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Please refer to File  
S.V.P. Se référer au dossier  
No.



INTERNAL INQUIRY  
MAR 19 2007  
ENQUÊTE INTERNE

March 19, 2007

VIA FACSIMILE: 1 (613) 992-2366

The Honourable Frank Iacobucci, Q.C.  
Commission of Inquiry into the  
Actions of Canadian Officials  
P.O. Box 1208, Station B  
Ottawa, ON K1P 5R3

Dear Commissioner:

**Re: Motion for Standing**

Please find enclosed the Ontario Provincial Police's Motion Record in the above-noted matter.

If you have any questions or concerns with the above, please contact the undersigned at your convenience.

Respectfully,

Michele Smith  
Senior Counsel  
MMS/sb

Encl.

c.c: John Laskin, Commission Counsel

**IN THE MATTER OF ORDER OF COUNCIL P.C .2006-1526,  
MADE PURSUANT TO THE INQUIRIES ACT: INTERNAL  
INQUIRY IN THE ACTIONS OF CANADIAN OFFICIALS IN  
RELATION TO ABDULLAH ALMALKI, AHMAD ABOU-ELMAATI  
AND MUAYYED NUREDDIN**

**INTERNAL INQUIRY**  
MAR 19 2007  
**ENQUÊTE INTERNES**

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**MOTION RECORD**

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Dated: March 19, 2007

ATTORNEY GENERAL FOR ONTARIO  
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Counsel for the Ontario Provincial Police

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AND MUAYYED NUREDDIN**

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**MOTION FOR STANDING BY THE ONTARIO  
PROVINCIAL POLICE**

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**TAKE NOTICE** that a motion is hereby made to the Commissioner pursuant to Part C of the Rules of Procedure and Practice Respecting Participation and Funding of the Commission of Inquiry for an order granting the Ontario Provincial Police (OPP) standing before the Inquiry with participatory rights as the Commissioner may deem appropriate;

**AND TAKE FURTHER NOTICE** that in support of this application will be read the affidavit of Leslie McIntosh, sworn on March 19, 2007 and such further and other materials as the Commissioner may permit;

**AND TAKE FURTHER NOTICE** that the said motion shall be made on the following grounds.

The OPP has a substantial and direct interest in the subject matter of the Inquiry, in that:

1. The OPP and its officers participated in the investigation about which the Inquiry is focused.

2. OPP officers performed duties, both in the chain of command, and in investigative duties, within the investigation, about which the inquiry is focused.
3. The Inquiry's findings and recommendations, like those made by Justice O'Connor, may impact the OPP and its employees.
4. The Inquiry's findings and recommendations may impact the current and/or future role of the OPP and its employees engaged in national security investigations.
5. As a provincial police service, the OPP maintains a particular perspective and/or expertise that may assist the Commissioner in discerning the complex factors affecting multi-jurisdictional joint force operations in the realm of national security.

DATED at Toronto, Ontario this 19<sup>th</sup> day of March, 2007.

  
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 Michele Smith  
 Senior Counsel

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To: Internal Inquiry in the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati, and Muayyed Nureddin  
 P.O. Box 1208, Station B  
 Ottawa, Ontario  
 K1P 5R3

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**MOTION FOR STANDING BY THE ONTARIO  
PROVINCIAL POLICE**

**ATTORNEY GENERAL FOR ONTARIO**

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**AFFIDAVIT OF LESLIE McINTOSH**

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**I, LESLIE McINTOSH, of the City of Toronto, in the Province of Ontario, MAKE  
OATH AND SWEAR AS FOLLOWS:**

1. I am counsel in the Crown Law Office – Civil of the Ministry of the Attorney General for Ontario. I am one of the counsel who represented the Ontario Provincial Police (“the OPP”) in the Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. The OPP were granted standing and participated at that Inquiry.
2. This Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin was established by Order in Council number P.C. 2006-1526, dated December 12, 2006, (the “Order in Council”) which established the Commissioner’s Terms of Reference.
3. Pursuant to the Terms of Reference, the Commissioner shall determine:
  - i. whether the detention of Abdullah Almalki, Ahmad About-Elmaati and Muayyed Nureddin in Syria or Egypt resulted, directly or

indirectly, from actions of Canadian officials, particularly in relation to the sharing of information with foreign countries and, if so, whether those actions were deficient in the circumstances;

- ii. whether there were deficiencies in the actions taken by Canadian officials to provide consular services to Ahmad About-Elmaati and Muayyed Nureddin while they were detained in Syria or Egypt, and
- iii. whether any mistreatment of Ahmad About-Elmaati and Muayyed Nureddin while they were detained in Syria or Egypt resulted, directly or indirectly, from actions of Canadian officials, particularly in relation to the sharing of information with foreign countries and, if so, whether those actions were deficient in the circumstances.

4. The OPP on its own behalf and on behalf of its current and former officers seek standing and all privileges and rights of participation in relation to the Internal Inquiry into the actions of Canadian Officials in relation to Abdullah Almalki, Ahmad About-Elmaati and Muayyed Nureddin, pursuant to the Terms of Reference for the Inquiry and Rules 8 and 9 of the Rules of Procedure and Practice established for the Inquiry.

5. Members of the OPP belong to joint police task forces operating with the RCMP, which were involved in matters relating to the mandate of the Inquiry. These task forces are known as Integrated National Security Enforcement Teams (or INSET Teams).

6. As contemplated by the federal *Security Offences Act*, the INSET is charged with the investigation of offences arising out of conduct constituting a threat to the security of Canada. As members of these teams, OPP officers have information about actions and communications that took place among Canadian officials in relation to the mandate of the Inquiry.

7. The OPP and its current and former officers participated in the investigation about which this Inquiry is focused. In addition, various former and current OPP officers performed duties, both in the chain of command, and in investigative duties, within the investigation about which the Inquiry is focused.



8. A number of current and former OPP officers may have knowledge of facts, events, policies and procedures that may be relevant to the mandate of the Inquiry.
9. Accordingly, these officers, both current and form OPP officers whose actions are the subject of this Inquiry and who have knowledge of the facts, events, policies and procedures that may be relevant to the mandate, have a substantial and direct interest in this Inquiry.
10. In addition, some of the documents and information that is relevant to the mandate of the inquiry may be in the possession of the OPP and its officers. This material and information may assist the Commissioner in carrying out his mandate.
11. OPP officers who are members of these INSET Teams may be supervised by the RCMP; however, they still remain subject to the authority of the provincial *Police Services Act*. The OPP therefore has a substantial and direct interest in the Inquiry as the employer of police officials who were members of an INSET Team that was involved in matters related to the mandate of the Inquiry.
12. The OPP has a substantial and direct interest in the nature and composition of the joint investigative police teams assigned to national security. The OPP has experience with joint RCMP/OPP investigative teams dealing with, for example, on the federal level, issues of national security and money laundering, and on provincial level, issues of organized crime.
13. The OPP has an interest in the institutional arrangements within which police officials participate in INSET Teams charged with investigating matters of national security. The OPP's knowledge of, and experience and interest in these matters will be important to the Commissioner in fulfilling his mandate.
14. As a provincial police service, the OPP maintains a particular perspective and/or expertise that may assist the Commissioner in discerning the complex factors affecting multi-jurisdictional joint force operations in the realm of national security.

15. The OPP has an interest in and knowledge of the role of information sharing among police forces both at the domestic and at international levels for investigations relating to national security. The OPP therefore has a substantial and direct interest in the institutional arrangements that facilitate this sharing of information among police forces at the domestic and the international level, and its officers have knowledge and information relating to the context and the circumstances within which information is shared in INSET or other joint police forces.

16. In conclusion, the OPP requests standing before the Inquiry because it has a substantial and direct interest in the subject matter of the Inquiry in that:

- (a) The OPP and its officers participated in the investigation about which the Inquiry is focused.
- (b) OPP officers performed duties, both in the chain of command, and in investigative duties, within the investigation, about which the inquiry is focused.
- (c) The Inquiry's findings and recommendations, like those made by Justice O'Connor, may impact the OPP and its employees.
- (d) The Inquiry's findings and recommendations may impact the current and/or future role of the OPP and its employees engaged in national security investigations.
- (e) As a provincial police service, the OPP maintains a particular perspective and/or expertise that may assist the Commissioner in discerning the complex factors affecting multi-jurisdictional joint force operations in the realm of national security.


17. The OPP therefore seeks, on its own behalf and on behalf of its current and former officers, full standing before the Inquiry, with full opportunity to attend the proceedings of the Inquiry and if necessary, give evidence and/or cross-examine witnesses on matters relevant to the OPP's interests and that of its current and former officers, as outlined above.

18. Counsel for the OPP and its current and former officers wishes to make brief oral submissions.

19. Legal Counsel representing the OPP and its current and former officers will be Malliha Wilson and the writer, Michele Smith, whose contact information is as follows:

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Senior Counsel  
Attorney General for Ontario  
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SWORN BEFORE ME at the )  
City of Toronto, in the )  
Province of Ontario )  
this 19<sup>th</sup> day of March, 2007 )  
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A Commissioner, etc.

  
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LESLIE McINTOSH

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**AFFIDAVIT OF LESLIE McINTOSH IN SUPPORT  
OF THE MOTION FOR STANDING BY THE  
ONTARIO PROVINCIAL POLICE**

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**MOTION RECORD**

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