednaya prison. When they arrived there a jail officer asked him what he had been accused of, and Mr. Almalki explained he had been cleared. The officer said this was because others had not known how to make him confess, and threatened to subject him to electric shock. Mr. Almalki and other prisoners' heads were shaved —he says the man shaving their heads was ordered to intentionally jam the shaver into their scalps, which was very painful.

Mr. Almalki says that he and the others were beaten, one by one. The officials started with the oldest, a 59 year old man, making him lie on his stomach with his feet up and beat him on the soles of his feet with a wide, thick, long belt. They did the same with the second man, and then turned to Mr. Almalki. They slapped his face and kicked him, and then ordered him to lie on his stomach so they could beat the soles of his feet. Mr. Almalki describes this as different than what he had experienced before — the torture was short and intense and they did not want information.

He was later placed in a five feet by five feet cell, which he describes as cold, dark and dirty with feces and urine on the walls and floor.<sup>304</sup>

## September 16, 2003

Mr. Nureddin went to Pearson International Airport to board a flight to Amsterdam. From there, he would travel to Germany to meet his brother, and travel with him to see their family in Iraq and to sell some used cars.<sup>305</sup> He was carrying approximately U.S.\$10,500 and 4,000 Euros on behalf of three other Iraqi Canadians to deliver to their families.

When he checked in, the ticket agent left and spoke with a supervisor. Then eight customs officers with a dog checked his luggage. They checked his phone book and counted his money. He completed a declaration about the funds. One of the officers cleared him to proceed for boarding after talking to someone on a cell phone.

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<sup>304</sup> *Almalki Chronology, pages 33-35.*

<sup>305</sup> *Mr. Nureddin had a business of fixing up used cars in Canada for export to the Middle East and resale, through his brother, in Iraq. On this trip, he planned to sell three cars — two that he had shipped from Canada, and one that he and his brother planned to drive from Germany.*



Then two officers who identified as Canadian security pulled him from the boarding line-up and questioned him for about forty-five minutes in the waiting area. The questions were very specific: they asked many times he had visited Iraq; how much money he had carried with him on this and previous trips; and if he knew Subghat Allah Rasul, Hassan Farhat, and Aly Hindy.

After the questioning he was permitted to board his flight — he was last to board.<sup>306</sup> **It is not publicly known who questioned Mr. Nureddin, or if Canadian agencies notified any foreign agencies of Mr. Nureddin’s travel from Canada.**

**September 24, 2003**

Mr. Almalki remembers seeing Mr. Arar at Sednaya prison, and telling him about his treatment in Syrian detention.<sup>307</sup>

**September 24, 2003**

Mr. El Maati received his seventh consular visit, this time from Mr. R. Chen and Anna Pappas. Mr. Chen again asked Mr. El Maati if he would meet with a Canadian intelligence officer. He agreed because the Egyptians had instructed him to.<sup>308</sup>

**September 27-29, 2003**

Mr. Nureddin and his brother travelled through Europe, taking a ferry from Italy to Greece, then driving through Turkey to Syria on their way to Iraq. Mr. Nureddin was stopped at the Syrian/Turkish border, where Turkish officials questioned him for three to four hours, thoroughly searching his car and counting his money. They asked Mr. Nureddin if he had worked at a Muslim Centre, and he said yes he had, and he had quit. They asked if he belonged to any organizations, to which he said no. One of the officers received a phone call while questioning him. Mr. Nureddin overheard the Turkish official accusing the caller of exaggerating because Mr. Nureddin had nothing. The officer told Mr. Nureddin that they had to search him because they had received information from higher officials. They released Mr. Nureddin and his brother, and the two continued their journey, entering Syria near Aleppo on September 27, 2003. They traveled with others in a caravan of four cars through the country, escorted by Syrian officials, entering Iraq on September 29, 2003.<sup>309</sup>

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<sup>306</sup> *Nureddin Chronology, page 1-2.*

<sup>307</sup> *Almalki Chronology, page 35.*

<sup>308</sup> *El Maati Chronology, pages 26-27. Note that this is referred to as Mr. El Maati’s sixth consular visit in his public chronology.*

<sup>309</sup> *Nureddin Chronology, page 2.*

**It is not publicly known whether Canadian officials had communicated with Turkish officials about Mr. Nureddin.**

Mr. Nureddin's friend Tawfiq says he was questioned by CSIS about one or two weeks after Mr. Nureddin left Canada. They told Tawfiq they were concerned about Mr. Nureddin in Iraq and asked about his route. Tawfiq told him that he thought Mr. Nureddin would travel through Turkey (not knowing he actually went through Syria). They also asked him about money Mr. Nureddin was taking to Iraq for Tawfiq's family, and about Hassan Farhat, Subghat Allah Rasul and the group Ansar al Islam (a group the U.S. once claimed linked Saddam Hussein to al-Qaeda).<sup>310</sup>

**Late September 2003**

Mr. Almalki received another visit from his relatives. He told them that he had been beaten. He also told them about the report that had come in April 2002, and said he knew that a Canadian delegation had been to Syria on November 24. He asked them to tell his brothers in Canada. Officials in the room were outraged that he spoke openly about his treatment, and told Mr. Almalki's relatives that they had not ordered his beatings.<sup>311</sup>

**September 28, 2003**

Mr. Arar was transferred back to the Palestine branch before being released October 5. Mr. Almalki remembers the guards coming to call Mr. Arar and slapping him because he did not move quickly enough.<sup>312</sup>

**October 5, 2003**

**Over one year after being first detained in September, 2002, Mr. Arar was released** and left Syria that night. Of his time in detention, he had been kept in the tiny, underground grave-like cell for ten months and ten days. He was escorted home to Canada on October 6.

**October 9, 2003**

The *Toronto Star* cited "an official closely involved in the case...speaking on condition that he not be quoted by name," saying that U.S. officials had contacted Canadian security officials before sending Mr. Arar to Syria, and had asked what Canadian officials had on him. Canadian officials apparently responded "Yes, indeed... he is watched because he has been to Afghanistan several times." According to the anonymous source, U.S. officials then asked if Mr. Arar would be charged if

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<sup>310</sup> *Ibid.*, pages 6-7.

<sup>311</sup> *Almalki Chronology*, page 35.

<sup>312</sup> *Ibid.*

he was sent back to Canada, to which Canadian officials responded he would not. The source said the American officials responded by saying "Obviously we can do nothing with you." The source said that Mr. Arar was then sent to Jordan, without notice to Canadian officials.<sup>313</sup> This report appears to be about a conversation that took place between Corporal Flewelling and a U.S. official on October 5, 2002.<sup>314</sup>

### **October 12, 2003**

According to a chronology prepared by DFAIT, Don Boudria, Minister of State and Leader of the Government in the House of Commons, raised Mr. El Maati's case during a meeting with the Secretary General of the Arab League.<sup>315</sup>

### **October 16, 2003**

*Canadian Press* reported that the FBI had issued a report saying that an FBI informant had informed them that Adnan El Shukrijumah was seen at McMaster University in Hamilton in 2002, seeking nuclear material to make a "dirty bomb." The university has a five-megawatt research reactor. The informant also apparently said that three other "al-Qaeda terrorists," Amr El Maati, Jaber A. Elbaneh and Anas al-Liby were also seen in Hamilton in 2002. The report said that El Shukrijumah was part of a terrorist cell in Canada.<sup>316</sup>

Mr. El Maati believes that it was in October 2003, that he was sent to Nasr City for the last time. Egyptian officers told him they knew Canada has done this to him, and that this was happening with many cases in the U.S. They said that people were being coerced into agreeing to be informants and to implicate others.<sup>317</sup>

### **October 22, 2003**

The guards told Mr. Almalki to get ready for court. He was taken into the office of a man in civilian clothing, who was dictating to another man. The man consulted a report and questioned Mr. Almalki about his Muslim Canadian friend, about Ahmad El Maati, about his work in Pakistan and Afghanistan, and about

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<sup>313</sup> "U.S. urged Canada to hold Arar; Canada refused to make arrest Americans sent him to Syria," *Toronto Star*, October 9, 2003, page A1.

<sup>314</sup> *Factual Background, Vol. I, pages 168-169.*

<sup>315</sup> "Chronology of events" contained in October 28, 2003 email from Ms. Pasty-Lupul to Badr El Maati.

<sup>316</sup> "Al-Qaida suspect sought materials for 'dirty bomb' in Hamilton: U.S. newspaper," *Canadian Press Newswire*, Friday, October 17, 2003.

<sup>317</sup> *El Maati Chronology, page 27.*

his export business. He asked why Mr. Almalki had been questioned by Canadian intelligence in Canada.

He asked Mr. Almalki if he wanted to change anything in the handwritten report he had signed. Mr. Almalki was afraid to ask for changes. Then the man asked about the other report, and Mr. Almalki told him that he had been made to thumbprint and sign it without reading it.

The man dictated to another man beside him. When he finished, he asked Mr. Almalki to sign and fingerprint the pages the man had written. Mr. Almalki asked him to include that he had never belonged to a political or religious organization. The man dictated that, it was added to the report, and then Mr. Almalki signed and fingerprinted it as he was told. The man said he was going to report that Mr. Almalki was accused of activity and knowing people that would harm Syria. He said he would ensure he was fairly treated.

Mr. Almalki was taken back to Sednaya. He described where he had been to the other prisoners, and they told him he had been at the State Supreme Security Court, and that the man he had seen was a prosecutor.<sup>318</sup>

## October 23, 2003

CTV News broadcasted a story saying that “senior government officials in various departments” told CTV that Mr. Arar was released because he gave information to “the Syrians” about al-Qaeda cells in Canada, and gave information about four other people: Mr. El Maati, Mr. Almalki, Arwad Al Bushi, and Mohamed Harkat.<sup>319</sup> The Privy Council Office investigated this leak, but all departments and agencies denied knowledge of who leaked the information. DFAIT noted that this leaked information could place Mr. El Maati at greater risk.<sup>320</sup>

A briefing note to the RCMP Commissioner from Inspector Rick Reynolds of CID dated the same day, October 23, 2003, shows that Inspector Reynolds was aware of the report before it aired, and that he informed the Commissioner and included strategic considerations for their response. The briefing note says there

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<sup>318</sup> *Almalki Chronology, page 36.*

<sup>319</sup> *It was later revealed that this was inconsistent with the names actually contained in the Syrian information – only Mr. El Maati, Mr. Almalki and another Canadian citizen (possibly Mr. Al Bushi) were named, but Mr. Harkat was not — and that the alleged links between Mr. Arar and Mr. Al Bushi and Mr. Harkat was inconsistent with DFAIT information. See Factual Background, Vol. II, pages 492-493.*

<sup>320</sup> *Ibid., page 493.*

is “a potential CTV news report tonight, 23 of October, 2003, quoting unnamed government sources saying Mr. Arar is part of an al-Qaeda cell in Canada and was only released from Syrian custody because he agreed to inform on other members of his cell.<sup>321</sup> The RCMP explained this by saying that they are often contacted for comment before a report airs.<sup>322</sup>

The stories were reported again in the *Ottawa Citizen* and the *Globe and Mail* the following day.

**It is not publicly known who provided this information to CTV.<sup>323</sup>**

**October 29, 2003**

Badr El Maati was interviewed on CBC's *The National*, saying that until recently he believed that quiet diplomacy would help his son, but seeing that publicity led to the release of Mr. Arar, he had decided to speak out.<sup>324</sup>

Mr. Arar and his wife, Ms. Mazigh, met privately with Minister Graham, and then with other officials from DFAIT. Mr. Arar stressed the importance of working for the release of Mr. Almalki and Mr. El Maati.<sup>325</sup>

**November 2003**

Sometime in November, Mr. Almalki remembers being beaten again because he was seen smiling at a guard. He says he was dragged into a room and told to get on his knees. Several soldiers surrounded him and started kicking and punching him all over his body. A commander ordered the guards to bring a tire, a bar and a cable. They told him to lie on his back with his legs bent so his knees were up. They put the tire over his knees so his knees were sticking out of the inner rim. They inserted the bar between the backs of his knees and the tire and then turned the bar 180 degrees so that his body was upside down and completely restrained. He was beaten on the soles of his feet with a belt that he believes was embedded with nails. Mr. Almalki says he was left with bruising all over his body, and punctured feet.<sup>326</sup>

**November 4, 2003**

Mr. Arar told his story publicly for the first time. He talked about having seen Mr. Almalki at Sednaya Prison in Syria, and about

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<sup>321</sup> *Arar Commission Exhibit P-84, page 96; Factual Background, Vol. II, pages 493-494.*

<sup>322</sup> *Factual Background, Vol. II, page 493.*

<sup>323</sup> *Ibid., Vol. II, page 467.*

<sup>324</sup> *El Maati Chronology, page 27.*

<sup>325</sup> *Factual Background, Vol. II, page 473.*

<sup>326</sup> *Almalki Chronology, page 37.*

how badly he had been treated. He called on the Canadian government to work harder for Mr. Almalki's release.<sup>327</sup>

Alex Neve, Secretary General of Amnesty International Canada, wrote to Prime Minister Jean Chrétien about Mr. Almalki's case, calling for "forceful intervention by the Canadian government with Syrian authorities to ensure that Mr. Almalki is protected from any further torture and that he is treated in accordance with international legal standards." He wrote that "Amnesty International urges that be done without delay, including at the very highest levels of exchange between the Canadian and Syrian governments." Mr. Neve noted that in Mr. Arar's case, the Prime Minister had "personally sent an envoy to Syria, Minister Graham raised it in person and by phone with the Syrian Foreign Minister and Syria's Ambassador to Canada, and a two-person parliamentary delegation was sent to Syria to meet with Mr. Arar in prison." He said that "given the alarming nature of the information that Mr. Arar has now provided about Mr. Almalki, such initiatives are most certainly needed again."

### **November 6, 2003**

Alex Neve wrote on behalf of Amnesty International to Egyptian President Hosni Mubarak to urge him to take immediate steps to ensure that Mr. El Maati either be "charged with a recognizable criminal offence and brought promptly before fair judicial proceedings," or be released "in accordance with court orders to that effect." Mr. Neve also urged the Egyptian president to ensure that any information "that may have originated from Syria and may have been obtained under torture" not be used as a basis for Mr. El Maati's detention, or in any proceedings against him. Mr. Neve also wrote to Minister Graham, urging the Canadian government to raise Mr. El Maati's case at the highest possible levels with the Egyptian government and insist upon the two points mentioned above. Mr. Neve wrote that if Canadian officials had evidence that Mr. El Maati had been involved in criminal activities, that "proceedings could and should be launched in Canada," and that "continuing detention without charge or trial is not the answer."

### **November 7, 2003**

Mr. Almalki's brothers met with consul Myra Pastyr-Lupul, the case management officer for the Middle East region at DFAIT

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<sup>327</sup> *Arar Statement, November 4, 2003.*  
[http://www.maherarar.ca/cms/images/uploads/Maher\\_statement\\_nov04.pdf](http://www.maherarar.ca/cms/images/uploads/Maher_statement_nov04.pdf).

headquarters, and another official at DFAIT, and urged them to work to get the Minister of Foreign Affairs to help Mr. Almalki.<sup>328</sup>

### November 8, 2003

Four days after Mr. Arar's press conference, the *Ottawa Citizen* published the story called "Canada's dossier on Maher Arar" written by Juliet O'Neill. Justice O'Connor writes that the article "contained an unprecedented amount of previously confidential information."<sup>329</sup> The article named Mr. Almalki as the "main target" of an RCMP investigation into an "alleged al-Qaeda logistical support group in Ottawa."<sup>330</sup> **It has not been publicly determined who provided this information to Ms. O'Neill.**

### November 12, 2003

Mr. El Maati's father visited the Toronto constituency office of Minister Graham, in Toronto and asked him to work to release his son as he had done for Mr. Arar.<sup>331</sup>

DFAIT officials told Youssef Almalki that there was a meeting on November 10, 2003 between Canadian intelligence and foreign affairs officials to discuss his brother's case. Strategy was apparently being discussed with Deputy Minister Jim Wright.<sup>332</sup>

### November 13, 2003

Mr. Almalki's family sent letters to the Prime Minister and the Minister of Foreign Affairs asking for help.<sup>333</sup>

### November 14, 2003

DFAIT informed Youssef Almalki that the Canadian Ambassador to Syria had been instructed to contact the Syrian Vice Minister of Foreign Affairs and urge him to investigate Mr. Arar's report that Mr. Almalki had been tortured.<sup>334</sup>

### November 17, 2003

Mr. Nureddin and his brother travelled to Jordan to pick up the cars he had shipped from Canada. When they entered Jordan, an officer took his passport, and after about a half hour, called Mr. Nureddin into the office to ask where he was going and

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<sup>328</sup> *Almalki Chronology*, page 38.

<sup>329</sup> *Factual Background*, Vol. II, page 488.

<sup>330</sup> *Ibid.*, Vol. II, pages 487-488; "Canada's dossier on Maher Arar: The existence of a group of Ottawa men with alleged ties to al-Qaeda is the root of why the government opposes an inquiry into the case," Juliet O'Neill, *Ottawa Citizen*, November 8, 2003, page A1. See also the investigation into this leak in *Factual Background*, Vol. II, pages 496-497.

<sup>331</sup> *El Maati Chronology*, page 28.

<sup>332</sup> *Almalki Chronology*, page 38.

<sup>333</sup> *Ibid.*

<sup>334</sup> *Ibid.*

why. Mr. Nureddin and his brother were then permitted to travel on to Jordan.<sup>335</sup>

**It is not publicly known if Canadian officials were in communication with Jordanian officials about Mr. Nureddin.**

**November 19, 2003**

DFAIT told Youssef Almalki that Brian Davis, who had replaced Mr. Pillarella as the Canadian Ambassador to Syria, would meet with Syrian Vice Minister Moallem on November 30 to seek consular access to Mr. Almalki. DFAIT also informed him that Liberal Senator de Bané would travel to Syria to meet with the Syrian President about Mr. Almalki's case.<sup>336</sup>

**November 23, 2003**

Mr. Nureddin and his brother left Jordan without the cars, because they had not been processed yet. When they left Jordan, officials asked Mr. Nureddin if he had been told to report to anyone in Jordan. When he said he had not, the officer appeared to think that he was lying. They continued on and his brother returned to Jordan to pick up the cars later.<sup>337</sup>

Staff Sergeant Callaghan's notes refer to the concerns raised by Mr. Solomon a year earlier. Following Mr. Arar's press conference, Inspector Cabana "had asked about any discussions Project A-O Canada may have had about sending questions for Mr. Arar to Syria." Staff Sergeant Callaghan could not recall any such discussions, but reminded Inspector Cabana about Mr. Solomon's comment about torture at the September 10, 2002 meeting.<sup>338</sup>

**December 2003**

Senator de Bané met with the Syrian President. There is no other information about this visit in the public domain.

**December 11, 2003**

At the request of the counsel Michael Edelson, who had been retained by the Almalki family, RCMP Assistant Commissioner Ghyslaine Clément wrote a letter saying that Mr. Almalki had no criminal record in Canada, and was not the subject of a warrant of arrest in Canada. Mr. Almalki's family took it to Syria and presented it to the headquarters of the Syrian Military Intelligence.<sup>339</sup>

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<sup>335</sup> *Nureddin Chronology, page 2.*

<sup>336</sup> *Almalki Chronology, page 39.*

<sup>337</sup> *Ibid., page 3.*

<sup>338</sup> *Factual Background, Vol. I, pages 441-442 (note 934).*

<sup>339</sup> *Almalki Chronology, page 39.*



Mr. Nureddin stayed in Iraq until travelling with his family to Syria on December 11, 2003. He planned to take a December 13 KLM flight from Damascus to Canada. His mother, sisters and brothers planned to travel to the Syrian border with him and then go back to Iraq. His brother planned to accompany him to Damascus. When they reached the border at about 1:00 p.m., Mr. Nureddin gave officers his passport and was detained by Syrian officials. His brother was told to leave. Mr. Nureddin was searched, handcuffed to a bed, and asked background questions: his birth-date, when he went to Canada, and about his work in Canada. The officials made and received several calls about him, and Mr. Nureddin overheard an official explaining that he had not been detained in September because they had not received a report on him until November 14, 2003.

**It is not publicly known whether Canadian officials had contacted Syrian officials, directly or indirectly, about Mr. Nureddin's travel, or whether information was shared with Syrian officials about Mr. Nureddin.**

Mr. Nureddin was later taken to a military detention centre in Kamashly where he was held in a one by two metre underground cell until the following evening.<sup>340</sup>

#### **December 12-13, 2003**

Mr. Nureddin was transferred to the Palestine Branch of the Syrian Military Intelligence, arriving around midnight, and placed in an interrogation room. He was questioned briefly and placed in an underground cell measuring about five by six metres with about 40 other prisoners.<sup>341</sup>

#### **December 14-15, 2003**

Mr. Nureddin was taken to an interrogation room, and tortured and interrogated with many of the same questions he had been asked in Canada. Dr. Stephen Toope interviewed Mr. Nureddin about his treatment:

*Mr. Nureddin described how he was stripped to his underwear and had cold water poured over him while lying on his stomach under a fan. He was asked to raise his feet. He then saw a "black cable" which was used to beat him on the soles of his feet. This cable – which figures prominently in all the descriptions of beatings that I heard – was brought down on his feet some fifteen times. Then Mr. Nureddin was told to stand up. Cold water was poured on his feet to ease the searing*

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<sup>340</sup> Nureddin Chronology, pages 3-4.

<sup>341</sup> *Ibid.*, page 3.

*pain, and he was ordered to run in one place before the procedure was repeated two more times.*<sup>342</sup>

Mr. Nureddin remembers this continuing until about 1:30 in the morning on December 15. He was taken back to his cell and threatened with more torture, but was left in the cell for another eight days. He was unable to walk for four days.<sup>343</sup>

### **December 19, 2003**

Mr. Almalki's eldest son, then ten years old, wrote to Prime Minister Paul Martin when he took office, asking him to help secure his father's release. The Prime Minister replied on March 4, 2004, saying that he would do what he could to help.<sup>344</sup>

A heavily censored portion of the Information to Obtain the search warrants executed on January 22, 2002 was released at a hearing at the Ontario Provincial Court. The released information revealed that the warrants authorized the RCMP to search seven locations for "documents or photographic evidence relating to obtaining or the production of, recipes for and preparation of explosive material" and "documentation or photographic evidence relating to government facilities and/or structures domestic or foreign." The documents revealed that police found "six boxes of amunition (sic) bullets ... seized in the office near the bed" of one residence. The justification for the searches was blacked out. Justice Dorval authorized Mr. Edelson the right to see the ITO in full, on condition that he not copy it, or discuss the contents with anyone but Mr. Almalki. Sergeant Walsh told reporters that "The only time the police are tight-lipped is when there's a reason, and in this case there's a reason."<sup>345</sup>

### **December 21, 2003**

Mr. Nureddin was questioned about Hassan Farhat and Subghat Allah Rasul and then sent back to his cell.<sup>346</sup>

### **December 23, 2003**

Mr. Nureddin recalls being taken to the director's office. The director gave him tea, asked him about his parents and how much money he had. He asked if he had been beaten, and told him not to worry. Mr. Nureddin was taken back to his cell. Later

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<sup>342</sup> *Toope Report, page 6.*

<sup>343</sup> *Nureddin Chronology, pages 4-5.*

<sup>344</sup> *Almalki Chronology, page 39.*

<sup>345</sup> "Almalki cited as one of seven terror suspects: RCMP searched other Ottawa-area homes, censored documents show," *Kate Jaimet, Ottawa Citizen, December 20, 2003. Note that this document has been re-redacted several times since being entered as an exhibit at the Arar Commission.*

<sup>346</sup> *Nureddin Chronology, page 5.*

that night he was taken to an interrogation room, where Mr. Saloum asked about his beating and told him that sometimes mistakes are made and offered him tea. Another interrogator asked for his forgiveness and told him they had been trying to verify a report they had received.

Mr. Saloum took notes as he asked Mr. Nureddin about the money he had traveled with, about Aly Hindy and the Salaheddin Centre, and about Hassan Farhat and Subghat Allah Rasul. As he completed each page, it was taken to be typed.<sup>347</sup>

### **December 24, 2003**

The guards were instructed to move Mr. Nureddin to a bigger cell. This happened after another prisoner started shouting about a lack of food, and tried to harm himself before being taken away by guards. The prisoner was later returned to the cell, unconscious. Over the next few days Mr. Nureddin was repeatedly taken to the director's office and offered tea.<sup>348</sup>

**It is not known whether Mr. Nureddin's treatment in Syria was affected by publicity surrounding Mr. Arar's case in Canada, or if Canadian officials were communicating with Syrian officials about his case at that time.**

### **Late, 2003**

Mr. El Maati remembers there may have been another consular visit in November or December 2003, at Abou Zabel, but is not sure of the date. He believes that the issue of meeting with the Canadian intelligence officers was not raised again and no one from Canada ever came to question him. He remembers having another visit with his mother around this time, and being devastated to learn from her that his marriage had been annulled.<sup>349</sup>

### **January 2004**

Sometime in January, Mr. Almalki was permitted an official visit with his mother, father and another relative. His father told him about the RCMP letter and that he had given it to Syrian authorities, that he had appointed a lawyer and that a court date had been set for the first week in February.<sup>350</sup>

### **January 6, 2004**

Mr. Nureddin was questioned about his family, and who to call in case of an emergency, and he told them to contact the Canadian Embassy. He was asked where he wanted to go

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<sup>347</sup> *Ibid.*, page 5.

<sup>348</sup> *Ibid.*, pages 5-6.

<sup>349</sup> *El Maati Chronology*, page 28.

<sup>350</sup> *Almalki Chronology*, page 39.

when he was released and he said Canada. They asked why he didn't want to stay in Syria for a while and then go to Iraq.<sup>351</sup>

Mr. Almalki's wife received an email from Sergeant Walsh containing a notice for a search warrant executed for luggage two years earlier when the family left for Malaysia. She spoke to a lawyer, who advised her not to confirm because it was odd that they were sending this two years after the fact, and while she was still in Malaysia.

This email was sent two weeks after the *Ottawa Citizen* applied to have the Information to Obtain the January 2002 search warrants unsealed. That ITO was later released in differently censored versions, and portions of the ITO reveal that Mr. Almalki's hard drive was copied and his family's luggage seized without his knowledge at Dorval airport on November 28, 2001, two days before the General Warrant to seize the luggage was issued.<sup>352</sup>

#### January 8, 2004

Mr. Nureddin says he was asked to sign and put his thumbprint on several statements including one saying he was not mistreated, and the one that had been typed on December 23 when he was asked about Hassan Farhat, Subghat Allah Rasul and Aly Hindy. He was not given time to read this document.<sup>353</sup>

Dr. Toope writes that Mr. Nureddin testified that he signed these documents "after hearing the screams of other torture victims, including women — which he found particularly upsetting."<sup>354</sup> **It is not publicly known whether this document was ever forwarded to Canadian officials.**

#### January 11-14, 2004

Mr. El Maati was handcuffed, blindfolded and taken to the State Security Branch in Giza, where he was interrogated again. They asked new questions about his brother, Amr, and wanted to know if Mr. El Maati knew where he was. When Mr. El Maati said he had no idea where his brother was, the officer ripped part of his beard out.

Mr. El Maati says he was held and tortured and interrogated at Giza for three days before being released on January 14, two

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<sup>351</sup> *Nureddin Chronology, page 6.*

<sup>352</sup> *Almalki Chronology, page 6; "Lawyer claims Mounties illegally seized client's luggage," James Gordon, Canwest News Service, September 18, 2005.*

<sup>353</sup> *Nureddin Chronology, page 6.*

<sup>354</sup> *Toope Report, page 7.*

years, two months and two days after his initial detention.<sup>355</sup> He was sent out the door with his mother's address. His family was not told and was therefore not able to be there to meet him. Canadian officials were not there either, but knew about his release — Ms. Wassef from the embassy telephoned his mother to congratulate them just a few minutes after he arrived home.<sup>356</sup>

Mr. Nureddin was released on January 13, 2004 after thirty-four days in detention. He was told to say he had been well treated, and taken to the General's office where Mr. Martel was waiting. A half hour later they left the compound. Mr. Martel and a woman named Maha, from the embassy, debriefed him at a restaurant. He was taken for a medical check-up, and then to the embassy, where he spoke with Dan McTeague, Parliamentary Secretary to the Minister of Foreign Affairs with special emphasis on Canadians Abroad. That evening he was taken to the Sheraton Hotel, where he was asked to sign a repayment agreement for a jacket, his hotel, and his flight to Canada.<sup>357</sup>

#### January 14-15, 2004

Mr. Nureddin was taken to the embassy and questioned again by Mr. Martel. He met with the ambassador, and a political officer who wanted to know about Iraq. He was taken to the airport where he was delayed for 40 minutes but was allowed to board his flight, and was escorted home by Mr. Martel. Mr. Nureddin says embassy officials told him that someone from CSIS had contacted them on the morning of January 13 to say he would be released.<sup>358</sup>

#### **It is not publicly known how and when CSIS learned that Mr. Nureddin was detained in Syria, and would be released.**

#### January 21, 2004

The RCMP searched journalist Juliet O'Neill's home.

#### January-March 2004

Mr. El Maati had to report every four to five days to state security at Giza, and report on where he had been, who he had talked to, and who had called him.

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<sup>355</sup> *Mr. El Maati's Chronology implies he was released on January 11, but he has clarified with Intervenor that he was held and interrogated and tortured again at Giza until his release on January 14, 2004.*

<sup>356</sup> *El Maati Chronology, page 28.*

<sup>357</sup> *Nureddin Chronology, pages 6-7.*

<sup>358</sup> *Ibid., page 7.*

About three days after Mr. El Maati was released, he and his mother went to the Canadian embassy. They had called and asked to see him. They asked Mr. El Maati how he was treated in Egypt, and he did not provide details but was clear that he had been tortured. Mr. El Maati had contracted severe bronchitis, and he explained that he was worried that it was Tuberculosis. They were alarmed and referred him to a doctor they dealt with in Cairo.

Mr. El Maati also asked embassy officials to renew his passport. Egyptian officials had given him back his Canadian passport, which was due to expire the next month, and his old Egyptian passport, but did not return his citizenship card and other documents to him. After a long delay he was issued travel documents valid for six months.

Mr. El Maati heard through his family that Canadian officials had accompanied Mr. Arar and Mr. Nureddin to Canada. He was very frightened he would be detained or otherwise prevented from leaving the country, and pleaded with the Canadian officials to accompany him home. The officials said instead that they would accompany him to the airport, and give him a letter he could take with him to present in Frankfurt if there were any problems.<sup>359</sup>

**It is not publicly known why Canadian officials refused to accompany Mr. El Maati home, as they had Mr. Nureddin and Mr. Arar.**

**February 5, 2004**

The Canadian government established the Commission of Inquiry into the Actions of Canadian officials in relation to Maher Arar.

**February 8, 2004**

Mr. Almalki was taken to court, where he was placed in a cell and asked to sign papers about his lawyer. After a long wait he was informed that all the hearings had been postponed because the judge had not shown up. He was taken back to Sednaya.<sup>360</sup>

**February 17, 2004**

On February 17, 2004, Irene Khan, Secretary General of Amnesty International's International Secretariat wrote to Prime Minister Paul Martin to say that Amnesty International had interviewed Mr. Nureddin, and was concerned that he was tortured and that CSIS may have played a role in his case. Ms.

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<sup>359</sup> *El Maati Chronology, pages 28-29.*

<sup>360</sup> *Almalki Chronology, page 40.*

Khan recommended that the Arar Inquiry include a second part that could examine Mr. Nureddin's case. Alex Neve wrote on behalf of Amnesty International Canada to Minister Graham and Minister McLellan to recommend that the Arar Inquiry examine Mr. Nureddin's case.

### February 25, 2004

Mr. Saloum and another interrogator arrived at Sednaya to question Mr. Almalki. They had a new report with them about a Canadian family. The report contained very detailed information about the family, including women's names, their children and in-laws, and their work. Mr. Almalki spoke with this family after being released and was told that a family member had been questioned by the RCMP in the U.S.<sup>361</sup>

**It is not publicly known whether this new report originated in Canada, and if so, how and when it was provided to Syrian officials.**

### February 29, 2004

Mr. Almalki was taken to court again. There, the judge asked if he used to attend the main mosque in Ottawa, and whether he used to attend lectures there. Mr. Almalki said yes, he had. The judge asked if he knew his Muslim Canadian friend, and Mr. Almalki said yes, and that he had never been charged in Canada. The judge asked whether he had worked for a humanitarian organization in Pakistan, and Mr. Almalki said yes, he had worked for a UNDP funded projects there but had left them to return to Canada. While the judge was questioning him, his lawyer came in and asked to stand next to Mr. Almalki so he could hear the conversation. The judge ordered him to the back of the room. The judge asked if anyone in the room had anything to add. A man in a military uniform asked if Mr. Almalki still shared al-Qaeda's views. Mr. Almalki answered that he had never shared al-Qaeda's views.

Mr. Almalki was taken back to a cell. His lawyer came and told him that that he had submitted a request for release to the court, and that they had accepted. He said that Mr. Almalki would be released soon on bail and would have to reappear in court on April 25, 2004.

Mr. Almalki was taken back to Sednaya.<sup>362</sup>

### March 1, 2004

Mr. Almalki was transferred from Sednaya to the Interrogation Branch, and then later that day, to the Palestine Branch. At the

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<sup>361</sup> *Ibid.*, page 39.

<sup>362</sup> *Almalki Chronology*, pages 40-41.

Palestine Branch he was taken into a 15 by 15 foot underground cell where about 26 people were being held. There was a window in the wall of the cell that opened into a hole at the bottom of the hallway of the interrogation floor, meaning the sound of other prisoners being tortured was very loud. Others in the cell would be taken up for torture, and they would all hear that person being tortured and then try to help them when they were returned.<sup>363</sup>

### March 7, 2004

Mr. El Maati went to the airport with Canadian embassy officials Ms. Papas and Mr. Chen, but was prevented from leaving the country. His luggage was already on the plane and he had his boarding pass when he was stopped.<sup>364</sup> **It is not publicly known why Mr. El Maati had these difficulties and what contact there was between Canadian and Egyptian officials at the time.**

### March 10, 2004

Mr. Almalki was taken to the office of a man in charge of his file. The man told him that the Americans and Canadians had been looking for him. He said the Canadians wanted them to hand him over, but they do not hand over Syrians to other countries.

Mr. Almalki said that he had insisted from the beginning that he had done nothing wrong so no one could have evidence against him. He referred to the letter from the RCMP that his parents brought to Syria from Canada. The man said that if the Canadians had sent a letter, it must have been after the Syrians sent them the interrogation reports that cleared Mr. Almalki of terrorist and other charges. He asked if Mr. Almalki would be going back to Canada, and he said yes. He warned Mr. Almalki not to speak about how he had been treated.

One year, ten months and seven days after being first detained on May 3, 2002, Mr. Almalki was released. He was taken to another military building where his relatives were waiting in a general's office.

Mr. Almalki remembers being constantly terrified that he would be detained again.<sup>365</sup>

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<sup>363</sup> *Ibid.*, page 41.

<sup>364</sup> *El Maati Chronology*, page 29.

<sup>365</sup> *Almalki Chronology*, pages 41-42.



## March 18, 2004

Mr. Almalki went to the Canadian embassy for help getting his passport renewed. He spoke with the consul, Mr. Martel, through a glass window. Mr. Almalki asked to speak to him in person. Mr. Martel left for a minute and then returned and took Mr. Almalki into the embassy and up to his office.

Mr. Martel said that he was surprised to see him, and that he had been expecting Mr. Al Boushi to be released, not Mr. Almalki. Mr. Martel asked how he had been treated, and Mr. Almalki told him that he had been tortured but could not talk about the details. Mr. Almalki told Mr. Martel that he had been warned by the Syrians not to talk about his experience to anyone, and not to talk to media. Mr. Martel told Mr. Almalki that he must tell his wife not to speak to the media, because Foreign Affairs would be very upset if the media learned what had happened to him before he spoke with them about it. Mr. Almalki assured him that no one would speak to the media.

Mr. Almalki asked if he could help him bring his wife and children to Syria. Mr. Martel responded that he could not help with that because his wife was not a Canadian citizen. Mr. Almalki pointed out that his children were all Canadian citizens. Mr. Martel seemed reluctant to help.

Mr. Almalki told Mr. Martel he needed a new passport because his had expired while he was in prison and Mr. Martel handed him a passport application. Mr. Martel asked why he needed a passport if he was not allowed to travel out of Syria. Mr. Almalki told him that the day he is given permission, he would like to be ready to leave as soon as possible. Mr. Martel responded that they could issue a passport the same day if that happened.

Mr. Martel told him that Mr. McTeague was on his way to Syria and that he wanted to meet with him. They arranged to meet for lunch on March 22 before meeting with Mr. McTeague.<sup>366</sup>

## March 19, 2004

Mr. Almalki's lawyer in Canada, Mr. Edelson, was quoted in Canadian media confirming that Mr. Almalki had been released a week earlier.<sup>367</sup>

## March 22, 2004

Over lunch, Mr. Martel told Mr. Almalki that Senator de Bané had met with the Syrian President in December 2003, who told Senator de Bané that he was frustrated because Syria was

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<sup>366</sup> *Ibid.*, pages 42-43.

<sup>367</sup> *Ibid.*, page 43.

being blamed for the detentions of people that Canadians had asked them to detain. The Syrian president apparently told Senator de Bané that they would not release anyone else because when they do, they get accused of mistreating them.

**It is not publicly known whether the remarks apparently made by the Syrian President might accurately reflect the perspective of Syrian officials at the time, or whether this might help explain why Mr. Almalki was not released earlier.**

Mr. Almalki and Mr. Martel went to the Sheraton hotel to meet with Mr. McTeague, his assistant, Glenn Bradbury, and Ambassador Davis. Mr. McTeague asked about the court hearing and explained that they had no choice but to respect the Syrian legal process.

Mr. Almalki asked that the Canadian government help his wife and children come to Syria. Mr. Martel said that his wife was not a Canadian citizen, but Mr. McTeague asked if she had permanent resident status in Canada, because if she did, they could help her.

Mr. McTeague asked several times whether Mr. Almalki was planning to speak with the media and Mr. Almalki assured him that he would not because it would put him and his family at risk. Mr. McTeague told Mr. Almalki to give him three weeks to try and help get him out of Syria and back to Canada, and that if he was not able to do that within three weeks, he would come back and refuse to leave without him. Mr. McTeague told Mr. Almalki that as far as he was concerned, he was innocent and he would do what he could to help him. He added, however, that what CSIS and the RCMP did was out of his control.<sup>368</sup>

### **March 29, 2004**

Mr. El Maati and his mother tried to leave Egypt for the second time. Despite what happened on March 7, Canadian officials still refused to accompany him home to Canada, but did appear to try harder to help him get out successfully. They were able, this time, to successfully leave Egypt and return to Canada on March 30.<sup>369</sup>

### **March 30, 2004**

Mr. El Maati landed in the Toronto airport with his mother. An immigration officer asked Mr. El Maati where he had been, and he responded that he had been detained for two and a half

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<sup>368</sup> *Ibid.*, pages 43-44.

<sup>369</sup> *El Maati Chronology*, page 29.

years. While he was talking, another man came and told the immigration officer that Mr. El Maati's lawyer was waiting outside with the media. After some discussion between the two, the first officer advised the second officer that he had no choice but to let Mr. El Maati into the country because he was a Canadian citizen. Their bags were searched for over an hour before they were finally allowed to go home.

DFAIT officials never contacted Mr. El Maati to de-brief him, or to recommend or check that he was seeking professional medical or psychological help. Ms. Pastur-Lupul did help Mr. El Maati get his Ontario Health Insurance Plan and Social Insurance cards renewed.<sup>370</sup>

### Mid-April 2004

Mr. Almalki was called in for questioning at the Palestine Branch. The interrogators had a new report they wanted to question him about. Mr. Almalki saw that the fax header date was March 29, 2004. The report contained pictures and names of several people — he only knew one person's name. The report also had the name of a group called the "Prayers Group," and claimed that Mr. Almalki was its spiritual leader. The interrogators threatened to bring the tire to torture him again. Mr. Almalki told them that none of what was in the report was true. The interrogators let him leave.

Following the interrogation, Mr. Almalki's family in Canada contacted Mr. McTeague to tell him about the report and what had happened.<sup>372</sup>

**It is not publicly known whether Canadian officials were in communication with Syrian officials at this time, and whether this report might have come from Canada.**

### April 25, 2004

Mr. Almalki appeared in court. His lawyer handed in his defence document to the court clerk. Mr. Almalki was told to reappear on June 6, 2004.<sup>373</sup>

### Late April 2004

Mr. Almalki met with Mr. Martel and another embassy official for lunch. Mr. Almalki had told them earlier about the report he

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<sup>370</sup> *Ibid.*, pages 29-30.

<sup>371</sup> *Almalki Chronology*, pages 44.

<sup>372</sup> *Ibid.*, pages 44-45.

<sup>373</sup> *Ibid.*, page 45.

was questioned about in mid-April 2004. They wanted to know more about it and Mr. Almalki told them. Mr. Almalki spoke of the need to secure the release of Mr. Al Boushi, and suggested that Mr. Saloum would be a good person to approach. Mr. Martel told him he was good friends with Mr. Saloum.<sup>374</sup> **The extent of Mr. Martel's relationship with Mr. Saloum, the head of interrogations at the Palestine Branch, is not publicly known.**

#### April 2004

On April 30, 2004, Mr. El Maati, Mr. Almalki and Mr. Nureddin applied for standing at the Arar Commission.

#### April 17-May 4, 2004

Mohamad Kamal Elzahabi was questioned in Minneapolis by the FBI between April 17 and May 4, 2004. He was arrested on May 4 when he stopped answering questions. Whether the interview was voluntary or coerced is a question currently before the courts. Mr. Elzahabi's lawyer has filed a motion to dismiss the statements provided by his client during the seventeen-day period. Human Rights Watch and the American Civil Liberties Union list Mr. Elzahabi's case as one of at least seventy in which the US Department of Justice misused the Material Witness Law after 9/11 "to secure the indefinite incarceration of those it has wanted to investigate as possible terrorist suspects," and "cast men into prison without any showing of probable cause that they had committed crimes."<sup>375</sup>

It is clear in public court documents that much of the FBI's questioning focussed on Mr. Almalki and his business, and was based on information from Canada, likely information that was obtained in the January, 2002 searches. The FBI alleges that during the questioning, Mr. Elzahabi lied to them by saying he merely received packages for an "Afghani businessman" (in later documents referred to by name as Abdullah Almalki) when operating his Drive Axle Rebuilders (DAR) business in New York, and did not open them, and was unaware of the contents of the packages.

The FBI says that a search of purchase orders and other documents relating to the shipments to DAR "obtained in 2002 from premises associated with the same Afghani businessman" contradicted Mr. Elzahabi's claim. In particular, a letter dated April 17, 1996, according to the FBI, lists in detail the contents,

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<sup>374</sup> *Ibid.*, page 45.

<sup>375</sup> Available on-line at <http://hrw.org/reports/2005/us0605/index.html>.

and instructs "Mr. El Zahabi" to remove labels, and repack the contents. The FBI affidavit says "field radios of the same make and model as was shipped to DAR in New York have been recovered in Afghanistan by U.S. military forces during military actions following the attacks of September 11, 2001."<sup>376</sup>

Mr. Almalki provided a copy of the April 17, 1996 letter to the *Globe and Mail* and the *Ottawa Citizen*, along with the Air Way bill of lading for the shipment, and the letter of credit, which shows that the purchaser and recipient of the shipment was the Pakistani army. He told the *Globe and Mail* and the *Ottawa Citizen* that Mr. Elzahabi's brother was the intended recipient of the April 17 letter, and that the instructions to remove labels was merely to prevent clients from dealing directly with suppliers, something he describes as a common and critical business practice.<sup>377</sup>

**It is not publicly known whether the FBI based its interpretation of the letter on a characterization by Canadian officials.** A section in Appendix "D" of the RCMP's Information to Obtain the January 22, 2002 search warrants (which was provided to U.S. officials) may refer to the April 17, 1996 letter, when it says that "in addition to the goods, it is also apparent that they are trying to conceal the paper trail showing payment and suggests that another company be recruited to act as a front company..."<sup>378</sup>

The *Globe and Mail* contacted Mr. Almalki's client in Pakistan and a "representative said the 1995 shipment was too old to verify but confirmed his company imported walkie-talkies in that period," and "expressed surprise this could still be an issue for anyone." The representative said the company had "never been

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<sup>376</sup> *United States of America v. Mohamad Kamal Elzahabi aka "Abu Kamal al Lubani," and attached affidavit sworn by FBI Special Agent Kiann Vandenoer, June 6, 2004. Curiously, during an April 17, 2004 hearing, FBI agent Samit testified that at the time of the April 17, 2004 interview with Mr. Elzahabi, the FBI had not yet received information from a source about where the electronic equipment in question was found. While cross-examining FBI agent Samit, Elzahabi's lawyer, Paul Engh asks, "and you were interested in what packages were sent there [DAR]... because you had information from some source that packages sent out of there had been discovered elsewhere...?" and Samit answers "Not at the time of the [April/May, 2004] interviews, no sir, but subsequently we learned that" (April 4, 2006 transcript, page 94).*

<sup>377</sup> "Torture, radios and why the U.S. just won't let go," Colin Freeze, *Globe and Mail*, March 17, 2007, page A8; "Almalki linked to U.S. terror trial: Papers taken by RCMP during raid on Ottawa man's home surface as court exhibit," Andrew Duffy, *Ottawa Citizen*, March 14, 2007, page A1.

<sup>378</sup> *Information to Obtain the January 22, 2002 search warrants, page 35.*

questioned by any local or foreign intelligence agency about the imports in question."<sup>379</sup>

**It is not publicly known what information was provided to American officials regarding Mr. Almalki.**<sup>380</sup>

**May 2004**

Justice O'Connor ruled against applications for standing by Messrs. El Maati, Almalki and Nureddin.

**May 11, 2004**

Mr. Almalki's wife wrote to Prime Minister Paul Martin to tell him that her husband had been taken in for questioning and to ask him to help ensure his safe return to Canada. She received a reply on May 31, 2004, saying that her concerns had been noted.<sup>381</sup>

**May 26, 2004**

FBI Director Robert S. Mueller III and Attorney General John Ashcroft held a news conference to warn of an impending "hard" attack on the United States. They asked local law enforcement and the public to help track down seven terror suspects including two Canadians, Amr El Maati and Abderraouf Jdey. Attorney General Ashcroft linked the men to the "Abu Hafs al Masri Brigade" an alleged terrorist cell based in Boston. Mr. Mueller described Amr as "an al-Qaeda member and a licensed pilot, is believed to have discussed hijacking a plane in Canada and flying it into a building in the United States."<sup>382</sup>

The *Globe and Mail* later reported that "although the FBI said Mr. El-Maati is a licensed pilot, official records in Canada and the United States show no trace of anybody by that name holding a valid licence."<sup>383</sup> The warning of an impending attack was greeted with some scepticism because it coincided with

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<sup>379</sup> "Torture, radios and why the U.S. just won't let go," Colin Freeze, *Globe and Mail*, March 17, 2007, page A8.

<sup>380</sup> *It is not known whether the FBI ever filed a formal request under the Mutual Legal Assistance Treaty (MLAT) to use this information in a criminal proceeding. See Factual Background, Volume 1, pages 45, 48, 85, 91, 127, 139-140, 143, 161, 210; Analysis and Recommendations, pages 121-122 and 341.*

<sup>381</sup> *Almalki Chronology, page 45.*

<sup>382</sup> "Canadians sought in al-Qaeda plot: Two among seven suspected of planning attacks against U.S.; Canadian airliner may be target," Sheldon Alberts, *National Post*, May 27, 2004, page A1.

<sup>383</sup> "Search continues for elusive terrorism suspect," Colin Freeze, *Globe and Mail*, Friday, May 28, 2004. See also, *Amr El Maati Chronology*, in which his family says that to their knowledge, Amr El Maati never trained to be a pilot. They also say that his eyesight is very poor, and requires him to wear very thick eye glasses, and that it is unlikely that he could pass the required tests to be a pilot.

mounting criticism over U.S. policy in Iraq, and because the warning did not prompt a change in the U.S. national terror alert.<sup>384</sup>

## May 29, 2004

CSIS agents identifying themselves as Justin Wallace and William Jones visited Badr El Maati's apartment at 4:00 p.m. They asked if he had heard the news from the FBI about his son, Amr, and when he last heard from him. Badr El Maati explained the last time they spoke with Amr was in 1999.

They asked about Ahmad's condition, and he advised that if they wanted to speak with him they should contact his lawyer, Mr. Galati.

Agent Wallace later called Ahmad El Maati and told him he had been unable to reach Mr. Galati and that they could just meet without him, to make things simple. Mr. El Maati insisted he speak with his lawyer.<sup>385</sup>

## June 6, 2004

Mr. Almalki appeared in court, and his hearing was postponed until July 25<sup>th</sup>. Ambassador was there and met with a judge for forty minutes. He told Mr. Almalki that he had told the judge that the Canadian government wanted an open and fair trial.<sup>386</sup>

The FBI filed a Criminal Complaint and supporting affidavit against Mohamad Kamal Elzahabi on June 6, 2004.<sup>387</sup> The first count says he lied when he told the FBI that he merely received the packages from Mr. Almalki (as discussed above).

## June 19, 2004

Mr. Almalki's wife and children left Kuala Lumpur for Damascus, and were reunited with Mr. Almalki at the airport. His youngest child was now two and a half years old and did not know his father.<sup>388</sup>

## July 10, 2004

The *Toronto Star* published a story saying that "an internal document listed as 'not for public release'" and "for law enforcement only" issued by Washington's FBI Counterterrorism Division was posted to web site of the sheriff's office in Jonesboro, Georgia saying that Mr. El Maati's

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<sup>384</sup> "As Ashcroft warns of al-Qaeda plan to attack U.S., some question the threat and its timing," Richard W. Stevenson and Eric Lichblau, *New York Times*, page A16.

<sup>385</sup> *El Maati Chronology*, pages 30-31.

<sup>386</sup> *Almalki Chronology*, page 45.

<sup>387</sup> *United States of America v. Mohamad Kamal Elzahabi aka "Abu Kamal al Lubani," and attached affidavit sworn by FBI Special Agent Kiann Vandenoever, June 6, 2004.*

<sup>388</sup> *Almalki Chronology*, page 45.

brother, Amr El Maati, was "last known to have entered Toronto" on November 9, 2001.<sup>389</sup> His family does not believe this news, as they have not spoken with Amr since 1999, and the last they heard from him was an email sent in 2000.<sup>390</sup>

### July 25, 2004

Mr. Almalki appeared in court for the last time. Ambassador Davis attended. The judge told him he was acquitted of all charges but should be handed over to Military Police so he could complete his military service. After the judge made his ruling, another court official ordered the military police not to arrest him immediately. He told Mr. Almalki to resolve the issue of his military service within two days or they would detain him. Ambassador Davis promised he would speak with people in Ottawa about Mr. Almalki's lapsed military service.<sup>391</sup>

### July 26, 2004

Mr. McTeague's office contacted Mr. Almalki's brothers in Ottawa, and told them to tell Mr. Almalki to go to the Canadian embassy or the Ambassador's residence and stay there until the military service issue was resolved.<sup>392</sup>

### July 27, 2004

Mr. Almalki went to the Canadian embassy on July 27<sup>th</sup>. He told Mr. Martel that he had been told to stay there, and Mr. Martel said that this was impossible, because he was a dual national, and this would be disrespectful to Syrian laws. Mr. Almalki telephoned his brother to confirm what Mr. McTeague's office had said. Mr. Martel then said that Mr. McTeague did not have the authority to do this — only the Minister of Foreign Affairs could order this. Mr. Martel told him he had to leave the embassy by the time it closed at 4:30 p.m. that day. Mr. Almalki waited in the reception area for his brother to call him back. The receptionist told him he had a call, and it was Curt Petrovich calling from the CBC. Mr. Almalki's brothers had told Curt about the situation at the embassy. The CBC broadcast an interview with him that day.<sup>393</sup>

At 4:30 p.m., Mr. Almalki was talking with his brother, Youssef, when the receptionist came to tell him he had to leave. Mr. Almalki did not know where to go. He was too frightened to

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<sup>389</sup> "Terror suspect was in Toronto; FBI says Amer Elmaati here after 9/11 Possible summer strike on U.S. feared," Michelle Shephard, *Toronto Star*, July 10, 2004, page A10.

<sup>390</sup> *El Maati Chronology*, page 30.

<sup>391</sup> *Almalki Chronology*, pages 45-46.

<sup>392</sup> *Ibid.*, page 46.

<sup>393</sup> *Ibid.*, page 46; The CBC report is available at: [http://ottawa.cbc.ca/regional/servlet/View?filename=ot\\_more\\_almalki20040727](http://ottawa.cbc.ca/regional/servlet/View?filename=ot_more_almalki20040727).



return to where he was staying, and instead walked around for hours. His brother emailed the Prime Minister to tell him Mr. Almalki had been refused help by the Canadian embassy.<sup>394</sup>

**It is not publicly known why Canadian embassy officials did not provide refuge for Mr. Almalki, or offer to escort him home as they did for Mr. Arar and Mr. Nureddin.**

**July 28, 2004**

Mr. Almalki sought advice from people he knew in the Syrian government, who advised that if the judge had really wanted him to fulfil his military service, he would not have been allowed to leave the court. They told him that the judge had let him go because he wanted him to leave.

Mr. Almalki was sceptical, so he had someone check to see if his name was on any lists. He went to immigration to transfer his entry stamp into his new passport. When he went there, they gave him an exit visa, and the head of immigration signed it for him.

Mr. Almalki finally felt it might be safe for him to leave, and went to a travel agency and asked for a ticket on the first flight to Europe. The first flight was from Beirut to Vienna, so he drove fifteen minutes to the Lebanon border, crossed without any problem, and then drove the rest of the two-hour trip to Beirut. He caught that flight, and when he arrived in Vienna, he emailed his wife and told her that he was fine and that he wanted them to leave Syria before anyone found out he had left. He did not tell her where he was because he was worried if anyone knew he had left the country they might be prevented from leaving or detained.<sup>395</sup>

**July 31, 2004**

Mr. Almalki's wife travelled on the first flight out of Damascus three days later on Saturday July 31. Coincidentally, the flight took her to Vienna, where she emailed Mr. Almalki to find out where he was. Mr. Almalki told her that he, too, was in Vienna. The family spent some time together before leaving for Canada and arriving home on August 2<sup>nd</sup>, 2004.<sup>396</sup>

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<sup>394</sup> *Ibid.*, page 46.

<sup>395</sup> *Ibid.*, pages 46-47.

<sup>396</sup> *Ibid.*, page 47.

**August 21, 2004**

The *Boston Globe, Inquirer* and *Mirror* newspaper of Nantucket reported a "possible sighting" of Amr El Maati at the Nantucket Memorial Airport.<sup>397</sup>

**October 2004**

Sergeant Walsh submitted a sworn affidavit to the Ontario Court of Justice arguing that his Information to Obtain the search warrants executed on January 22, 2002 should not be unsealed. The affidavit says the ongoing investigation involves "obtaining additional search warrants in Canada to gather further evidence to complement the evidence found during the execution of search warrants on Jan. 22, 2002."<sup>398</sup>

The *Ottawa Citizen* reported that the affidavit also says that:

*the RCMP is awaiting foreign government responses to its requests to interview 'persons of interest' in other countries, and that the agency has also asked for foreign documentation, "which could be used as evidence for any criminal charges arising from this investigation [into Almalki]."*<sup>399</sup>

**It is not publicly known whether Sergeant Walsh was referring here to information that may have been obtained under torture, such as interrogation reports on Mr. El Maati or Mr. Almalki. Nor is it known who the RCMP was seeking to interrogate overseas, or whether they were at risk of torture. It is not publicly known if this might be in reference to questioning of Abdullah Khadr.**

**November 2004**

Minister McLellan responded to Amnesty International's February 19, 2004 letter on November 19, 2004, saying that the government did not intend to broaden the scope of the Arar Inquiry to examine Mr. Nureddin's case, and saying that Mr. Nureddin could file a complaint about CSIS with the Security Intelligence Review Committee.

On November 26, 2004, Alex Neve of Amnesty International Canada wrote to Minister McLellan urging her to set up an independent investigation of Mr. Almalki's case to determine "the nature and extent of co-operation between Syrian and Canadian officials" while he was detained in Damascus. Mr.

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<sup>397</sup> "Possible terrorist sighting roils isle: Suspect sought on Nantucket," Sean P. Murphy, *Boston Globe*, August 21, 2004.

<sup>398</sup> "RCMP take new tack in Almalki investigation: Documents show force wants to interrogate witnesses overseas," James Gordon, *Ottawa Citizen*, October 31, 2004, page A1.

<sup>399</sup> *Ibid.*

Neve also wrote that Amnesty International wants to make sure anything Mr. Almalki might have said under torture is not used against him or anyone else.

### December 13, 2004

The *Ottawa Citizen* published an article by James Gordon saying that a townhouse belonging to Mr. Almalki's brother was one of the targets of the January 2002 searches. The article says CSIS "was tipped off days after the terrorist attacks of Sept. 11, 2001, about activity at the townhouse that one neighbor deemed suspicious." **It is not publicly known whether it was someone in CSIS or the RCMP who provided Gordon with the name of the neighbor who contacted CSIS.** Gordon interviewed the neighbor, who was quoted in the story as saying that he had noticed that the residents of the townhouse had moved one week before September 11, 2001, and that the neighbor thought the "sudden move" was suspicious after the World Trade Centre was hit. The story goes on to quote the neighbor saying:

*"I thought, 'hey, maybe it means nothing, maybe it doesn't. So I said, well, I'm going to phone CSIS,' " the neighbour said. According to the neighbour, the woman who answered the phone at Canada's spy agency listened to the story and left briefly to discuss it with someone else. She came back on the line and said, "we'll look into it."<sup>400</sup>*

### Dec. 2004/Jan. 2005

It was in late December, 2004 or early January, 2005 that Sergeant Walsh returned the original of Mr. El Maati's papers to his father, Badr El Maati. He told Badr El Maati they had no basis on which to lay charges and were therefore returning the will and the trucking log books.<sup>401</sup>

### March 4, 2005

The *Ottawa Citizen* published an article by James Gordon about newly released portions of the Information to Obtain the search warrants executed on January 22, 2002, which disclosed some of what the RCMP says justified the searches. Part of the justification was evidence gathered in a covert search conducted in mid-December 2001, the goal of which was to uncover evidence of an "al-Qaeda sleeper cell" operating in Ottawa. The document says officers witnessed "counter-surveillance" behaviour, and deemed someone's use of internet access at a Chapters bookstore suspicious. The newly released

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<sup>400</sup> "RCMP raided townhouse on secret warrant: Owner was linked to two men held in Syria on terror suspicions," James Gordon, *Ottawa Citizen*, December 13, 2004, page B1.

<sup>401</sup> *El Maati Chronology*, page 31.

information also revealed that part of the justification for the January 2002 searches was based on a tip from someone in the Muslim community.<sup>402</sup>

**May 9, 2005**

Justice O'Connor ruled in favour of the Intervenors' suggestion that a fact-finder interview Mr. El Maati, Mr. Almalki and Mr. Nureddin. Justice O'Connor limited the mandate of the fact-finder to interview these men with respect to their mistreatment in Syria, not the complicity of Canadian officials. The goal was to enable the Commission to make a finding with respect to whether Mr. Arar was tortured, without him having to testify.

**May 25, 2005**

At around noon, CSIS agents Justin Wallace and one other officer named Ian came to Mr. El Maati's home to ask him about his brother. They accused Mr. El Maati of knowing where his brother was. He said that he had been through a lot because of CSIS and that they should contact his lawyer.<sup>403</sup>

**June 7, 2005**

Alex Neve of Amnesty International Canada wrote to Prime Minister Martin urging that he appoint an Independent Expert to carry out a detailed review of Canadian complicity in the cases of Mr. El Maati, Mr. Almalki and Mr. Nureddin. Specifically, he asked that the expert review: whether their experiences are reflective of a pattern; what reforms should be put in place to address any such pattern; what role Canadian officials did or did not play in circumstances around the arrest, detention, interrogation and release of these individuals; what knowledge or suspicion did Canadian officials have of the likelihood these individuals were experiencing torture in detention; what action needs to be taken to ensure the discipline or prosecution of any officials who may have violated policy or contravened Canadian law; and whether any of these individuals are deserving of compensation and if so, how that should be measured and assured.<sup>404</sup>

**June 29, 2005**

Mr. El Maati, Mr. Almalki and Mr. Nureddin were granted limited standing at the Arar Inquiry, so their counsel could address

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<sup>402</sup> *Information to Obtain search warrants executed January 22, 2002, Appendix "D,"; Arar Commission Exhibit P-179; "Ottawa raid by RCMP sought al-Qaeda cell: Secret raid after 9/11 led to searches at seven Ottawa homes," Ottawa Citizen, March 4, 2005, page A1.*

<sup>403</sup> *El Maati Chronology, page 31.*

<sup>404</sup> [http://www.amnesty.ca/resource\\_centre/reports/view.php?load=arcview&article=2780&c=Resource+Centre+Reports](http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=2780&c=Resource+Centre+Reports)

evidence for the purpose of protecting their clients' reputational interests.

### July 7, 2005

Mr. Elzahabi's attorney, Paul Engh, filed a motion and supporting memorandum asking for a deposition order for Mr. Almalki, "the businessman involved in the sale and delivery [of] walkie-talkies" who has been the "subject of intense United States scrutiny" and goes on to seek deposition orders for "additional witnesses named in Mr. Elzahabi's 302" to help the defence:

*rebut the government's contention that Mr. El-Zahabi was a leading Jihad fighter, a cash courier, a plotter. Through these witnesses we wish to undercut the central allegation that he had significant knowledge of al-Qaeda, and thus had a motive to lie about his knowledge of electronics and Mr. Hijazi. We also need to dispute the inference that these walkie-talkies were taken by al-Qaeda fighters and given to the Islamic Jihad fighters in Chechnya.*<sup>405</sup>

Among the 21 additional witnesses listed are Mr. El Maati and Mr. Arar.<sup>406</sup>

### July 16, 2005

The *Ottawa Citizen* published a story about newly released portions of the Information to Obtain the search warrants executed in January 2002. Gordon wrote that "as officers of the Mounties' anti-terrorist squad – Project A-O Canada – tracked members of an alleged al-Qaeda sleeper cell in late 2001, they began to notice what they considered to be advanced counter-surveillance methods." A major focus of the newly released portions of the document, he wrote, was Mr. Almalki.<sup>407</sup>

This article was published shortly after Inspector Cabana revealed at the Arar Inquiry on June 30, 2005 that the RCMP had shared information with the Syrian Military Intelligence in November 2002.<sup>408</sup>

### August 2, 2005

The *Ottawa Citizen* published another story about newly released portions of the Information to Obtain the search

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<sup>405</sup> "Memorandum in support of defendant's motion for disclosure," July 7, 2005, page 18-19. The request for a letter rogatory for Mr. Almalki was granted. See entry for December 7, 2005.

<sup>406</sup> The judge denied these requests. See entry for December 7, 2005.

<sup>407</sup> "Terror suspects used spy-like methods: RCMP: Counter-surveillance described in newly released documents," James Gordon, *Ottawa Citizen*, July 16, 2005, page A4.

<sup>408</sup> Arar Commission transcripts, June 30, 2005, pages 8090–8093.

warrants. Reporter James Gordon went to one of the Toronto addresses on the warrant and interviewed several neighbours about the target of the warrant.<sup>409</sup>

### **August 9, 2005**

Counsel for Mr. Almalki, Mr. El Maati and Mr. Nureddin appeared at the Arar Inquiry to cross-examine Inspector Cabana. Government counsel asserted national security confidentiality claims against almost all the questions asked about their cases.

### **August 27, 2005**

On August 27, 2005, the *Globe and Mail* published an interview by Jeff Sallot with Mr. Almalki on its front page.<sup>410</sup> This was the first interview Mr. Almalki had granted since his return to Canada. In the story, Mr. Almalki said that he wanted the truth to come out, people to be held accountable, and for this to never happen again, especially to another Canadian. A detailed chronology of his experience was released publicly and distributed to media.

### **August 29, 2005**

On August 29, 2005, the *Globe and Mail* published an interview by Jeff Sallot with Mr. El Maati on its front page.<sup>411</sup> This was the first interview Mr. El Maati had granted since his return to Canada. A detailed chronology of his experience was made publicly available.

### **August 31, 2005**

On August 31, 2005, the *Globe and Mail* published a story saying that Minister McLellan would reply soon to the letter sent by Amnesty International nine months earlier on November 26, 2004. The article said that Minister McLellan declined an interview, and that:

*"Marc Roy, the associate director of communications for Mr. Martin, said for the second day in a row that he will not respond to questions about what due diligence the Prime Minister performed to make sure someone was getting to the bottom of the allegations of Canadian complicity in the torture of the two men or*

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<sup>409</sup> "Hunting al-Qaeda: Inside the RCMP's search for a terror cell," James Gordon, *Ottawa Citizen*, August 2, 2005.

<sup>410</sup> "For the first time, Abdullah Almalki tells his story: He was thrown in a Syrian jail on a family visit. He says he was tortured -- and Canada's complicit. Some say he's a terrorist, but is that the point?" Jeff Sallot, *Globe and Mail*, August 27, 2005, page A1.

<sup>411</sup> "Once a mujahed who took flying lessons, Ahmad El Maati seemed to fit the profile of a terrorist: Road to Damascus began with CSIS," Jeff Sallot, *Globe and Mail*, August 29, 2005, page A1.

*why it took two months to respond to the June 7 letter.*"<sup>412</sup>

## September 1, 2005

Amnesty International, the Canadian Council on American Islamic Relations and the International Civil Liberties Monitoring Group held a news conference on Parliament Hill and called on the government to launch an independent investigation into Canadian complicity into the cases of Mr. El Maati, Mr. Almalki and Mr. Nureddin.

Spokesman for Minister McLellan, communications director Alex Swann, told Canwest News:

*"In response to the kind of allegations that were made, the government has no policy of condoning torture or subcontracting torture, as was suggested today... There is no such policy. Information-sharing that the services and the government of Canada engages in with foreign states is done under strict conditions and guidelines. Those things take into account privacy rights, human rights and also how the information would be used by the end user."*<sup>413</sup>

Conservative MP Peter MacKay told Canwest News he agreed a new inquiry should be struck "as soon as possible" to review national security actions, but said it is too late to add new responsibilities to the Arar inquiry.<sup>414</sup>

## September 6, 2005

The *Globe and Mail* published a story revealing the origin of the map about which Mr. El Maati was questioned by CSIS in Canada, and later interrogated about, under torture, in Syria and Egypt. The story by journalist Jeff Sallot revealed that the map was actually an outdated government-issue visitors' guide distributed to the general public by commissionaires in government buildings. Neither CSIS or the RCMP would say whether they had investigated the map.<sup>415</sup>

Amnesty International Canada issued an open letter to Prime Minister Martin, renewing its earlier calls on him to take

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<sup>412</sup> "Ottawa to reply 'soon' to Amnesty request," Jeff Sallot, *Globe and Mail*, August 31, 2005, Page A5.

<sup>413</sup> "Human-rights groups fear information-sharing is 'sub-contracting torture' to Syrians," Tim Naumetz, *Canwest News Service*, September 2, 2005.

<sup>414</sup> *Ibid.*

<sup>415</sup> "It was hyped as a **TERRORIST** map It was cited by **Egyptian TORTURERS** It is a **VISITOR'S GUIDE** to Ottawa: Ahmad El Maati was imprisoned and tortured when a map issued by the government came to haunt him," Jeff Sallot and Colin Freeze, *Globe and Mail*, September 6, 2005, page A1.

immediate steps to appoint an Independent Expert to investigate the cases of Mr. El Maati, Mr. Almalki and Mr. Nureddin.<sup>416</sup>

### **September 7, 2005**

Justice O'Connor ruled that the chronologies about Mr. El Maati, Mr. Almalki and Mr. Nureddin could be filed as exhibits and form part of the public record at the Arar Inquiry. On September 13 the chronologies were filed as Exhibits P-254 (Almalki), P-255 (El Maati) and P-256 (Nureddin).

### **September 8, 2005**

The *Globe and Mail* recounted responses by opposition parties to calls for an investigation. NDP MP Alexa McDonough said that the Arar inquiry should issue its final report on the case of Mr. Arar, and then look at other cases to paint a broader picture of the situation. Conservative Leader Stephen Harper said that although the full nature of what transpired is still unclear, he is "very concerned" about the allegations regarding the investigation of Mr. El Maati. Bloc Leader Gilles Duceppe said that parliamentarians have a duty to "get a broader view" and find out what happened, and that he wants "to see what comes out of the Arar inquiry, but we have, as elected officials, to be seized of situations like this to make sure that mistakes are not committed against the rights of citizens."<sup>417</sup>

### **September 9, 2005**

The *Globe and Mail* reported responses by Prime Minister Martin and Minister McLellan to calls for an investigation into the cases of *Messrs.* El Maati, Almalki and Nureddin, saying the government had "rejected calls to investigate new allegations of Ottawa complicity" in their torture. The article says that Minister McLellan said "that if the men had complaints against the Canadian Security Intelligence Service they can lodge those complaints with an oversight body, the Security Intelligence Review Committee."<sup>418</sup>

### **September 10, 2005**

Organizations with Intervenor status at the Arar Inquiry made submissions recommending that the Commission go "as far as the evidence allows with respect to determining whether what happened to Mr. Arar can be linked to a Canadian policy of having Canadian citizens detained, and/or interrogated on their

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<sup>416</sup> [http://www.amnesty.ca/take\\_action/actions/resources/almalki/tortured\\_citizens\\_6sept05.doc](http://www.amnesty.ca/take_action/actions/resources/almalki/tortured_citizens_6sept05.doc)

<sup>417</sup> "Calls grow for torture inquiry: Opposition parties urge expanded probe after innocuous Ottawa map fuelled panic," Daniel LeBlanc, *Globe and Mail*, September 8, 2005, page A1.

<sup>418</sup> "Martin rules out expanded probe of Ottawa's role in torture cases," Jeff Sallot and Dawn Walton, *Globe and Mail*, September 9, 2005.



behalf in countries known for practicing torture." The Intervenor recognized that the Commission may not have seen enough evidence to be able to make conclusive findings of fact with respect to what happened to them, or with respect to issues of accountability and redress in their cases. However, they argued, "if the Commissioner finds that a pattern exists because of others' stories that are intimately tied to Mr. Arar then the Arar Inquiry would not be complete unless the Commissioner recommends the thorough and independent assessment of those others' claims of mistreatment."

The Intervenor also urged the Commission to recommend:

*"that there be a further process of independent, impartial and expert review, through a second phase of this public inquiry, through the appointment of an independent expert, or through any other kind of effective independent process that the Commissioner feels would provide the kinds of answers and public accountability that are so necessary."*<sup>419</sup>

The Attorney General's Submissions on this day said:

*"the Commissioner has heard extensive evidence in camera about the RCMP's knowledge of the arrests of El Maati and Almalki in Syria, and whether information was subsequently exchanged with the Syrian or Egyptian authorities concerning these two individuals."*<sup>420</sup>

The Attorney General also argued that "because Messrs. El Maati and Almalki travelled to Syria of their own volition, their cases should not have given reason for the RCMP to anticipate Mr. Arar would be sent to Syria."<sup>421</sup>

## September 12, 2005

Minister McLellan responded to Amnesty International's November 26, 2004 letter, saying it would be premature for her to speculate in advance of the Arar Commission's findings. She also wrote that the RCMP's Commission for Public Complaints (CPC) and the Security and Intelligence Review Committee (SIRC) ensure that Canada's security and intelligence agencies respect civil liberties.

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<sup>419</sup> Joint submissions by the Organizations with Intervenor Status at the Arar Inquiry, September 10, 2005.

<sup>420</sup> Submissions by the Attorney General, chapter 5, paragraph 53.

<sup>421</sup> Submissions by the Attorney General, chapter 5, paragraphs 54-5.

In its final oral submissions before the Arar Commission, the Attorney General argued against the need to expand the mandate of the Commission in order to determine findings on the issue of pattern. Counsel asserted:

*"... you have heard extensive evidence about the extent to which Canadian officials knew anything about the arrest of Mr. Almalki in Syria and the arrest of Mr. El Maati in Syria. And you have also heard extensive information about whether there were exchanges of information with the Syrian authorities during the time that any of those people were detained in Syria. So in my submission, your mandate permits you to look at that. You have received extensive evidence about it and certainly sufficient evidence to make an informed decision about whether or not Mr. Arar's circumstances are part of a broader pattern."*<sup>422</sup>

### **October 27, 2005**

Justice O'Connor released the report of fact-finder, Professor Stephen J. Toope. Dr. Toope wrote:

*"When I compare information available from public sources with the cross-referenced testimony of Messrs. Almalki, El Maati, and Nureddin, I conclude that the stories they tell are credible. I believe that they suffered severe physical and psychological trauma while in detention in Syria. Mr. Almalki was especially badly treated, and for an extended period. When I compare all of this information to the story told to me by Mr. Arar, I am convinced that his description of his treatment in Syria is accurate."*<sup>423</sup>

### **November 1, 2005**

The United Nations Committee on Human Rights posted its report saying that in examining Canada's compliance with the International Covenant on Civil and Political Rights, it was noting its concern about allegations that Canada "may have cooperated with agencies known to resort to torture with the aim of extracting information from individuals detained in foreign countries."<sup>424</sup> The Committee called on Canada:

*"to ensure that a public and independent inquiry review all cases of Canadian citizens who are suspected terrorists or suspected to be in possession of information in relation to terrorism, and who have been detained in countries where it is feared that they have*

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<sup>422</sup> Arar Commission transcripts, September 12, 2005, pages 11900-11901.

<sup>423</sup> Toope report, [http://www.ararcommission.ca/eng/ToopeReport\\_final.pdf](http://www.ararcommission.ca/eng/ToopeReport_final.pdf), page 13.

<sup>424</sup> "Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee, Canada, CCPR/CO/85/CAN," page 4, paragraph 16, [http://www.ohchr.org/english/bodies/hrc/docs/CCPR\\_C\\_CAN\\_CO\\_5.doc](http://www.ohchr.org/english/bodies/hrc/docs/CCPR_C_CAN_CO_5.doc).

*undergone or may undergo torture and ill-treatment. Such inquiry should determine whether Canadian officials have directly or indirectly facilitated or tolerated their arrest and imprisonment.*"<sup>425</sup>

## November 2, 2005

Noting what was said in the Attorney General's oral closing submissions to the Arar Inquiry on September 12 and written submissions on September 10, 2005, the eighteen organizations with Intervenor Status at the Arar inquiry wrote a reply submission to the Arar Commission, asserting that there is at least *prima facie* reason to believe there was a pattern relating to the cases of *Messrs. Arar, El Maati, Almalki and Nureddin*. The Intervenors asserted that whether Mr. Nureddin was ever a suspect or person of interest to Project A-O Canada is not the issue, and nor is whether the men were detained when travelling of their own volition. The Intervenors cautioned:

*...it would be unfair, and inappropriate, for the Commission to make a conclusive finding that there is no pattern, or no Canadian complicity in these men's cases, based on information that none of these men, Intervenors, or the public, have had a chance to see, hear, question or otherwise respond to. This is especially true in the face of the abundant evidence in the public domain, as outlined in our final submission, that points to the existence of a pattern.*

The Intervenors emphasized that *Messrs. El Maati, Almalki and Nureddin* were not granted full standing at this Inquiry, and as such, Commission Counsel did not have the benefit of extensive, ongoing communication with them to inform the calling and evaluation of documentary evidence, or cross examination of witnesses *in camera* or in public. The chronological accounts of their stories were not introduced as exhibits to the Inquiry until the end of the public hearings, and could not have been used to inform, test and explore any *in camera* evidence. The Intervenors also asserted government counsel had repeatedly limited the scope of questioning permitted about these cases, and about the pattern issue itself, asserting that this is not an Inquiry about *Messrs. El Maati, Almalki or Nureddin*.

## December 7, 2005

United States District Judge John R. Tunheim issued an order in response to motions filed on July 7, 2005. The judge granted Mohamad Kamal Elzahabi's "Motion for Rule 15 Depositions of

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<sup>425</sup> *Ibid.*, page 4.

Al-Malki and Hijazi” and ordered that letters rogatory be issued to Canada and Jordan. Judge Tunheim denied the motion for depositions from the additional 21 people named, including Mr. Arar and Ahmad El Maati, arguing that defence counsel had failed to demonstrate they are “material” to the allegations as they stand, but noting that these witnesses may become “material” at a later date.<sup>426</sup>

## December 8, 2005

Abdullah Khadr told journalists he was detained in Islamabad, Pakistan on October 12, 2004, and then tortured for three weeks while being questioned by Pakistani and American authorities about his father. He says about a month after being detained, he was transferred to a prison near Rawalpindi, where, from mid-February to mid-November 2005, he was questioned on five occasions by two CSIS agents who identified themselves as “Bob” and “Mike,” and RCMP Sergeant Konrad Shourie, about other Canadians, including Messrs. Almalki, El Maati and Arar. Mr. Khadr also told media that much of the questioning by Canadian officials focused on the whereabouts of Amr El Maati. Mr. Khadr told media he told officials that he had last seen Amr El Maati in the spring of 2004. Mr. Khadr told media that FBI and CSIS officials asked him to testify against Amr El Maati if he is ever arrested, and he refused. He also told media he was questioned about Mr. Arar.<sup>427</sup>

**It is not publicly known how if information obtained during interviews with Mr. Khadr in Canada or Pakistan have been used in any way in the cases of Messrs. Almalki, El Maati or Nureddin.**

## January 10, 2006

The United States District Court of Minnesota issued a Letter Rogatory to Canada, requesting that the courts of Canada schedule a deposition of Mr. Almalki on April 3, 2006, compel him to bring any documents relating to dealings between DAR and Dawn Services, allow for him to be questioned by the defence counsel, prosecutor and court, and arrange for the deposition to be video-taped and played simultaneously in the Minnesota court.

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<sup>426</sup> *United States District Judge John R. Tunheim, Order in response to motions filed on July 7, 2005.*

<sup>427</sup> *"Khadr son pledges love for Canada: Al-Qaeda suspect: Alleges he was tortured while in Pakistani jail," Michael Friscolanti, National Post, December 9, 2005, page A12.*

**March 1, 2006**

Former solicitor general Warren Allmand, former foreign affairs minister Lloyd Axworthy, former Saskatchewan premier Allan Blakeney, former NDP leader Ed Broadbent, former prime minister and external affairs minister Joe Clark, former secretary of state for external affairs Flora MacDonald, and former members of parliament Madeleine Dalfond-Guiral and Marcel Gagnon wrote an open letter to Prime Minister Harper, emphasizing how critical it is that he take action to comply with the UN's recommendation and determine whether there was Canadian complicity in torture or unjustified detention and interrogation in these cases. They asked that a fair, independent, comprehensive and public review of the possibility of Canadian complicity in the detention, interrogation and torture of *Messrs.* El Maati, Almalki and Nureddin be launched without further delay.<sup>428</sup>

**April 4, 2006**

A hearing was held in the District Court of Minnesota to address a motion brought by Paul Engh, Mr. Elzahabi's lawyer. Mr. Engh asked FBI Agent Samit about Mr. Elzahabi's brother and his brother's relationship with Mr. Almalki. Agent Samit replied that Mr. Elzahabi "to a certain extent told us of the activities of both of these people," then agreeing that the FBI, by this time, was already aware of them both.<sup>429</sup>

FBI agent Samit confirmed that during the first interview on April 17, the FBI asked Mr. Elzahabi about Mr. Arar and Mr. Almalki. Mr. Engh asked if Canadian authorities provided information about Mr. Almalki to the FBI that they used to interrogate Mr. Elzahabi on April 17, 2004. Counsel for the U.S. government, Mr. Ward, objected, saying that if the source of the information must be verified, they were "going to have to adhere to some secret procedures."<sup>430</sup>

Mr. Engh said during his cross-examination that Canadian officials had provided information to the prosecution about Mr. Almalki, including "confidential information from Mr. Almalki's computer." Agent Samit responded that "the Canadians are going to want a protective order as to some of the details when we get to trial."<sup>431</sup>

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<sup>428</sup> [http://www.amnesty.ca/archives/canada\\_inquiry\\_open\\_letter.php](http://www.amnesty.ca/archives/canada_inquiry_open_letter.php)

<sup>429</sup> *Transcript of April 4, 2006 hearing on motion to suppress evidence, page 62.*

<sup>430</sup> *Ibid., page 90.*

<sup>431</sup> *Ibid., page 91-93.*

Agent Samit confirmed that Mr. Elzahabi was asked about Mr. Almalki, saying they were "interested in all aspects of Mr. Elzahabi and Mr. Elzahabi's brother's activities," including DAR in New York.

**May 15, 2006**

*The Toronto Star* published a story citing unnamed "Western sources" as saying that Amr El Maati is living, married, with one child, in Pakistan. The story's lead characterizes Amr as "One of Canada's most wanted fugitives, accused by the U.S. of plotting a terrorist attack that will again involve hijacked planes flying into buildings" and goes on to say that U.S. Attorney General called Amr a "clear and present danger." The article says Amr's name is unknown to Pakistani officials, who have no record of him as a wanted man, but quotes FBI agent Gail Marcinkiewicz saying this does not mean other Pakistani authorities are not aware of the case.<sup>433</sup> **It is not publicly known whether the "western sources" cited here include members of CSIS, the RCMP or other Canadian agencies.**

**May 29, 2006**

Mr. Hooper and RCMP Commissioner Zaccardelli testified before the Senate Standing Committee on National Security and Defence, and discussed how 9/11 changed the way CSIS and the RCMP worked. Mr. Hooper told the Committee:

*A case in Toronto in the lead-up to and immediate aftermath of 9/11 introduced a new paradigm for operations between CSIS and the RCMP. There was a conspiracy among eight individuals to execute an act of serious violence in the Toronto area. We passed information to the RCMP. A task force was set up immediately, comprised of local law enforcement agencies, the RCMP and the Canadian Security Intelligence Service. We engaged the Ontario Crown because our initial design was to have these individuals prosecuted. The Crown advised there was not sufficient evidence to proceed with charges and the law enforcement community moved quickly into a diffuse-and-disrupt mode designed to prevent acts of violence from taking place. That case was a powerful lesson for both organizations and for law enforcement more broadly writ.<sup>434</sup>*

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<sup>432</sup> *Ibid.*, page 92-93.

<sup>433</sup> "Hunt for a Canadian 'most wanted', Terror suspect believed in Pakistan, But officials there don't know Elmaati," Michelle Shephard, *Toronto Star*, May 15, 2006.

<sup>434</sup> *Proceedings of the Standing Senate Committee on National Security and Defence, May 29, 2006, available at [http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/defe-e/02eve.htm?Language=E&Parl=39&Ses=1&comm\\_id=76](http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/defe-e/02eve.htm?Language=E&Parl=39&Ses=1&comm_id=76).*

**It is not publicly known whether Mr. Hooper was referring here to the investigation of and files passed on to the RCMP about Messrs. El Maati and Almalki,** but, given the similarities this is likely the case. Mr. Hooper went on to say:

*At the end of the day, if prosecution is not viable, there are other techniques. That has represented something of a sea change for law enforcement agencies. Do not abandon the intelligence and the information simply because it cannot be used as evidence in a court of law. Help us disrupt the threats. Since that time, the RCMP in particular, and most of the large provincial and municipal police agencies in Canada, have partnered with us in preventing these events.<sup>435</sup>*

Commissioner Zaccardelli agreed with what Mr. Hooper said, adding that the adjustment had not been easy for law enforcement. He said:

*Particularly since 9/11, we have had to accept going to a disruptive mode, because prevention is the most important thing. The consequences of allowing an event to take place rather than doing everything possible to prevent it are unimaginable, in some cases. This has been a sea change for us.<sup>436</sup>*

Mr. Hooper did not elaborate on what he meant by "diffuse and disrupt methods" but a CSIS spokeswoman said that these methods could include "arrest, interdiction of persons or materiel at border points" and "deportation on security grounds."<sup>437</sup>

**It is not publicly known whether Mr. Hooper may have been referring to a role played by Canadian agencies in the detentions of Messrs. Almalki, El Maati or Nureddin.**

**September 18, 2006**

The Arar Commission released its report, which found that American authorities "very likely" based their decision to send Mr. Arar to Syria on erroneous information it received from Canada. Despite restrictions on his mandate, Justice O'Connor did make many findings of fact about these cases because they are relevant to Mr. Arar's case. In his report, Justice O'Connor concluded there was a pattern of investigative practices regarding Canadian agencies' interaction with foreign agencies

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<sup>435</sup> *Ibid.*

<sup>436</sup> *Ibid.*

<sup>437</sup> "Lacking a case, CSIS disrupted suspects' lives Authorities say tactics prevented attacks, but those targeted complain of harassment," Colin Freeze, *Globe And Mail*, May 31, 2006, page A8.

with respect to Canadians being detained abroad in connection with suspected terrorist activities. He recommended there should be a process of review into the cases:

*I have heard enough evidence about the cases of Messrs. Almalki, El Maati and Nureddin to observe that these cases should be reviewed and that the reviews should be done through an independent and credible process that is able to address the integrated nature of the underlying investigations... Whatever process is adopted, it should be one that is able to investigate the matters fully and, in the end, inspire public confidence in the outcome.*<sup>438</sup>

### September 28, 2006

Stockwell Day, Minister of Public Safety, appeared before the Public Safety Committee, and said that the government is, in keeping with the Justice O'Connor's recommendation in his report from the Commission of Inquiry into the case of Maher Arar, "now pursuing the most efficient, the most capable way" of ensuring the cases of Abdullah Almalki, Ahmad El Maati and Muayyed Nureddin are "reviewed through an independent and credible process."<sup>439</sup>

### October 12, 2006

Alex Neve of Amnesty International wrote to Minister Day to follow up on his comments before the Public Safety Committee. He wrote that he was encouraged that there was "at last the prospect that there will be justice and accountability for these three men," and that it is "vital, however, that the review be precisely of the nature and description called for by Justice O'Connor," that is: "independent; credible; integrated and able to comprehensively examine the actions of all relevant government agencies and departments; marked by full investigations of the cases; and be conducted in a way that inspires public confidence."

Mr. Neve urged the Minister to consider and incorporate input from Messrs. Almalki, El Maati and Nureddin in the terms of reference for the review, and to meet with them before making final decisions about the review process.

Mr. Neve also wrote:

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<sup>438</sup> *Analysis and Recommendations, page 278.*

<sup>439</sup> *Evidence, Standing Committee on Public Safety and National Security, September 28, 2006: <http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?SourceId=172713&Lang=1&PARLSE S=391&JNT=0&COM=10804>*



*With respect to the particular point regarding “public confidence” it is vitally important that this review process be as accessible to the public as is practically possible. We recognize that it will not be a public inquiry carrying out the bulk of its work in a public forum. However, it is crucial that there be opportunities for interested organizations to make submissions, for the media to follow the progress of the review at frequent and regular intervals, and for the findings of the review to be released to the public.*

In their first public appearance since the release of the Arar Report, Messrs. Almalki, El Maati and Nureddin and their counsel joined Alex Neve of Amnesty International, and Shirley Heafey of the BC Civil Liberties Association at a news conference. The participants discussed the principles necessary to ensuring that any process of review into their cases be as Justice O’Connor recommended — independent and credible, inspiring public confidence in its outcome.

## **December 11, 2006**

Stockwell Day, Minister of Public Safety, announced that the Honourable Frank Iacobucci would head up an inquiry into the cases of Messrs. Almalki, El Maati and Nureddin, in order to determine whether:

- The detention of these three individuals in Syria or Egypt resulted from actions of Canadian officials, particularly in relation to the sharing of information with foreign countries.
- Those actions or the actions of Canadian consular officials were deficient in these cases.
- Any mistreatment of these three individuals in Syria or Egypt resulted from any deficiencies in the actions of Canadian officials.

The news release said that because the Inquiry is expected to deal with sensitive national security matters, “while public hearings are possible, it is likely the inquiry will be carried out largely *in camera*.” The Minister also stated that the Inquiry report would be submitted by January 31, 2008.