



Press Release

Release of Supplement to the Public Report of the Iacobucci Internal Inquiry

Ottawa, February 23, 2010 – The Honourable Frank Iacobucci, the Commissioner appointed to conduct the Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin, announced today that he has submitted to the Governor in Council and released to the public today a supplement to the Inquiry's public report. The supplement contains information that could not be disclosed at the time the public report was released because of government concerns that release of the information in the manner then proposed would be injurious to national defence, national security or international relations. As a result of subsequent consultations and discussions, the Commissioner is now in a position to provide to the public further information relating to his mandate and his findings, without jeopardizing legitimate national security confidentiality concerns.

The mandate of the Inquiry was to examine the actions of Canadian officials relating to Mr. Almalki, Mr. Elmaati and Mr. Nureddin, who were detained and mistreated in Syria and (in the case of Mr. Elmaati) in Egypt during the period 2001 to 2004 to determine (1) whether the detention and any mistreatment of the three men resulted, directly or indirectly, from the actions of Canadian officials (particularly in relation to the sharing of information with foreign countries), (2) whether, if so, those actions were deficient in the circumstances, and (3) whether there were any deficiencies in the provision by Canadian officials of consular services to the three men while they were in detention.

The Inquiry's terms of reference required that the Inquiry be conducted so as to ensure that there was no disclosure to persons or bodies other than the Government of Canada of information the disclosure of which would be injurious to national defence, national security or international relations, or the conduct of any investigation or proceeding. They also directed the Commissioner to submit to the Governor in Council both a confidential report setting out his determinations and, simultaneously, a separate report suitable for disclosure to the public. In accordance with the terms of reference, both the public report of the Inquiry, and a confidential report containing information subject to national security confidentiality, were submitted to the Governor in Council on October 20, 2008.

As the public report explained, the terms of reference set out a procedure for dealing with information that was subject to national security confidentiality concerns. According to this procedure, the determination that certain information should not be disclosed was to be made either by the Commissioner or by the Minister responsible for the department or government institution in which the information was produced or, if not produced by the government, in which it was first received. If the Commissioner disagreed with a determination of the Minister, he could notify the Attorney General, in which case the notice could lead to a proceeding in the Federal Court under the *Canada Evidence Act* to resolve the matter.

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The submission of the Inquiry's public report was preceded by an extensive process of consultation and discussion between Inquiry counsel and counsel for the Attorney General to address and resolve claims of national security confidentiality. During these discussions, at the Commissioner's urging, Inquiry counsel proposed retaining as much information as possible, so that the Commissioner could provide to the public as complete as possible an account of the actions of Canadian officials and the setting in which they took place, and as full as possible an explanation of his findings.

When the public report was submitted, the Commissioner was satisfied that, with one exception, the information contained in the confidential report but omitted from the public report was properly subject to national security confidentiality. However, there remained certain information bearing directly on the Commissioner's mandate that he believed could and should be included in the public report, but which the responsible Minister considered should not be disclosed because its disclosure would be injurious to national defence, national security or international relations. The Commissioner therefore gave notice to the Attorney General concerning this information. Since the difference of view concerning this information had not been resolved at the time the public report was submitted, the Commissioner was unable to include this information in the public report.

As a result of extensive further discussions, this difference of view has now been resolved on a basis that enables the Commissioner to submit to the Governor in Council and release to the public a supplement to the public report setting out a summary of certain additional facts and the role that those facts played in his findings. The eight-page supplement to the public report contains the summary of these additional facts, together with a supplementary explanation of certain of his findings.

The Commissioner stated: "Throughout the Inquiry process, I made my own assessment of the national security confidentiality concerns raised by the government, taking into account my terms of reference and the court decisions that address what can and what should not be publicly disclosed. I am satisfied that the supplement to my public report that I have submitted to the Governor in Council conveys to the public further important information relating to my mandate and my findings, without jeopardizing legitimate national security confidentiality concerns."

The complete text of the public report and the supplement to the public report, and copies of related documents, are available on the Inquiry's website, www.iacobucciinquiry.ca.

Established under Part I of the Inquiries Act by the Minister of Public Safety, the Inquiry's mandate was to determine whether the detention of Messrs. Almalki, Elmaati and Nureddin in Syria or Egypt resulted from actions of Canadian officials, particularly in relation to the sharing of information with foreign countries, whether those actions or the actions of Canadian consular officials were deficient in these cases and whether any mistreatment of these three individuals in Syria or Egypt resulted from deficiencies in the actions of Canadian officials

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