Commission d'enquête sur les actions des responsables canadiens relativement à Maher Arar		**Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar**

Audience publique **Public Hearing**

Commissaire

L'Honorable juge /
The Honourable Justice
Dennis R. O'Connor

Commissioner

Tenue à: **Held at:**

Salon Algonquin
Ancien hôtel de ville
111, Promenade Sussex
Ottawa (Ontario)

Algonquin Room
Old City Hall
111 Sussex Drive
Ottawa, Ontario

le mardi 31 mai 2005

Tuesday, May 31, 2005

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 1                    Ottawa, Ontario / Ottawa (Ontario)

 2    --- Upon commencing on Tuesday, May 31, 2005

 3         at 9:00 a.m. / L'audience débute le mardi

 4         31 mai 2005 à 09 h 00

 5                    THE REGISTRAR:  Please be seated.

 6    Veuillez vous asseoir.

 7                    THE COMMISSIONER:  Good morning,

 8    Mr. Manley.

 9                    HON. JOHN MANLEY:  Good morning.

10                    MR. DAVID:  Good morning,

11    Mr. Commissioner.

12                    We have with us Mr. John Manley

13    who will be providing testimony this morning.

14                    Would you like to be sworn or

15    affirmed, Mr. Manley?

16                    HON. JOHN MANLEY:  I will swear.

17                    THE COMMISSIONER:  I will

18    administer the oath.

19    SWORN:  JOHN MANLEY

20                    THE COMMISSIONER:  Your full name?

21                    HON. JOHN MANLEY:  John Manley.

22                    THE COMMISSIONER:  Thank you.  You

23    may be seated.

24    EXAMINATION

25                    MR. DAVID:  First of all, thank
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1   you for taking time to come before this Commission

2   to testify, Mr. Manley. I understand from your

3   partner, Ms McIsaac, that there will be some

4   flexibility in your billable hour ratio for this

5   month; so thank you.

6   --- Laughter / Rires

7   MR. DAVID: I would like to first

8   file your curriculum/CV as an exhibit and briefly

9   go through that with you.

10   THE COMMISSIONER: That will be

11 111.

12   MR. DAVID: Thank you.

13   EXHIBIT NO. P-111:

14   Curriculum Vitae of John

15   Manley

16   MR. DAVID: From your CV,

17 Mr. Manley, it's evident that you have vast

18 political experience. As I see, as I can count, I

19 believe that you have occupied eight various

20 portfolios as Minister, and I will briefly outline

21 those ministries with you.

22   First of all, you were elected in

23 1988 for the first time to Parliament?

24   HON. JOHN MANLEY: That's right.

25   MR. DAVID: You were Minister of

1   Industry from 1993 to 2000. You were also

2   Minister Responsible for Atlantic Canada and

3   Opportunities Agency, Minister of Western Economic

4   Diversification, Minister Responsible for the

5   Economic Development Agency of Canada for the

6   Region of Quebec, and this from 1996 to 2000?

7   HON. JOHN MANLEY: That's right.

8   MR. DAVID: You then served in a

9   senior position as Minister of Foreign Affairs

10   from 2000, and that would be from October of the

11   year 2000 to January of 2002?

12   HON. JOHN MANLEY: That's right.

13   MR. DAVID: And following the days

14   or weeks after the 9/11 attacks on September 11th,

15   you became chairman of a new ad hoc cabinet

16   committee which was entitled the Committee on

17   Public Security and Anti-terrorism?

18   HON. JOHN MANLEY: Yes.

19   MR. DAVID: And this is a position

20   that you occupied until December of the year 2003?

21   HON. JOHN MANLEY: Yes.

22   MR. DAVID: So for some

23   approximately 26 months you occupied that

24   position.

25   Then in January of 2002, the Prime

1   Minister appointed you Deputy Prime Minister of

2   Canada, and this position you occupied until

3   December of 2003?

4   HON. JOHN MANLEY: That's right.

5   MR. DAVID: And whilst being

6   Deputy Prime Minister of Canada, you were also the

7   Political Minister for Ontario, the Minister of

8   Infrastructure and Crown Corporations, as well as

9   the Chairman of the Cabinet Committees on Economic

10   Union and Social Union?

11   HON. JOHN MANLEY: That's right --

12   actually, not right through to December 2003, but

13   for part of that time.

14   MR. DAVID: Okay. And finally,

15   you became Finance Minister in June of 2002 and in

16   fact tabled the federal budget in February of

17   2003?

18   HON. JOHN MANLEY: Right.

19   MR. DAVID: And presently you are

20   a senior partner, senior counsel, with the firm of

21   McCarthy Tetrault, both in Ottawa and in Toronto?

22   HON. JOHN MANLEY: Right.

23   MR. DAVID: Thank you. As a point

24   of reference to begin your testimony, I bring you

25   back to those days of the events of 9/11,

1   September 2001.

2   You were at that time Minister of

3   Foreign Affairs. I would like you to give us a

4   sense of your occupations in the months previous

5   to 9/11 as a benchmark, and the kinds of

6   initiatives that were being worked on with our

7   partners in the United States in terms of

8   agreements, bilateral agreements.

9   There was I believe the Biological

10   Arms Treaty, as well as the Anti-Ballistic Arms

11   Treaty that was in the works at that time.

12   So could you give us a sense of

13   the environment in which you were working in the

14   months previous to 9/11?

15   HON. JOHN MANLEY: Well, I was

16   Minister of Foreign Affairs. There were many

17   issues that we dealt with on an ongoing basis.

18   Canada was hosting the G-7, G-8 summit in 2002.

19   Consequently, for me as Minister, some of my work

20   in 2001 was to prepare the stage for our hosting

21   of the G-8.

22   The Minister of Foreign Affairs --

23   Canada is a member of a lot of clubs, if you could

24   put it that way, so that the Minister of Foreign

25   Affairs has a lot of travel to do and frequent

1   meetings in those contexts.

2   Some of the issues that you

3   referred to that came up, which gave us some

4   challenges with the United States, included their

5   indication that they would be withdrawing from the

6   Anti Ballistic Missile Treaty in order to build

7   their ballistic missile defence system; their

8   decision to not sign the Biological Weapons

9   Treaty, which Canada had advocated for. In

10   addition, they had decided not to enter into the

11   Land Mines Treaty for certain reasons.

12   So there were a number of issues

13   that were really on the international scene at the

14   time that found us in a somewhat different

15   position than the U.S.

16   MR. DAVID: One of the areas you

17   will be testifying on today is the Smart Border

18   Agreement that was signed and officialized as of

19   December of 2001. I would like you to give us a

20   sense of the kinds of work that was already

21   existing in the sense of our partnership with the

22   United States and the management of our border

23   with this country in the time period before 9/11.

24   HON. JOHN MANLEY: Prior to 9/11?

25   Well, there had been work that was been done under

1   the rubric of something called the Canada-U.S.

2   Partnership, CUSP, and a document had been

3   produced dealing with a lot of border improvement

4   issues.

5   That preceded my time at Foreign

6   Affairs, but I recall that in the first meeting

7   that I had with Colin Powell, when he was the new

8   Secretary of State for the United States, my

9   Assistant Deputy Minister for the Americas, George

10   Hainault, was very anxious that I give Mr. Powell

11   a copy of the CUSP report because border issues

12   were important to us. And he accepted it very

13   graciously.

14   I wouldn't say that he showed a

15   great deal of interest in border issues, but I

16   guess we had at least registered the fact that

17   these were matters of concern.

18   MR. DAVID: Would it be fair to

19   say that your sense in terms of priorities for the

20   Americans -- it certainly was a much higher

21   priority on Canada's agenda to make sure that we

22   had appropriate border mechanisms and agreements

23   with the States than it was a priority for the

24   United States?

25   HON. JOHN MANLEY: The U.S. was

1   paying very little attention to the northern

2   border at that stage.

3   MR. DAVID: Okay. Now, with the

4   events of 9/11, I would like to spend a bit of

5   time with you and the environment that this

6   created in terms of our relationship with the

7   United States.

8   Perhaps before coming to that

9   issue, could you give us a sense of the global

10   focus on security that occurred post 9/11 in terms

11   of international bodies and resolutions?

12   HON. JOHN MANLEY: Well post-9/11

13   there was an immediate response in the

14   international community to the events that had

15   occurred, and you had very rapidly a series of

16   resolutions adopted that really created the

17   framework for a number of states taking new

18   actions or enhanced actions with respect to

19   security or legislation related to anti-terrorism.

20   You had the U.N. resolution that

21   was adopted very quickly after 9/11. NATO invoked

22   Article 19, I guess it is. The OAS adopted a

23   resolution. Virtually all of these international

24   organizations adopted some form of resolution very

25   quickly after 9/11.

1   MR. DAVID: And could you give us

2   a sense of your work with the Americans in terms

3   of managing the crisis and the potential impact

4   that this was going to have, or could have, with

5   our border with the United States?

6   HON. JOHN MANLEY: The immediate

7   effect of the attacks on 9/11 was twofold. As

8   everyone knows, of course, the civil aviation

9   system in the United States was shut down, and

10   consequently we were asked to receive

11   international flights that were otherwise bound

12   for the United States.

13   Secondly, although the border, the

14   land border, never really closed, it wasn't really

15   open either. It seemed that nobody on the U.S.

16   side really knew what the situation was, how to

17   manage it, and everything from auto parts

18   companies through to ordinary travellers were

19   finding it next to impossible to get across the

20   border for several days following 9/11.

21   The delays then persisted,

22   although in the aftermath of 9/11 command systems

23   began to come into effect and people were able to

24   make decisions, and Customs and Immigration people

25   on the U.S. side were relaxing to some degree.

1   But in the weeks following, the

2   delays for shipments going into the United States

3   were way out of line with what was normal. So we

4   were certainly aware that there was a serious

5   issue brewing for Canada.

6   MR. DAVID: In terms of our

7   economy?

8   HON. JOHN MANLEY: Well, in terms

9   of the fact that if you shut down an auto assembly

10   plant, the cost is in the millions of dollars per

11   hour. And since a lot of the components were

12   crossing the border in order to make those plants

13   operate, obviously you don't want to have that

14   kind of obstacle to the operations on the Canadian

15   side of the border, for obvious reasons: our

16   market is much smaller.

17   MR. DAVID: And as Minister of

18   Foreign Affairs, did you get a sense from your

19   American counterparts that there were myths that

20   existed at the time wherein Canada was identified

21   as being a culprit in being the vehicle for the

22   terrorist attacks in New York City?

23   HON. JOHN MANLEY: Well, I

24   understand that it was reported very early in the

25   day on September 11th, on some of the U.S. media,

 1   that at least some of the terrorists had entered

 2   the United States from Canada. That has

 3   persisted.

 4   In fact, I noticed that a couple

 5   of weeks ago Frank McKenna, our ambassador, was

 6   obliged to ask Newt Gingrich to correct a

 7   statement he made very recently to the effect that

 8   9/11 terrorists entered from Canada.

 9   I was asked by Prime Minister

10   Chretien to go and meet with Senator Clinton from

11   New York who had made a similar comment in months

12   following. So it became part of conventional

13   wisdom that some of these people must have come

14   across the northern border.

15   MR. DAVID: So there was this

16   prevailing myth in the United States' psyche that

17   Canada was somehow tied into these attacks? There

18   were potentially harsh economic realities to the

19   crisis.

20   We as a country responded, and we

21   responded in many ways.

22   I would like to focus with you,

23   Mr. Manley, on perhaps two areas of how our

24   government responded to the crisis.

25   The first -- and we have already

1   referred to it when we reviewed your CV -- was the

2   creation of the ad hoc committee. It was a

3   cabinet ad hoc committee on public safety and

4   anti-terrorism.

5   Could you give us a sense of when

6   that was created, the genesis of that committee

7   and its mandate?

8   HON. JOHN MANLEY: Well, it was

9   created, I guess, in -- I don't know if I have

10   that date. It would have been probably in about

11   October 2001, in the aftermath of 9/11 and with

12   the responsibility that Canada had to respond to

13   the U.N. resolutions that followed 9/11.

14   We didn't have in our cabinet

15   structure any kind of committee that was devoted

16   to national security or even to international

17   affairs and defence. Those matters were discussed

18   in full cabinet and didn't go to any of the other

19   cabinet committees.

20   So I think the Prime Minister --

21   Prime Minister Chretien did not look having a lot

22   of cabinet committees. Generally speaking he

23   preferred that Ministers do their jobs, and

24   particularly issues that were of broad concern to

25   the government should be discussed in full

1   cabinet.

2   In this case he was persuaded that

3   an ad hoc committee would be appropriate, given

4   that we did have a number of international

5   obligations to respond to, and it was expected

6   that the budget would include increased spending

7   on defence and security and somebody was going to

8   have to monitor how that money was actually spent

9   in the aftermath of the budget.

10   MR. DAVID: You have touched upon

11   perhaps the second point I was seeking to clarify

12   with you in terms of this country's response to

13   the 9/11 crisis, and that was the acceleration of

14   the budget cycle. We will come to that just in a

15   few minutes.

16   Before getting to that, the

17   function of this new ad hoc committee, is it fair

18   to say that you were vetting issues before the

19   full cabinet would discuss matters of security,

20   such as legislative response, Bill C-36?

21   Would that be an example of the

22   kind of work this committee would be doing?

23   HON. JOHN MANLEY: C-36 was

24   discussed at great length in the ad hoc committee

25   before going to full cabinet.

1   MR. DAVID: And you were the chair

2   of this committee. How many people comprised the

3   committee?

4   HON. JOHN MANLEY: How many were

5   on the committee? I can't really remember. Maybe

6   eight to ten Ministers?

7   MR. DAVID: How often would you

8   meet, Mr. Manley?

9   HON. JOHN MANLEY: In the early

10   stages when we were dealing with multiple issues,

11   we met weekly, and then it subsided somewhat.

12   Normally, cabinet committees would

13   meet weekly when Parliament was in session, and we

14   followed that pattern by meeting I think fairly

15   regularly after full cabinet on Tuesday at noon

16   hour.

17   But, as I say, we started I think

18   weekly, and then we backed off to every second

19   week and then less frequently.

20   MR. DAVID: And you were

21   responsible for setting the agenda of this ad hoc

22   committee?

23   HON. JOHN MANLEY: Privy Council

24   Office provided support to the committee, so the

25   agenda would be set by PCO in consultation with me

1   and with Ministers who had items that they wished

2   to have discussed at the committee.

3   MR. DAVID: So there was a

4   fulltime support team that existed within PCO for

5   the activities of the committee?

6   HON. JOHN MANLEY: Yes.

7   MR. DAVID: Would the ad hoc

8   committee discuss operational issues?

9   HON. JOHN MANLEY: Not generally

10   speaking, except to the extent that post-budget we

11   did -- one of the things that we endeavoured to do

12   was ask Ministers to come back to report on the

13   implementation of the additional funding that they

14   had received. So to some degree those were

15   operational issues.

16   But broadly speaking, no. Like

17   other cabinet committees, it was there for policy

18   focus rather than to assist in Ministers operating

19   their departments.

20   MR. DAVID: And coming now more

21   specifically to the mandate of this Commission of

22   Inquiry, to your knowledge, in the time the Arar

23   affair was an issue that the government was

24   dealing with on a daily basis, was Mr. Arar's fate

25   ever discussed at this ad hoc committee?

1   HON. JOHN MANLEY: Not that I

2   recall.

3   MR. DAVID: Okay. I would like to

4   spend a few moments with you in terms of

5   describing the American response and how Mr. Ridge

6   became your counterpart in terms of the ad hoc

7   committee's mandate and work.

8   It is my understanding that

9   Governor Ridge was appointed to the Office of

10   Homeland Security and became direct advisor to the

11   President of the United States, and this was as of

12   October 2001?

13   HON. JOHN MANLEY: That's right.

14   MR. DAVID: And eventually this

15   advisory position moved into a permanent structure

16   that we now know as the Department of Homeland

17   Security, and that was created as of January of

18   2003?

19   HON. JOHN MANLEY: That's right.

20   MR. DAVID: During the time you

21   were chair of the ad hoc committee, Mr. Manley, at

22   all times you were Mr. Ridge's direct counterpart

23   in his functions with the Department of Homeland

24   Security, and this until December of 2003?

25   HON. JOHN MANLEY: That's right.

1   MR. DAVID: How soon did you meet
2   Mr. Ridge in his new position as advisor to the
3   President?
4   HON. JOHN MANLEY: When Mr. Ridge
5   was named in a speech to Congress and as the
6   President's advisor, I think within a day or two
7   the Prime Minister asked me to act as his
8   counterpart. I was Minister of Foreign Affairs at
9   the time.
10   So I called him immediately. I
11   put a call in to the Governor's residence in
12   Pennsylvania and had a conversation with him. And
13   when he relocated to Washington some weeks later,
14   I paid an early visit to see him.
15   MR. DAVID: And what was on your
16   agenda at that time?
17   HON. JOHN MANLEY: Well, my agenda
18   was to try to minimize the effect of 9/11 on the
19   Canadian economy.
20   MR. DAVID: So you met Mr. Ridge
21   in that context?
22   HON. JOHN MANLEY: That's right.
23   MR. DAVID: And how would you
24   describe your relationship, your working
25   relationship, with Mr. Ridge as it occurred

1   between October 2001 and December 2003?

2   HON. JOHN MANLEY: We had a very

3   close working relationship. We cooperated on many

4   things. We built a personal friendship. I was

5   always grateful for the fact that we had, as an

6   interlocutor on these issues, somebody who was

7   familiar with the importance of Canada-U.S.

8   economic relations, having been the Governor of a

9   northern state, a Great Lakes state.

10   MR. DAVID: Now coming back to

11   Canada's second response -- one of the responses

12   that we had to 9/11, and that was the acceleration

13   of the budget cycle.

14   Could you explain to us in what

15   context this occurred, what brought this on, and

16   the role of the ad hoc committee with regard to

17   this increase in budgets for certain security

18   departments, such as the RCMP and CSIS?

19   HON. JOHN MANLEY: With respect to

20   the acceleration of the cycle, that's something

21   you might have to ask the Minister of Finance of

22   the day about.

23   But as I recall, in the immediate

24   aftermath of 9/11, there was a great deal of

25   economic uncertainty, and it seems to me that, in

1   part, the response was to try to deal with that as

2   well as creating a financial framework to

3   implement some measures that arose out of the

4   events of 9/11, including increased spending for

5   some of the agencies.

6   In part, that budget, because of

7   what was seen as a security imperative, impeded on

8   the contingency fund that had become a

9   characteristic of budgets. In the end, it wasn't

10   actually required, but it was seen as enough of an

11   imperative that Mr. Martin reduced the contingency

12   reserve in that budget.

13   Really, the ad hoc committee had

14   nothing to do with planning the budget. The

15   Ministers broadly are consulted prior to a budget

16   being finalized, and that normal broad

17   consultation occurred. In the normal course

18   everybody tries to advance their own case, no

19   matter what Ministry they have.

20   In the aftermath, though, as I

21   said earlier, the committee did play a role in

22   monitoring the implementation of some of the

23   incremental funds that had been made available in

24   the December 2001 budget.

25   MR. DAVID: And that included

1   holding agencies accountable for these increases

2   in their operating budgets, such as the RCMP and

3   CSIS?

4   HON. JOHN MANLEY: We would ask

5   them to come in, or for the Minister to come in

6   and to describe what they were doing and how they

7   were allocating the additional funds that were

8   made available to them.

9   MR. DAVID: Okay. I would like to

10   now come to deal with the issue of the Smart

11   Border Declaration, Mr. Manley.

12   I would refer you to two exhibits:

13   one is P-35 and the other is P-36.

14   These documents, Mr. Manley, have

15   already been filed, and they are issued from the

16   Department of Foreign Affairs, DFAIT.

17   The first is as of December 2001,

18   that's P-35; and the second is a progress report

19   that was filed in October 2003, so almost two

20   years after the fact. I would just like to go

21   through the contents of these documents with you

22   briefly.

23   First of all, the U.S. Smart

24   Border Declaration includes what is referred to as

25   a 30-point action plan, and this was

 1   officialized -- it was signed on December 12th,

 2   2001?

 3   HON. JOHN MANLEY: That's right.

 4   MR. DAVID: You have already

 5   provided us with some context about this Smart

 6   Border Declaration. In effect, the initiative

 7   preexisted the 9/11 crisis?

 8   HON. JOHN MANLEY: Most, if not

 9   all of this, was in that Canada-U.S. Partnership

10   initiative, the CUSP.

11   MR. DAVID: Would it be fair to

12   say that one of the purposes, or the main purpose,

13   of the Smart Border Declaration was to develop a

14   North American zone of confidence against

15   terrorist activities?

16   HON. JOHN MANLEY: Well, one of

17   the objectives was to meet the concern about

18   security that had become the prevailing worry in

19   the United States. We would have shared that

20   objective, but I would have said from the Canadian

21   point of view, the principal objective was

22   economic.

23   MR. DAVID: Okay. And it was

24   clear that in a sense the crisis brought on by

25   9/11 created an opportunity, if I could express

1   myself that way, for Canada in terms of making

2   this a priority agenda item for the United States.

3   Is that a fair --

4   HON. JOHN MANLEY: Yes. I

5   wouldn't want to give the impression that we

6   somehow were happy that the opportunity had been

7   presented in this fashion.

8   MR. DAVID: I don't want to give

9   that impression either.

10   HON. JOHN MANLEY: But clearly we

11   now had senior U.S. people, particularly

12   Mr. Ridge, sitting in the White House, paying

13   attention to the northern border. That was

14   definitely an opportunity.

15   MR. DAVID: And so Mr. Ridge was

16   your counterpart in managing the implementation of

17   the Smart Border Agreement?

18   HON. JOHN MANLEY: Yes. Both Tom

19   Ridge and I had at that time a kind of parallel

20   role in the sense that neither one of us had

21   operational responsibility for any of the elements

22   of these things. In his case, it changed later;

23   and in our case, the change in machinery of

24   government came when Mr. Martin formed a

25   government.

1   But at that time neither one of us

2   had any kind of direct responsibility. He had the

3   clout of being across the hall from the Oval

4   Office, and I had the support of the Prime

5   Minister, but we didn't actually run any of the

6   relevant agencies.

7   MR. DAVID: Okay. Now, the

8   responsibility for implementing the declaration in

9   Canada fell upon, I understand, the Borders Task

10   Force, which was under the auspices of the Privy

11   Council Office. Could you explain that?

12   HON. JOHN MANLEY: Well, the Privy

13   Council Office, as a central agency, has a role to

14   play, and the Borders Task Force was very much key

15   to trying to get everybody, all of the cats

16   herded, that were working on this set of issues.

17   So they had to deal with --

18   whether it was the RCMP, or CSIS, or the

19   immigration department or other, transport. There

20   were a host of departments and agencies that had

21   pieces of this. They had the coordinating role

22   with respect to it.

23   MR. DAVID: The declaration refers

24   to what are called four pillars: the first of

25   those pillars being the secure flow of people; the

 1   second being secure flow of goods; the third being

 2   a secure infrastructure; and finally, the fourth

 3   pillar being the coordination and

 4   information-sharing for the enforcement of these

 5   objectives.

 6   In terms of the secure flow of

 7   people, essentially, Mr. Manley -- and correct me

 8   if I am wrong -- it concerned identifying security

 9   threats and establishing a secure system to

10   expedite the flow of low-risk travellers.

11   Would that be a fair statement?

12   HON. JOHN MANLEY: Yes, I think

13   that's a fair way to describe it. In other words,

14   if the border became the place where you checked

15   everybody, we are talking about an impossible

16   task. Therefore, to make it easy for frequent

17   travellers, for people who presented no particular

18   risk profile, we had to find ways to streamline

19   the processes.

20   MR. DAVID: And so the same

21   objective existed for the flow of goods; that is,

22   on one hand you want to identify goods that are

23   risk factors, and you also want to expedite the

24   flow of goods that don't pose a risk to security?

25   HON. JOHN MANLEY: Yes, probably

1   200 firms account for 90 per cent of the

2   cross-border flow of goods. If you can take that

3   90 per cent out of the necessity of thorough

4   checking, you expedite the movement of goods

5   across the border.

6   As I often said, it's very

7   unlikely that there is going to be a terrorist

8   lurking in a truckload of hub caps going to

9   General Motors. It's just not likely going to

10   happen. So don't stop the hub caps at the border.

11   MR. DAVID: The third pillar

12   concerns secure infrastructure, and this relates

13   to -- the document identifies airports, ports,

14   bridges, tunnels, pipelines and power lines. So

15   we want to minimize threats to infrastructure, and

16   that's one of the objectives or one of the pillars

17   of this agreement.

18   And finally, the fourth is the

19   coordination and sharing of vital information with

20   regard to identifying security threats.

21   So in terms of those four pillars,

22   Mr. Manley, there is identified a 30-point action

23   plan, and I certainly don't want to bring you

24   through each of those 30 points.

25   I just want to identify the ones

1   that seem the most relevant to the interests of

2   this inquiry.

3   That would be item 8 and that

4   would be on page -- well, it's identified at the

5   top as being page 24. It's the Advance Passenger

6   Information/Passenger Name Record information

7   exchange; Item 9, which is the Joint Passenger

8   Analysts Units; and Item 11, which is Compatible

9   Immigration Databases.

10   Those three action plans concern

11   the first pillar, which is the secure flow of

12   people.

13   And then I would like to highlight

14   four of the action plans that concern coordination

15   and information-sharing. Those would be items 24,

16   which is the Joint Enforcement Coordination; 25,

17   which is Integrated Intelligence; 27, the Removal

18   of Deportees; and finally 28, which is Counter

19   Terrorism Legislation.

20   And certainly Bill C-36 was a

21   response in that sense. Would you agree?

22   HON. JOHN MANLEY: I am sorry,

23   what was the question?

24   MR. DAVID: In terms of action

25   item number 28, Counter Terrorism Legislation, I

1 am just saying our response was the adoption of

2 Bill C-36 in that regard?

3   HON. JOHN MANLEY: Well, actually

4 I would say C-36 was a response to the U.N.

5 resolution, rather than to this item.

6   MR. DAVID: Rather than to the

7 item. Okay.

8   And then we have as Exhibit P-36,

9 Mr. Manley, a progress report.

10   There was a commitment that the

11 implementation of the Smart Border Declaration

12 would be followed closely, monitored by yourself

13 and Mr. Ridge?

14   HON. JOHN MANLEY: Well, we came

15 to that conclusion. I mean, things sometimes

16 happen rather slowly in government, believe it or

17 not, and in this case we made a point of meeting

18 regularly and reviewing progress on the Smart

19 Border Accord so we that could ensure that the

20 work was getting done and the implementation

21 occurred.

22   MR. DAVID: So essentially you

23 wanted to make sure -- there was a commitment by

24 both governments to keep this a high-priority item

25 on each of your respective agendas.

1   HON. JOHN MANLEY: That's right.

2   MR. DAVID: So we have this status

3   report that was filed as Exhibit P-36, and I am

4   certainly not going to bring you through each of

5   the status reports on the 30 items.

6   I note that the 30-point action

7   plan becomes a 32-point action plan in October

8   2003, with the addition of Biosecurity at Item 31,

9   and Science and Technology Cooperation as Item 32?

10   HON. JOHN MANLEY: Right.

11   MR. DAVID: We move now,

12   Mr. Manley, to the actual time line for the Arar

13   affair, and I would bring you to PCO, which is

14   P-48, Volume 1, and it would be tab 4.

15   HON. JOHN MANLEY: Tab 4?

16   MR. DAVID: Tab 4 of P-48, and

17   these are the PCO documents that have been filed

18   before this Commission.

19   We have moved now considerably

20   ahead in time, and this is a briefing note that is

21   going to the Prime Minister. You are now Deputy

22   Prime Minister of Canada, and it's my

23   understanding, Mr. Manley, that as DPM you were

24   receiving all briefing notes that were going to

25   the Prime Minister?

1   HON. JOHN MANLEY: Normally that

2   would be the case, but also normally it's

3   indicated on the document.

4   MR. DAVID: And we will see most

5   documents do indicate copy for the Deputy Prime

6   Minister.

7   HON. JOHN MANLEY: Right.

8   MR. DAVID: This is a memo, now,

9   that is going to our Prime Minister, and it's

10   dated October 18th.

11   I remind you that Mr. Arar landed

12   in New York City on September 26th of 2002 and was

13   deported from the country on October 8th of 2002.

14   So we are now on October 18th.

15   At this point in time Syria still

16   has not confirmed that they hold Mr. Arar, just to

17   situate you in terms of context.

18   In terms of this memo, I would

19   bring you to page 3 of the document, and it's the

20   third bullet.

21   Again, just to situate you

22   time-wise, there is reference to the fact in the

23   first bullet that Mr. Graham, the new Minister of

24   Foreign Affairs, has met the Ambassador of the

25   United States on October 15th.

1   And so on the 18th, the third

2   bullet refers to the following in terms of your

3   office as Deputy Prime Minister and says:

4   "Foreign Affairs has prepared

5   press lines respecting the

6   Arar case. It is understood

7   that Deputy Prime Minister

8   Manley will be meeting with

9   Homeland Security Chief Tom

10   Ridge on Friday, October

11   18th, and that these press

12   lines have been prepared in

13   support of that meeting. The

14   DFAIT press lines are

15   attached for your

16   information."

17   And if you go further on in the

18   documents, it's towards the end. In fact, in the

19   last four pages there are the press lines.

20   HON. JOHN MANLEY: Yes.

21   MR. DAVID: And there are also

22   suggested press lines.

23   Do you recall, Mr. Manley, having

24   read these press lines prepared by DFAIT at this

25   time?

1   HON. JOHN MANLEY: Not

2   specifically, no.

3   MR. DAVID: And do you recall

4   meeting Mr. Ridge in the way that this document

5   identifies?

6   HON. JOHN MANLEY: It would be

7   helpful if I knew where that meeting was supposed

8   to have taken place because I had numbers of

9   meetings with him. I wouldn't dispute that it

10   took place; I just don't remember which of many

11   meetings this might have been.

12   MR. DAVID: Okay. In this time,

13   which is October of 2002, specifically October

14   18th, I remind you that Mr. Arar has not been

15   confirmed by the Syrians to be in Syria. He is

16   not in the United States. There is certainly a

17   lot of activity on the part of Canadian

18   authorities to locate -- on the part of DFAIT

19   authorities to locate Mr. Arar.

20   Do you recall intervening directly

21   with Mr. Ridge to try to ascertain what happened

22   to Mr. Arar and where he was to be found? Do you

23   recall dealing with that issue?

24   HON. JOHN MANLEY: I don't recall

25   dealing with it at this point in time.

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 1                    MR. DAVID:  Do you recall if you
 2      were requested by anybody within the government to
 3      discuss the issue of where Mr. Arar was to be
 4      found?
 5                    HON. JOHN MANLEY:  No.
 6                    MR. DAVID:  Okay.  We go now to
 7      tab 8 of this same binder, and this is a document
 8      that is dated October 22nd.  But where I want to
 9      bring you is in reference to the fact that
10      Mr. Bilodeau, Robert Bilodeau, has been asked to
11      meet Mr. Ward Elcock, the Director of CSIS, on
12      October 17th.
13                    First of all, could you tell us
14      who Robert Bilodeau was in terms of your office at
15      this time?
16                    HON. JOHN MANLEY:  Is it Robert?
17                    MR. DAVID:  Robert, yes.
18                    HON. JOHN MANLEY:  Well,
19      Mr. Bilodeau was Deputy Minister to the Deputy
20      Prime Minister.
21                    MR. DAVID:  Okay.  So would it be
22      fair to say he was --
23                    HON. JOHN MANLEY:  A senior
24      bureaucrat.
25                    MR. DAVID:  And he was a close
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1   collaborator of yours?

2   HON. JOHN MANLEY: Well, he was --

3   he had other responsibilities in PCO, so I

4   wouldn't have said that he was -- in most cases a

5   Minister has a Deputy Minister. That's a unique

6   relationship.

7   In my case, it was a little bit of

8   an odd creation when I became Deputy Prime

9   Minister because I was given quite a range of

10   duties, and the Clerk assigned Mr. Bilodeau, who

11   had other responsibilities in PCO as well, to

12   function as my Deputy Minister. He was kind of

13   the person that I would go to if I needed things

14   done.

15   But I wouldn't have said that -- I

16   wouldn't have put it in quite the same terms that

17   you have.

18   MR. DAVID: Okay. And if we go to

19   page 1 of tab 8, Mr. Manley, it's at the very

20   bottom in the last paragraph.

21   It says the following:

22   "I am aware that Mr. Bilodeau

23   and Director Elcock discussed

24   the Arar case on Thursday

25   afternoon ..."

1   And that would be October 17th,

2   the day before you were meeting Mr. Ridge on

3   October 18th.

4   "... on Thursday afternoon in

5   terms of the potential for

6   this matter to be raised by

7   Deputy Prime Minister Manley

8   during a meeting scheduled

9   for the following day with

10   U.S. Homeland Security Chief

11   Governor Tom Ridge."

12   And on the next page, the very top

13   bullet says:

14   "I produced a note based on

15   the information I had

16   received and appended the

17   DFAIT press lines to it.

18   Gerry Deneault delivered the

19   note to Mr. Bilodeau Friday

20   morning. I was subsequently

21   informed Friday morning that

22   Mr. Bilodeau asked that the

23   note be abridged and

24   reproduced for the Prime

25   Minister with a copy to the

1   Deputy Prime Minister. Press

2   lines were also to be

3   prepared."

4   So it seems to me what is

5   happening here in this reference, Mr. Manley, is

6   that Mr. Bilodeau has met Mr. Elcock, in view of

7   your meeting with Mr. Ridge on the Friday and in

8   view of potentially discussing the Arar issue.

9   I was just wondering if this

10   refreshes your memory or reminds you of the chain

11   of events for these two days?

12   HON. JOHN MANLEY: I wasn't aware

13   of any of that.

14   By the way, it's Ron Bilodeau.

15   MR. DAVID: Ron Bilodeau? Okay.

16   HON. JOHN MANLEY: I knew there

17   was something wrong there.

18   MR. DAVID: I am relying on these

19   documents to give you the name, Mr. Manley.

20   --- Laughter / Rires

21   MR. DAVID: And were you aware

22   that Mr. Ron Bilodeau was meeting Mr. Elcock on

23   this day, on October 17th?

24   HON. JOHN MANLEY: No.

25   MR. DAVID: We now go to the DFAIT

1   documents, and I would bring you to tab 398.

2   THE COMMISSIONER: What volume is

3   that?

4   MR. DAVID: Volume 4.

5   THE COMMISSIONER: Thank you.

6   MR. DAVID: Again, we are

7   significantly moving ahead in time and it's now

8   April of 2003.

9   At this tab we have a letter that

10   is addressed to you on April 28th, 2003, that is

11   signed by Ms Monia Mazigh, Mr. Arar's wife.

12   Let me first ask you: Do you

13   recall ever discussing before this date, April

14   28th, 2003 -- Mr. Arar is still detained in Syria

15   at this time. We now know he is in Syria as of

16   October 21st, 2002. Mr. Arar is in Syria and he

17   was in Syria until October of 2003.

18   So I am asking you, first of all:

19   When you received this letter in terms of the time

20   reference, do you recall ever discussing with

21   Mr. Ridge before this date the issue of Mr. Arar?

22   HON. JOHN MANLEY: I can't be sure

23   what dates we had discussions about it. Certainly

24   we had an early discussion -- an earlier

25   discussion at the time of one of our meetings

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1   about the fact that this was an issue; in

2   particular, we frequently had joint press

3   availability after our meetings, and he might have

4   been asked a question by Canadian journalists. In

5   fact, if I am not mistaken, he probably was.

6   So we would have had discussions.

7   But until he actually became the Secretary of

8   Homeland Security, he didn't have the direct

9   responsibility for any of the agencies involved.

10   I then know I had a later

11   discussion with him after Mr. Arar's return and

12   was told, although he was always very gracious,

13   that the United States had decided this was

14   Mr. Powell's matter to deal with and he wasn't in

15   a position to deal with it.

16   MR. DAVID: And before Mr. Arar

17   returns to our country, did you ever get any

18   information from Mr. Ridge to explain what had

19   happened to Mr. Arar?

20   HON. JOHN MANLEY: No.

21   MR. DAVID: So coming back now to

22   tab 398, this is Mrs. Mazigh's letter. She refers

23   to the fact that yesterday she had met you when

24   you had given a speech to the Ottawa Muslim

25   Women's Organization.

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1   Do you recall meeting with Mrs.

2   Mazigh?

3   HON. JOHN MANLEY: Yes.

4   MR. DAVID: Could you describe

5   that for us?

6   HON. JOHN MANLEY: This was an

7   event the Ottawa Muslim Women's Organization held

8   in my constituency in Ottawa South. I was asked

9   to come and give greetings to it. I was there

10   for, I don't know, maybe 45 minutes, and delivered

11   some remarks. Then as I was leaving St. Elias

12   Church, Mrs. Mazigh pursued me and asked to talk

13   to me and she did.

14   MR. DAVID: And how long did that

15   meeting last?

16   HON. JOHN MANLEY: The

17   conversation with her?

18   MR. DAVID: Yes, the conversation.

19   HON. JOHN MANLEY: Probably ten

20   minutes, perhaps.

21   MR. DAVID: And do you recall what

22   was discussed?

23   HON. JOHN MANLEY: Well, she was

24   pleading for help in her husband's case. She had,

25   I think -- she either had a child or children with

1   her, or gave me a drawing that one of them had

2   done of their father, and I would have been

3   sympathetic to her and told her that I would look

4   into it, although it was not directly my

5   responsibility; that I would try to follow up and

6   see what we were doing.

7   MR. DAVID: And in effect at the

8   last paragraph of her letter at this page it says:

9   "I still remember the

10   insurance you gave me about

11   your involvement in the case

12   and I cannot forget the words

13   you mentioned during your

14   speech last evening."

15   So you did provide her with some

16   sort of commitment or assurance that you would do

17   you best?

18   HON. JOHN MANLEY: That I would

19   look into it.

20   MR. DAVID: I bring you now to

21   Exhibit P-88, please. Simply in terms of the

22   chronology, we have the letter from Monia Mazigh

23   on April 28th, and I bring you now to an entry; so

24   P-88.

25   It's tab 1, Mr. Manley, and if you

1   could go to page 24.

2   Just to situate you, these are the

3   personal notes of Mr. Gar Pardy, who was Director

4   General of Consular Affairs at DFAIT. There is an

5   entry for Wednesday, April 30th, 2003, in his

6   notes, and they read as follows:

7   "Marlene Catterall ..."

8   With her phone number.

9   "Spoke to John Manley.

10   Maher 'as worker' in Boston.

11   Could not see anything in

12   behaviour. Saw riding pres

13   'lawyer'"

14   I don't think that's really -- the

15   point is there is a note in Gar Pardy's agenda on

16   April 30th that Marlene Catterall would have

17   spoken to you.

18   Do you have any recollection about

19   Marlene Catterall -- Marlene Catterall, first of

20   all, you know that she is an MP for Ottawa West

21   and Nepean.

22   HON. JOHN MANLEY: Yes.

23   MR. DAVID: Do you recall Marlene

24   Catterall ever speaking to you around this time

25   about the Arar affair?

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1   HON. JOHN MANLEY: Yes. I can't

2   be precise about the time, but certainly Marlene

3   raised this and was known for raising it vocally

4   and frequently, and she would have spoken to me

5   about it, I am quite sure.

6   MR. DAVID: Do you know if there

7   was any follow-up to that conversation?

8   HON. JOHN MANLEY: That I don't

9   know.

10   MR. DAVID: Okay. Coming back now

11   to the DFAIT binder, I bring you to tab 405, and I

12   will also ask you to go to tab 429, which is in

13   the next binder.

14   First of all, tab 405, Mr. Manley,

15   is the first document I want to bring you to.

16   And the second I referred to as

17   tab 429, but this has now become Exhibit P-103,

18   just to complicate things. It is the full

19   unredacted version of tab 429.

20   MS McISAAC: I think the problem

21   is, though, that your book's 405 is actually 505?

22   MR. DAVID: Okay. Thank you

23   Ms McIsaac. I think that this same problem had

24   been met by my colleague, Mr. Cavalluzzo.

25   MS McISAAC: Are you looking for

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 1          the CAMANT note or the Bowden's?

 2                      MR. DAVID:  It's a CAMANT note for

 3          May 12th at what I call 405, and I think you are

 4          quite right in saying --

 5                      THE COMMISSIONER:  It's 504, isn't

 6          it?

 7                      MS McISAAC:  505.

 8                      MR. DAVID:  Sorry about that,

 9          Mr. Manley.  There is some confusion in our

10          documents.

11                      THE COMMISSIONER:  What we are

12          looking at is 505 and P-103?

13                      MR. DAVID:  That is correct.

14                      THE COMMISSIONER:  Thank you.

15                      MR. DAVID:  Are you totally

16          confused, Mr. Manley?

17                      HON. JOHN MANLEY:  No more than

18          usual, Mr. David.

19          --- Laughter / Rires

20                      MR. DAVID:  At tab 505, we have an

21          entry, and I suggest to you the date is May 2nd,

22          2003, and it says the following -- these are

23          CAMANT notes, which is one of the internal data

24          management systems for DFAIT.

25                      It's an e-mail that is coming from
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1   Gar Pardy, and I am not sure who it's going to,

2   but it refers to Mr. Kunder, but I believe the

3   name is Klunder.

4   Would that be correct?

5   HON. JOHN MANLEY: Brian Klunder

6   was one of my political assistants.

7   MR. DAVID: He was one of your

8   political assistants, exactly.

9   So Mr. Gar Pardy is referring to a

10   conversation in the very top portion of that

11   entry, and the only place I am going to refer you

12   to is that very top message from Mr. Pardy, and it

13   says:

14   "I spoke to Mr. Klunder and

15   provided him with an update

16   on the case. He indicated

17   that Mr. Manley would be

18   speaking to Mr. Easter in the

19   coming days and would get

20   back to us. Gar."

21   So it's a fairly short reference

22   to the fact that you are, or were, intending to

23   speak to Mr. Wayne Easter, who was the Solicitor

24   General of Canada, in about May of 2003.

25   I bring you now to the other

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 1   exhibit, which is P-103, which is the loose

 2   document, and I would refer you to paragraph 7,

 3   which is on page 3.

 4   This is, for your information, a

 5   briefing note. The document itself is dated June

 6   5th, 2003, and it is a briefing note going to

 7   MINA, the Minister of Foreign Affairs, and

 8   paragraph 7 says the following:

 9   "Dr. Monia Mazigh has

10   continued her efforts to

11   obtain public and

12   governmental support for the

13   release of her husband. She

14   has written to the American

15   and Syrian ambassadors and

16   discussed the matter with the

17   Deputy Prime Minister at a

18   social function."

19   Which we have already seen. The

20   part I want to bring you to is the following:

21   "We have been advised that

22   the Canadian lawyer hired by

23   Dr. Mazigh, Mr. Michael

24   Edelson, a personal friend of

25   the Deputy Prime Minister,

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 1                          will speak to him about the

 2                          matter as well.  Mr. Manley

 3                          has asked a staff member to

 4                          make enquiries of the

 5                          Solicitor General..."

 6                  So there are two references in two

 7      different documents that seem to indicate that you

 8      are somehow intervening with Mr. Easter, the

 9      Solicitor General, in about May, perhaps early

10      June, of 2003.

11                  My question to you is:  Do you

12      have any recollection of such an intervention?

13                  HON. JOHN MANLEY:  Well, when I

14      gave an undertaking to Dr. Mazigh, I would follow

15      up on it.  So that's why Klunder would have become

16      involved in making some calls and I would be

17      indicating an interest.

18                  I may have spoken to Mr. Easter.

19      Quite possibly I did.  You know, I mean, in the

20      haze of events, I can't recall a specific

21      conversation that I had with him, but I would have

22      wanted to ensure that we were doing everything

23      possible at this point to try to find a way to

24      resolve the situation.

25                  MR. DAVID:  So you have, in terms
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1   of either direct communication with Mr. Easter, or

2   indirect through Mr. Klunder, or anybody else

3   within your staff. You have no specific

4   recollection of the results of an intervention

5   with Mr. Easter or his office?

6   HON. JOHN MANLEY: No. I mean, I

7   would think -- at this point in time, it's really

8   a consular matter. It's an issue that Foreign

9   Affairs ought to be pursuing, and I can only

10   presume that we were -- that there was some

11   implication that somehow or other the RCMP had a

12   key that would be able to unlock this in some

13   fashion. But I don't recall the nature of a

14   discussion.

15   MR. DAVID: Okay. I would bring

16   you now to P-85. It would be tab 7 in P-85.

17   THE COMMISSIONER: Volume 1?

18   MR. DAVID: Volume 1, yes. These

19   are the redacted loose exhibits.

20   Mr. Manley, I apologize. We are

21   managing literally thousands of documents and we

22   are doing it as best we can.

23   So these are loose exhibits that

24   have been filed throughout the proceedings.

25   HON. JOHN MANLEY: Which tab is

1   it?

2   MR. DAVID: It's tab 7.

3   Now, this is a draft version of a

4   memo. As I say, it's a draft version, and it's

5   being prepared by Mr. Gar Pardy, Director General

6   of DFAIT for Consular Affairs. It is going to the

7   Minister of Foreign Affairs, and it is dated May

8   the 5th, 2003.

9   The final version I have referred

10   to already, and that is Exhibit P-103, and that's

11   the June 5th version. So the actual version that

12   goes to the Minister is not this one.

13   And there are two passages I would

14   like to bring you to in this draft version, which

15   is a month before the final version.

16   If you could go to the first page

17   of the document and the first bullet in terms of

18   the recommendations, the document says the

19   following:

20   "Efforts continue to

21   establish a common

22   understanding within the

23   government of Canada on this

24   case with the objective of

25   the issuance of a statement

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 1                              signed by the Solicitor

 2                              General and the Minister of

 3                              Foreign Affairs that could be

 4                              used with the Syrian

 5                              authorities."

 6                    That is obviously a reference to

 7         Mr. Easter and Mr. Graham.

 8                         I bring you now to the last bullet

 9         on that page, and it says the following:

10                              "If necessary that you meet

11                              with the Solicitor General

12                              and the Deputy Prime Minister

13                              to arrive at a common

14                              understanding on the case."

15                         I can now bring you to page 4 of

16         this same document, the draft version, and it

17         would be paragraph 10.  The first bullet says:

18                              "In the days ahead, our

19                              efforts will concentrate on:

20                              -  convening a meeting of

21                              Canadian officials

22                              representing CSIS, RCMP, PCO,

23                              and the office of the Deputy

24                              Prime Minister to develop a

25                              common Canadian approach that
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 1   could be sufficiently clear

 2   to communicate to the Syrian

 3   authorities."

 4   So the draft version of the memo,

 5   Mr. Manley, as of May of 2003, certainly refers to

 6   what we have identified or referred to as the

 7   concern that Canada is or is not speaking with a

 8   common voice, with one voice, in terms of

 9   representations going to Syria about our

10   intentions for his return to Canada.

11   And my question to you is: Were

12   you aware that there were dissensions within the

13   ranks, if I could express myself in such a way,

14   and were you involved in any sort of

15   reconciliation of various positions of various

16   Canadian authorities?

17   HON. JOHN MANLEY: The answer to

18   your first question is that I had heard, as has

19   been widely reported, this notion that somehow or

20   other if you want to know what had happened, you

21   should ask our people, being either RCMP or

22   CSIS -- it was never really clear to me -- and

23   that the message that kept coming back from them

24   was, "We don't know what you are talking about."

25   So I was aware of that going on.

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 1                        Was I part of any attempt to

 2        resolve it?  Not that I recall.

 3                        I notice in I suppose the cover

 4        page, in paragraph 10 refers to involving my

 5        office, which could well be a response to the

 6        intervention by Klunder as opposed to me

 7        personally, although he seems to be suggesting on

 8        the front page that Mr. Graham meet with

 9        Mr. Easter and myself.

10                        I certainly don't recall a formal

11        meeting of that sort.  Whether we had what is

12        commonly called a pull-aside, where we sort of

13        chatted in the corner of the room, I don't recall.

14                        MR. DAVID:  Okay.

15                        HON. JOHN MANLEY:  I have to say

16        that at that point in time I had rather a lot of

17        things going on because, in addition to being

18        Minister of Finance, there actually was a

19        leadership campaign.  It wasn't widely reported,

20        but nevertheless there was one and I was in it,

21        and it was right then.  So I was a little bit

22        preoccupied.

23                        MR. DAVID:  I bring you back to

24        the PCO documents, and they would be P-48.

25                        I don't know if you still have
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1   that -- no, I guess not -- and it would be tab 18.

2   I just want to note,

3   Mr. Commissioner, there are certain documents I

4   will be referring Mr. Manley to that I know for a

5   fact he has no direct knowledge about. It's

6   simply that he is being infocopied as Deputy Prime

7   Minister on these documents, and it's simply for

8   the purpose of putting these documents on the

9   record.

10   I do not believe it's our

11 intention to call the Prime Minister and so we are

12 going to be using the Deputy Prime Minister to

13 refer to these documents.

14   THE COMMISSIONER: Okay.

15   MR. DAVID: Before getting to

16 that, there was reference, if you recall, at

17 paragraph 7 of the memo I was just dealing with in

18 reference to the fact that Mr. Edelson intended on

19 speaking to you about his client, Mr. Arar.

20   I have had the opportunity of

21 meeting Mr. Edelson already, and I understand that

22 you were in the same law school together and you

23 know each other, and perhaps you are even friends.

24   Do you recall Mr. Edelson ever

25 speaking to you about Mr. Arar?

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 1                    HON. JOHN MANLEY:  I don't.

 2                    MR. DAVID:  Or his fate.  Okay.

 3                    THE COMMISSIONER:  I might just

 4   say, in terms of proving the letters, if the only

 5   purpose is to establish they were sent, I don't

 6   imagine there is any issue.  So it's not necessary

 7   from my standpoint to take Mr. Manley through

 8   them, unless you have questions that you wish to

 9   pose to him about those letters.

10                    MR. DAVID:  Perhaps we can just

11   bring them out, and if you have any comments, then

12   we will accept your comments, Mr. Manley.

13                    At tab 18, this is one of four

14   letters I will be referring to that are written by

15   Monia Mazigh to the Prime Minister of Canada.

16   This is the first letter that she writes, and it's

17   dated May 21, 2003.  It's going to the Prime

18   Minister and it's also going to you.

19                    I am simply bringing out the

20   letter for the record.  Any comments about this

21   letter, Mr. Manley?

22                    HON. JOHN MANLEY:  No.

23                    MR. DAVID:  Okay.  We then go to

24   tab 443 of the DFAIT documents.

25                    This is in reference to a
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 1        meeting -- it's a CAMANT note -- between Mr. Bill

 2        Graham, the Minister of Foreign Affairs, and Monia

 3        Mazigh.

 4                              And the paragraph I want to bring

 5        you to is the fourth paragraph.  It says the

 6        following:

 7                                        "The Minister responded to

 8                                        Dr. Mazigh's questions and

 9                                        comments by stating that we

10                                        have tried to pursue the

11                                        issue with the US authorities

12                                        and the Syrians, and continue

13                                        to use every diplomatic

14                                        opportunity to raise the

15                                        issue.  The Minister is

16                                        currently preparing a letter

17                                        to the Syrian Foreign

18                                        Minister, and wanted to wait

19                                        until this meeting was held,

20                                        in order to share the

21                                        contents of the letter with

22                                        Ms Mazigh.  The letter asks

23                                        for the release of Mr. Arar

24                                        and his immediate return to

25                                        Canada."
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1   That's fine. The part I want to
2   bring you to is the following:
3   "MP William Cutler..."
4   And I would suggest to you that's
5   Cotler, not Cutler?
6   HON. JOHN MANLEY: And I would say
7   it's probably Irwin.
8   MR. DAVID: And I would say it is
9   also Irwin.
10   HON. JOHN MANLEY: Well, we are
11   working on first names.
12   MR. DAVID: Okay.
13   "...had tried to pursue the
14   matter with the American
15   authorities, and asked
16   Minister Manley if this issue
17   was raised with his US
18   counterparts, however Min.
19   Manley said no, that this was
20   a Consular matter."
21   Do you recall Irwin Cotler
22   intervening with you in this time period?
23   HON. JOHN MANLEY: I don't recall
24   it.
25   MR. DAVID: And that would have

1   been June of 2003. You have no recollection of

2   that.

3   HON. JOHN MANLEY: I don't recall

4   it.

5   MR. DAVID: Okay. We go now to

6   tab 464, and again, this is simply for the record.

7   This is your response to Ms Mazigh's April 28th

8   letter to you. Any comments about that?

9   HON. JOHN MANLEY: No.

10   MR. DAVID: Okay. We go back to

11   the PCO document, and that would be tab 20.

12   Again, these are briefing notes

13   that are going to the Prime Minister. You are

14   being infocopied on them, as you see in each

15   reference, and I bring you to page 3, Mr. Manley.

16   It is the letter that the Prime Minister signs on

17   July 11th that is addressed to the President of

18   Syria.

19   Do you have any knowledge about

20   the circumstances of the drafting of this letter

21   or the sending of this letter?

22   HON. JOHN MANLEY: Well, I vaguely

23   recall that it was being done, that we were -- you

24   know, that there had been discussion about what

25   appropriate intervention the Prime Minister could

1   make.

2   MR. DAVID: Do you have any direct

3   involvement in --

4   HON. JOHN MANLEY: Drafting the

5   letter? No.

6   MR. DAVID: -- production or the

7   discussion of the letter, the contents of the

8   letter?

9   HON. JOHN MANLEY: No.

10   MR. DAVID: If we go to PCO tab

11   29, again this is for the record. It is a

12   briefing note to the Prime Minister.

13   We see at page 5 of the document

14   there is Ms Mazigh's second letter to the Prime

15   Minister. It is dated July 23rd, 2003. And we

16   see the Prime Minister's response on page 3 of the

17   tab, which is dated September 4th.

18   Any comments about that?

19   HON. JOHN MANLEY: No.

20   MR. DAVID: Okay. We go now to

21   tab 31 of the PCO documents, and that would be in

22   Volume 2.

23   Tab 31, Mr. Manley, is a briefing

24   note that is dated September 25th, 2003, and it's

25   directly addressed to you. It's an update of the

1   Maher Arar case.

2   There is a reference in the first

3   bullet to the "impending Syrian trial" of

4   Mr. Arar, and my question to you is: Do you

5   recall why this memo was being sent directly to

6   you at this time concerning Mr. Arar? Who

7   requested the memo?

8   There is a reference, if you go in

9   the contents, to the circumstances or a chronology

10   that concern Mr. Arar before his deportation from

11   the United States, and then the next page is a

12   chronology post-deportation from the United

13   States.

14   The memo, as I say, is being

15   directly addressed to you in September of 2003.

16   HON. JOHN MANLEY: Yes. I can't

17   explain it, and it's particularly peculiar that it

18   was from Mr. Lavertu, who was the PCO foreign

19   policy advisor at the time.

20   The only explanation I can think

21   of is that I had expressed some interest in the

22   case. The leadership campaign was over, and I may

23   have decided that I was going to put a little bit

24   more effort into this to see whether we couldn't

25   shake it loose. But I can't say for sure,

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1   Mr. David.

2   MR. DAVID: Okay. I bring you now

3   to a document dated September 29th, and it's P-85,

4   Volume 5.

5   Again, this is for the record. It

6   is a briefing note that is going to the Prime

7   Minister with a "cc" to you, and it refers to

8   Dr. Mazigh's third letter, dated September 18th.

9   HON. JOHN MANLEY: And the tab

10   number?

11   MR. DAVID: I am sorry. It's tab

12   2.

13   And if you go to the fourth page

14   of the document, you will see that there is

15   Ms Mazigh's third letter to the Prime Minister.

16   It is dated September 18th, 2003. Again, it is

17   urging the Prime Minister to intervene with a

18   message to the President of Syria, with a

19   recommendation for the signature of the letter

20   from the Prime Minister.

21   Any comments about that?

22   HON. JOHN MANLEY: No comments.

23   MR. DAVID: I bring you now to the

24   same exhibit, P-85, Volume 5, to tab 3, which is a

25   reference to Dr. Mazigh's fourth letter to the

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 1        Prime Minister, which is dated September 26th,

 2        2003.

 3                        With regard to this letter from

 4        Dr. Mazigh, there is no response that was provided

 5        by the Prime Minister to her simply because of the

 6        fact that he was released prior to --

 7                        HON. JOHN MANLEY:  Right.

 8                        MR. DAVID:  -- the ability of him

 9        responding.

10                        I bring you now to tab 37 of the

11        PCO documents, which is P-48.

12                        Again this is simply for the

13        record.  It is a recommendation to the Prime

14        Minister that he call his counterpart in Syria,

15        the President of Syria.

16                        And for the record again, on

17        October 5th, Mr. Arar is released from Syria and

18        he is back in Canada on October the 6th.

19                        If you could now go to tab 45 of

20        the same binder, again this is a briefing note to

21        the Prime Minister with a copy to you, and it

22        discusses two issues, if you would have any

23        comments on those two issues.

24                        One is that Ministers should be

25        pushing their American counterparts on the
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 1   adoption of a protocol.

 2   And if you go to page 4 of the

 3   document, the last paragraph says the following.

 4   It says:

 5   "It is further recommended

 6   that Canadian Ministers,

 7   including the Minister of

 8   Foreign Affairs and

 9   International Trade, the

10   Solicitor General, and the

11   Deputy Prime Minister, press

12   their American counterparts

13   to put in place appropriate

14   arrangements with the U.S. to

15   ensure that never again will

16   a Canadian citizen be

17   deported by the Americans to

18   a third country without

19   appropriate formal

20   consultations with Canada."

21   This, we know, became the Monterey

22   Accord, which was signed in Mexico in January of

23   2004. The time frame here is November 2003.

24   Do you recall this push to try to

25   lobby the Americans in terms of adopting a

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 1          protocol that would protect Canadians from the

 2          kind of treatment Mr. Arar --

 3                          HON. JOHN MANLEY:  I recall that

 4          that was an objective that we were --

 5                          MR. DAVID:  And were you in any

 6          way involved in that push or that initiative?

 7                          HON. JOHN MANLEY:  I believe that

 8          I met with Mr. Ridge around this time and raised

 9          it with him.

10                          MR. DAVID:  In fact, there was a

11          meeting with Mr. Ridge on November 11th.  Was the

12          protocol discussed with Mr. Ridge at this time?

13                          HON. JOHN MANLEY:  We discussed

14          the case.  That in particular I recall as being a

15          meeting where he said this is a matter for

16          Mr. Powell.

17                          MR. DAVID:  There are also

18          reference at tab 45 to the fact that, in general,

19          the government wants to avoid the calling of a

20          public inquiry.

21                          If I could refer you to page 3 of

22          the document, there is reference in the briefing

23          note to the fact that Mr. Arar and his lawyers, in

24          a press conference, are calling for a public

25          inquiry.
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1   Do you recall whether there was a

2   feeling within cabinet or the government that a

3   public inquiry was not appropriate at this time,

4   given the sensitive nature of the information that

5   we would be dealing with?

6   HON. JOHN MANLEY: This is

7   something the Commissioner will have to decide,

8   whether there is a purpose in it or not.

9   I think one of the concerns that

10 we had was that the actions that we needed

11 information about were actions of the U.S.

12 government, which would not be compellable in

13 Canada in any event.

14   So how much exactly could we find

15 out about what really transpired? I guess we will

16 wait and see.

17   MR. DAVID: I would bring you now

18 to tab 812 of the DFAIT documents.

19   Before dealing with that, coming

20 back to your meeting with Mr. Ridge on October

21 11th, Mr. Manley, was the Arar affair discussed

22 directly?

23   HON. JOHN MANLEY: Yes, I raised

24 it with him, because at this point in time, not

25 only was Mr. Arar back in Canada but he had made

1   his disclosure about having been tortured in

2   Syria, and I felt that it was a serious matter.

3   So I raised it with him.

4   I think, you know, looking at it

5   as calmly as possible, the U.S. viewed Mr. Arar as

6   a Syrian citizen first and didn't think there was

7   anything particularly wrong with sending him to

8   Syria. We regarded him as a Canadian citizen who

9   was travelling on a Canadian passport, who had

10   been given Canadian consular attention and then

11   had been shipped off to a third country, and it

12   just wasn't acceptable.

13   MR. DAVID: So you voiced your

14   objection to the handling of Mr. Arar.

15   HON. JOHN MANLEY: Yes.

16   MR. DAVID: And what reaction did

17   Mr. Ridge provide you?

18   HON. JOHN MANLEY: As I said

19   earlier, Mr. Ridge was always very gracious and

20   prepared to give consideration to any matters I

21   raised with him, but it was quite clear in this

22   case that they had decided it was for Mr. Powell

23   to handle with Mr. Graham.

24   MR. DAVID: And do you recall

25   whether Mr. Ridge provided you directly with any

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 1          information concerning Mr. Arar's case?

 2                          HON. JOHN MANLEY:  He gave me no

 3          indication that he even had any information,

 4          certainly.

 5                          MR. DAVID:  Coming now to tab 812,

 6          Mr. Manley, this refers to a conference that you

 7          gave -- you were in New York City on November 24th

 8          and 25th, and you gave a conference. I believe it

 9          was at the invitation of the Consular General,

10          Pamela Wallin, and it was to the Council of the

11          Americas.

12                          Do you recall attending such a

13          conference?

14                          HON. JOHN MANLEY:  Yes.

15                          MR. DAVID:  This tab refers to

16          certain statements that you made both during the

17          conference and in a private setting whilst you

18          were in New York City.

19                          If I could bring you to page 3 of

20          the document, and I would just like to refer you

21          to a few of the paragraphs in this document.

22                          It is a report that is being filed

23          by a consular official in New York City for DFAIT,

24          and the first paragraph says the following:

25                          "The Arar deportation and
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 1                         alleged torture was the main

 2                         topic for NY-based Canadian

 3                         media who have been chasing

 4                         the story along with their

 5                         colleagues at home and an

 6                         increasing number of U.S.

 7                         journalists in the last

 8                         couple of weeks.  Manley was

 9                         direct in describing the Arar

10                         situation as 'a serious

11                         impediment' to cooperation."

12               Do you have any comments about

13      that?

14               HON. JOHN MANLEY:  That's an

15      accurate report.

16               MR. DAVID:  It is?  The second

17      paragraph says:

18                         "'We need a clear

19                         understanding with the U.S.

20                         that a Canadian citizen

21                         cannot be deported by the

22                         U.S.,' he told a news

23                         conference. 'Any removal

24                         should be to Canada.'"

25               This is a reference to the
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1 protocol that was in the works?

2   HON. JOHN MANLEY: I wouldn't have

3 necessarily known about it as a protocol in the

4 works at this point. The protocol, as you know,

5 was signed after I had left office. But that's

6 what we were seeking.

7   MR. DAVID: The third paragraph

8 says:

9   "The Deputy Prime Minister

10   noted that he had raised this

11   matter with U.S. Secretary of

12   Homeland Security Tom Ridge

13   and that other ministers have

14   also spoken with their

15   American counterparts. 'We're

16   looking for a clear

17   understanding from the U.S.

18   authorities as to how in the

19   future cases like this will

20   be dealt with.' Asked if he

21   agreed with U.S.

22   Attorney-General John

23   Ashcroft's view that the Arar

24   deportation was legitimate,

25   Manley responded: 'No. A

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1   Canadian citizen shouldn't

2   have been deported to Syria

3   ... it could have been dealt

4   with in the U.S. under U.S.

5   law.'"

6   Any comments about that?

7   HON. JOHN MANLEY: I am sure

8 that's an accurate quote.

9   MR. DAVID: Okay. In terms of you

10 raising the issue with Secretary Ridge, is this a

11 reference to your meeting on October 11th, or is

12 it a reference to another --

13   HON. JOHN MANLEY: I presume it's

14 a reference to November 11th.

15   MR. DAVID: The fifth paragraph

16 says:

17   "The minister referred to a

18   'stress point' in Canada-U.S.

19   relations that must be

20   resolved. There was no doubt

21   that Canada and the U.S. need

22   to exchange information on

23   security threats, 'but

24   Canadians will always insist

25   that laws related to civil

1   liberties will be

2   respected.'"

3   Any comments about that?

4   HON. JOHN MANLEY: Again, I think

5   it's an accurate quote. I didn't think, actually,

6   this was all that newsworthy at the time. I felt

7   that it was pretty clear that we had to take a

8   very clear and very strong position on an issue of

9   this nature.

10   As I am quoted as saying, I was

11   concerned that it could undermine our ability to

12   cooperate on areas where we needed to cooperate,

13   which I thought would be very unfortunate.

14   MR. DAVID: The last document I

15   would like to bring you to -- and again this is

16   for the record -- is tab 61 of the PCO documents.

17   It is a briefing note to the Prime

18   Minister, with a "cc" to you, and it is signed by

19   the National Security Advisor to the Prime

20   Minister, who at the time was Mr. Rob Wright.

21   In it there are two references, if

22   you would have any comments.

23   One is --

24   MS McISAAC: Excuse me. I think

25   this document was probably produced after

```
 1        Mr. Manley was no longer Deputy Prime Minister.
 2                         MR. DAVID:  I believe it's
 3        December 1st, 2003.
 4                         HON. JOHN MANLEY:  It refers to
 5        Justice Minister Cotler, which would have been
 6        subsequent to my departing government.
 7                         MR. DAVID:  Okay.  So I think we
 8        can end our examination there.
 9                         Thank you very much, Mr. Manley.
10                         THE COMMISSIONER:  Mr. Waldman, do
11        you know how long you will be?
12                         MR. WALDMAN:  Given the nature of
13        the evidence, it's quite apparent that Mr. Manley
14        has limited knowledge.  I am sure we can finish by
15        the morning.
16                         It would be of assistance if we
17        could take a break now so I could organize my
18        papers.
19                         THE COMMISSIONER:  What are you
20        saying?  It's now 10:30.  Can you give me an
21        estimate as to how long the cross-examination will
22        be?
23                         I agree with your comment, that it
24        needn't be --
25                         MR. WALDMAN:  I would guess an
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1   hour and a half.

2   THE COMMISSIONER: That long?

3   MR. WALDMAN: It may not be.

4   THE COMMISSIONER: Do you know how

5   long you will be, Ms McIsaac?

6   MS McISAAC: At the moment I don't

7   have any questions.

8   THE COMMISSIONER: We will take

9   the morning break for 15 minutes.

10   The point that I am making is the

11   same that you made. I think it's helpful to have

12   Mr. Manley here to give us the background the way

13   he has and the overview. It is important that we

14   have the person who was the Deputy Prime Minister

15   at the time. That said, there is not a lot of

16   direct connection to the case.

17   MR. WALDMAN: I agree.

18   THE COMMISSIONER: Okay. We will

19   take the break and then you feel free to

20   cross-examine as you see fit.

21   We will take 15 minutes.

22   THE REGISTRAR: Please stand.

23   --- Upon recessing at 10:26 a.m. /

24   Suspension à 10 h 26

25   --- Upon resuming at 10:41 a.m. /

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 1          Reprise à 10 h 41
 2                    THE REGISTRAR:  Please be seated.
 3     Veuillez vous asseoir.
 4                    THE COMMISSIONER:  Mr. Waldman.
 5                    MR. WALDMAN:  I don't think I will
 6     be more than an hour.
 7                    THE COMMISSIONER:  Thank you.
 8                    MR. WALDMAN:  I have some
 9     documents that I have already disclosed.  I have
10     several copies of these.
11                    Perhaps I can give them to the --
12     I haven't included all the documents I disclosed.
13                    THE COMMISSIONER:  Is that for me?
14     Thank you.
15                    Should we mark these collectively,
16     or do you want to mark them individually?
17                    MR. WALDMAN:  No, collectively is
18     fine.
19                    THE COMMISSIONER:  They will
20     be 112.
21                         EXHIBIT NO. P-112:
22                         Collection of seven
23                         documents.
24                    THE COMMISSIONER:  Go ahead,
25     Mr. Waldman.
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 1    EXAMINATION

 2                    MR. WALDMAN:  You have made my

 3    task a lot easier, because I gather from what you

 4    said you have limited recollection of the Arar

 5    case, over and above what you told us this

 6    morning, and a lot of the times when you were

 7    taken to documents, you don't recall them, or

 8    don't recall taking any direct intervention around

 9    them.

10                    Your recollection is very limited

11    with respect to this file.

12                    HON. JOHN MANLEY:  Well, my

13    involvement was very limited.

14                    MR. WALDMAN:  Yes, I agree.  And

15    it's fair to say, as you said, that you were

16    occupied with the leadership campaign and other

17    matters during this time?

18                    HON. JOHN MANLEY:  In 2003.

19                    MR. WALDMAN:  Yes, right.  Well,

20    most of this happened -- Mr. Arar was arrested in

21    September, and most of the main issues emerged

22    during this 2003 period, leading to his release in

23    October.

24                    So when were you involved in the

25    leadership campaign, approximately?
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1   HON. JOHN MANLEY: April 2003

2   until July 21st, 2003.

3   MR. WALDMAN: So in that time you

4   were mostly occupied with that, and that would

5   have been one of the reasons why you couldn't have

6   been directly involved in Mr. Arar's case?

7   HON. JOHN MANLEY: Well, it was

8   Mr. Graham's case. It was regarded as a consular

9   case, and it was primarily, therefore,

10   Mr. Graham's responsibility. Therefore, I would

11   only have been engaged on a peripheral basis or in

12   response to Dr. Mazigh's request.

13   MR. WALDMAN: I am just going to

14   ask you a few questions, generally speaking, about

15   your knowledge of the human rights situation in

16   Syria.

17   You were Minister of Foreign

18   Affairs between 2000 and 2002, and you visited

19   Syria in October-November of 2001, I understand.

20   HON. JOHN MANLEY: That's right.

21   MR. WALDMAN: Before you went, did

22   you get a briefing on Syria?

23   HON. JOHN MANLEY: I am sure I

24   did.

25   MR. WALDMAN: Do you recall

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 1      getting a briefing on the human rights situation

 2      in Syria?

 3                      HON. JOHN MANLEY:  I don't recall.

 4                      MR. WALDMAN:  Do you have any

 5      knowledge on your own as a result of your time at

 6      Foreign Affairs of the human rights situation in

 7      Syria?

 8                      HON. JOHN MANLEY:  Syria is not a

 9      liberal democracy, let's put it that way.

10                      MR. WALDMAN:  So when you heard

11      that Mr. Arar -- had knowledge, or were aware of

12      his situation, when you heard that he was in

13      Syria, would that have created concerns for you

14      about the treatment that he might have been

15      getting in Syria?

16                      HON. JOHN MANLEY:  I would have

17      been concerned, first and foremost, that a

18      Canadian citizen was removed to a third country

19      rather than to Canada, regardless of what the

20      treatment might have been.

21                      MR. WALDMAN:  Having accepted

22      that, wouldn't it have been a concern to you that

23      on top of that he was sent to Syria, which is a

24      country, as you said, that wasn't a liberal

25      democracy?
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1   HON. JOHN MANLEY: And where we

2   couldn't be confident the process would be

3   entirely in accordance with standards that we

4   would consider to be acceptable.

5   MR. WALDMAN: So you are aware

6   that there were serious concerns about the

7   fairness of the judicial process in Syria?

8   HON. JOHN MANLEY: Yes, indeed.

9   MR. WALDMAN: So when Ms Mazigh

10   came to you and asked for your intervention, you

11   would have been aware that he was in Syria and

12   this was a country where the human rights

13   situation was problematic?

14   HON. JOHN MANLEY: I was very

15   sympathetic to her situation, yes.

16   MR. WALDMAN: Right. But yet

17   having said that, according to your evidence and

18   your recollection, the extent of your involvement

19   was possibly mentioning it to Mr. Klunder, and

20   that was as far as you went, because in your view

21   it was a consular matter?

22   HON. JOHN MANLEY: I followed up

23   on the meeting with Dr. Mazigh.

24   MR. WALDMAN: Right. And you

25   spoke to Mr. Klunder. You told Mr. David that.

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 1                       But beyond that, you didn't do
 2      anything more?
 3                       HON. JOHN MANLEY:  Well, we have
 4      been through whether there were conversations or
 5      other things, you know, that -- very often, in
 6      order to effect something, and I think you see it
 7      in the documents, the very fact that I expressed
 8      an interest generated some action on the part of
 9      bureaucrats, which is what my intention was.
10                       MR. WALDMAN:  Aside from
11      expressing this interest on one occasion, do you
12      recall any other time that you expressed any other
13      concern about Mr. Arar to any of your officials?
14                       HON. JOHN MANLEY:  I am sorry, I
15      am having a little trouble hearing you.  Could you
16      repeat the question?
17                       MR. WALDMAN:  Sorry.  Aside from
18      this one time that it would appear from the
19      documents that Mr. Klunder was asked to follow up,
20      do you recall any other time that you took any
21      initiative on behalf of Mr. Arar prior to your
22      meeting with Mr. Ridge in November of 2003?
23                       HON. JOHN MANLEY:  I don't recall
24      details of anything.  I think that the document
25      flow that we went through with Mr. David indicates
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 1          that there may have been conversations or

 2          discussions that were held, but I can't give you

 3          any details about them.

 4                    MR. WALDMAN:  But you don't recall

 5          anything?

 6                    HON. JOHN MANLEY:  I don't recall

 7          any details about them.

 8                    MR. WALDMAN:  In your position as

 9          chair of the cabinet committee on national

10          security, were you aware that there was a national

11          security investigation in Ottawa that commenced

12          shortly after 9/11 about a possible al-Qaeda cell?

13                    HON. JOHN MANLEY:  First of all,

14          it was Public Security and Anti-terrorism.

15                    MR. WALDMAN:  Okay.

16                    HON. JOHN MANLEY:  Not

17          specifically would I have had knowledge of an

18          investigation.  Not that I recall.

19                    MR. WALDMAN:  So you don't have

20          any recollection of being informed by any of your

21          officials at any time after you became appointed

22          to this post on the cabinet committee that there

23          was an ongoing national security investigation

24          about a possible al-Qaeda cell in Ottawa?

25                    HON. JOHN MANLEY:  No.  We
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 1   received, I believe, some more general briefings,

 2   nothing specific about a particular cell in Ottawa

 3   that I recall, no.

 4   MR. WALDMAN: Don't you think it

 5   would have been important for you to at least have

 6   been made aware in general terms of the existence

 7   of a national security investigation regarding an

 8   al-Qaeda cell in Ottawa?

 9   There were other allegations -- of

10   course, we are not privy to the secret documents,

11   but at least some of the media reports suggested

12   that there was concerns about different bomb plots

13   and things like that.

14   Don't you think that would have

15   been something that would have been important for

16   you to be aware of?

17   HON. JOHN MANLEY: Well, first of

18   all, I wasn't the Solicitor General. You can ask

19   Mr. Easter whether he was informed of it. I was

20   the chairman of a cabinet committee.

21   It may have been the view of the

22   agency that this was not something about which I

23   required knowledge.

24   MR. WALDMAN: I understand that.

25   I am just asking you your opinion now. You were

1   the chair of this cabinet committee that was

2   setting priorities and making policy

3   determinations about expenditures.

4   I am asking you whether you think

5   it might have been important for you to be aware

6   of the fact that there was this ongoing

7   investigation in Ottawa of an al-Qaeda cell.

8   HON. JOHN MANLEY: I am not really

9   clear on what the relevance of that would have

10   been to my role as chairman of the committee.

11   MR. WALDMAN: Well, we will leave

12   it at that.

13   I would like to move on to the

14   question of intelligence-sharing.

15   I handed up -- I don't propose to

16   go through it, but I handed up as part of P-112 a

17   recent paper that was presented on building a

18   North American community.

19   You were one of the authors of

20   this. On page 11, this document very strongly

21   advocates for even greater information-sharing and

22   intelligence-sharing at both the local and

23   national levels by law enforcement, military, and

24   that would include security agencies.

25   This report, of which you are one

1   of the authors, strongly advocates much more

2   intelligence sharing than we even have now and

3   more integration.

4   HON. JOHN MANLEY: Well --

5   MR. WALDMAN: Do you want me to

6   read it to you? It is page 11.

7   HON. JOHN MANLEY: I guess I am

8   having a little trouble.

9   Yes, I was part of a task force

10   that reported --

11   MR. WALDMAN: Well, do you agree

12   with what it says on page 11?

13   HON. JOHN MANLEY: Well, as you

14   say -- but this is in my private life. I was not

15   a Minister at this time. This is in fact in the

16   last month.

17   MR. WALDMAN: Right. Well, it's

18   relevant because one of the issues that we are

19   concerned about is the whole question of

20   intelligence-sharing that emerged post-9/11.

21   So I am just --

22   HON. JOHN MANLEY: Is the

23   question, do I think that we should share

24   intelligence information within North America?

25   MR. WALDMAN: More openly and

1   expansively than even at the present time?

2   HON. JOHN MANLEY: Well, I am not

3   quite sure what your benchmark is, but I don't

4   think that we can have a secure North American

5   continent without exchanging information between

6   intelligence and policing agencies in the three

7   countries.

8   MR. WALDMAN: So you would agree

9   with me that you believe that post-9/11

10   especially, we have to integrate as much as

11   possible with the United Nation [sic] in terms of

12   our border security, information and intelligence

13   sharing?

14   HON. JOHN MANLEY: With the United

15   States?

16   MR. WALDMAN: And Mexico as well,

17   I suppose.

18   HON. JOHN MANLEY: Well, first of

19   all, I actually don't think this is a matter of

20   9/11. I think this is a matter of the fact that,

21   whether you look at it as terrorism or more

22   broadly as criminal activity, these activities are

23   not restricted to individual jurisdictions; that,

24   therefore, the exchange of information is a

25   critical component to having adequate police

1   response and protecting the security of the

2   population.

3   MR. WALDMAN: But wouldn't you

4   agree with me that post-September 11th, the

5   integration and sharing of intelligence

6   information was accelerated as a result of that

7   event, between Canada and the United States?

8   HON. JOHN MANLEY: I think that

9   9/11 may have provoked a review of how things were

10   done in order to ensure that there was adequate

11   exchange of information. But that's not simply a

12   matter of between countries. In fact, I think

13   what was discovered in the United States was that

14   exchange of information between agencies of the

15   U.S. government was not perhaps as open as it

16   ought to have been.

17   You know, there is a lot of

18   resources devoted to trying to obtain information.

19   If it's not shared with police authorities, it's

20   not of much value in protecting the population.

21   MR. WALDMAN: I agree with you

22   that one of the focuses in the United States,

23   indeed in Canada, was sharing within agencies in

24   the country. But I would put to you that we have

25   heard evidence that suggests that after 9/11, the

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 1          amount of intelligence sharing between Canada and

 2          the United States increased dramatically.

 3                          HON. JOHN MANLEY:  You are really

 4          asking me something that I can't evaluate because

 5          I was not part of any of the agencies that held or

 6          exchanged information.

 7                          MR. WALDMAN:  But you were part of

 8          the negotiations for the Canada-U.S. Smart Border

 9          Declaration; correct?

10                          HON. JOHN MANLEY:  Correct.

11                          MR. WALDMAN:  And it's also

12          correct that point 4 of the Smart Border

13          Declaration talks about coordination and

14          information sharing as one of the key objectives.

15                          HON. JOHN MANLEY:  Right.

16                          MR. WALDMAN:  So would you not

17          agree with me that the Smart Border Agreement --

18          and point 25 talks about open intelligence

19          sharing.  So one of the central pillars of the

20          Smart Border Agreement was to ensure that there

21          was proper sharing of intelligence information

22          between Canada and the United States.

23                          Is that right?

24                          HON. JOHN MANLEY:  Right.

25                          MR. WALDMAN:  And at different
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 1          points -- for example, in the June 28th, 2002,
 2          Smart Border Progress Report, which is in the
 3          material if you want to look at it, but we don't
 4          have to unless it's necessary.
 5                          There is clear indication that
 6          there are steps being taken -- I mean, you have
 7          testified that you weren't directly involved
 8          operationally, but you were certainly involved in
 9          the overall negotiations of the integration that
10          led to the governments on both sides of the border
11          integrating their intelligence services.
12                          We have integrated IBETs that
13          involve U.S. and Canadian agency officials
14          integrated together working on the border now, and
15          that was all part of the Smart Border Declaration?
16                          HON. JOHN MANLEY:  Actually if you
17          read the Smart Border Declaration, you will see
18          that it talks about expanding the IBETs.  So they
19          actually preexisted 9/11 and they preexisted the
20          Smart Border Accord.
21                          The word "integrated" is there.
22          It is Integrated Border Enforcement Teams to
23          cooperate on law enforcement in border areas.
24                          As to the integration of
25          intelligence services, I am not sure that I am in
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1        a position to answer that.

2                        MR. WALDMAN:  It's tab 35, which

3        is the Smart Border Agreement, P-35.

4                        It's Exhibit P-35, which is the

5        Smart Border Agreement.  It says integrated

6        intelligence.

7                        It says:

8                            "Establish joint teams to

9                            analyze and disseminate

10                           information and

11                           intelligence."

12                       I think it talks in terms of

13       establishing joint teams, not continuing to build

14       upon.

15                       MS McISAAC:  What page are you on?

16                       MR. WALDMAN:  It is page 3 of 4.

17                       It's true it says expand IBETs.

18                       HON. JOHN MANLEY:  That's correct,

19       yes.

20                       MR. WALDMAN:  But in terms of

21       integrated intelligence, it says:

22                           "Establish joint teams to

23                           analyze and disseminate

24                           information."

25                       Would you not agree that one of
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1   the key aspects of the Smart Border Agreement was

2   to encourage and accelerate intelligence sharing

3   between Canada and the United States?

4   HON. JOHN MANLEY: Yes, it is

5   there, absolutely.

6   MR. WALDMAN: And even in the last

7   status report dated December 17th, 2004, Canada

8   remains committed to this open information sharing

9   as part of the update on what was going on with

10   the Smart Border Agreement. So we are still

11   committed to that open --

12   HON. JOHN MANLEY: I wasn't in

13   cabinet in 2004, but I hope that they are.

14   MR. WALDMAN: Okay. Just to be

15   clear, when did you first become aware of Mr. Arar

16   and his deportation?

17   HON. JOHN MANLEY: I can't

18   specifically recall. It was a news story, I

19   think, and I think we saw -- Mr. David showed me

20   memos that were written in a time frame close to

21   his departure, or his removal. So I would assume

22   that I knew about it sometime in that time frame.

23   MR. WALDMAN: So it was after he

24   was deported. You had never heard his name

25   mentioned before he was deported to Syria?

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 1                    HON. JOHN MANLEY:  No.

 2                    MR. WALDMAN:  Are you aware of an

 3      internal investigation that was conducted by the

 4      RCMP, by Chief Superintendent Brian Garvie?

 5                    HON. JOHN MANLEY:  No.

 6                    MR. WALDMAN:  In that

 7      investigation, the Chief Superintendent

 8      interviewed several persons involved in the

 9      investigation of the alleged al-Qaeda cell, and it

10      was clearly stated that Mr. Arar was not a target

11      but was peripheral to the investigation.

12                    Are you aware of that?

13                    HON. JOHN MANLEY:  No.

14                    MR. WALDMAN:  And are you aware

15      that Mr. Arar came to the attention of the RCMP as

16      a result of being seen with someone else who was

17      of interest to them in October of 2001?  That's

18      also set out in the Garvie report.

19                    HON. JOHN MANLEY:  It's also set

20      out in what?

21                    MR. WALDMAN:  In this same report.

22                    You are not aware of that fact

23      either, I take it.

24                    HON. JOHN MANLEY:  I had been

25      given some information by Mr. Wright at a point
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1   late in this whole process, when it was being

2   explained to me that, yes, Mr. Arar may have been

3   of interest to security authorities.

4   However, there was no hard

5   evidence. Certainly it caused me to draw the

6   conclusion that there was no justification for the

7   actions that the United States took. But it was

8   very general.

9   MR. WALDMAN: Okay. So are you

10   aware that, for example, the RCMP obtained

11   Mr. Arar's lease from Minto Properties?

12   HON. JOHN MANLEY: I believe that

13   was reported in the media.

14   MR. WALDMAN: Are you aware that

15   shortly after the lease was obtained, the

16   information regarding Mr. Arar's alleged

17   connection with the other subjects of the

18   investigation was sent to the United States as

19   part of this ongoing information sharing?

20   HON. JOHN MANLEY: I can't say

21   specifically.

22   MR. WALDMAN: So we have

23   acknowledged that Mr. Arar was peripheral to the

24   investigation, and this is stated in the same memo

25   that Mr. David took you to before from Mr. Pardy,

1   where he says that he wasn't the subject of an

2   investigation but was of interest because of his

3   contacts.

4   This is also set out in the June

5   3rd memo.

6   So you are aware of that fact;

7   that according to at least all the public

8   documents that have been disclosed and the

9   evidence that we have seen, it clearly states two

10   facts: that Mr. Arar was very peripheral, was not

11   the target of an investigation on the one hand;

12   and on the other hand, the RCMP had sent

13   information very early on about Mr. Arar to the

14   United States?

15   HON. JOHN MANLEY: I wouldn't

16   dispute those facts. I mean, I am not sure

17   what --

18   MR. WALDMAN: Well, I will come to

19   it in a minute --

20   HON. JOHN MANLEY: -- degree of

21   confirmation you are expecting from me. I have

22   heard those things.

23   MR. WALDMAN: When did you become

24   aware that the RCMP had sent information about

25   Mr. Arar to the United States very early on, like

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 1        almost a year before --

 2                    HON. JOHN MANLEY:  I couldn't

 3        answer that.  I don't know.

 4                    MR. WALDMAN:  But you were aware

 5        of that at some point?

 6                    HON. JOHN MANLEY:  Well, not

 7        specifically as a result of any communication to

 8        me by the RCMP or, to my recollection, by

 9        Mr. Wright.

10                    MR. WALDMAN:  Well, we also have

11        in evidence before us two documents.  One is in

12        the material.  It's a letter from a U.S.

13        Congressman which says that Mr. Arar -- to a U.S.

14        congressman, Markie, from Paul Kelly.  It is page

15        78 of the disclosure, in which he says -- this is

16        the Department of State responding to a concern by

17        Mr. Markie, in which he says -- it's page 78 of

18        the document.

19                    HON. JOHN MANLEY:  79?

20                    MR. WALDMAN:  78.

21                    HON. JOHN MANLEY:  I don't think

22        it's 78.  I think it's 79.

23                    MR. WALDMAN:  79.  Another example

24        of a numbering mishap.

25                    In the second paragraph, it says:
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1   "Mr. Arar's name was placed

2   on a terrorist lookout based

3   on information received from

4   Canada."

5   So we now have in the public

6   record information that Mr. Arar's problems arose

7   as a result of information that came from

8   Canada --

9   MS McISAAC: We have on the public

10   record that Mr. Paul Kelly, Assistant Secretary

11   Legislative Affairs, says that.

12   MR. WALDMAN: Well, we also have

13   on the record that Mr. Gar Pardy, in his memos of

14   June 3rd and June 5th, also made the same

15   statement: that the information that led the

16   Americans to be interested in Mr. Arar came from

17   Canada.

18   So does it surprise you that the

19   RCMP was sharing information with the U.S. about

20   someone who was of peripheral interest to them?

21   HON. JOHN MANLEY: Well, I am not

22   sure whether it surprises me or not. As I have

23   said, these agencies were never my direct

24   responsibility. I can't say that I have any --

25   MR. WALDMAN: But --

1   HON. JOHN MANLEY: In what context

2   are you asking me that? As a private citizen?

3   MR. WALDMAN: No. I am asking you

4   this in the context of the person in cabinet who

5   negotiated the Smart Border Agreement and who

6   encouraged the increase in the information

7   exchanges on an intelligence level between Canada

8   and the United States.

9   And I am asking you this because,

10   in the context of the encouraging of these

11   exchanges, we have a clear consequence in this

12   particular case. That's the reason why I am

13   asking you this question, sir.

14   Does it concern you that the RCMP

15   would send information to the United States in an

16   intelligence matter about a Canadian citizen who

17   was peripherally involved and, according to

18   yourself, according to the information that was

19   provided to you, they had no evidence of any clear

20   connection? Does it concern you?

21   HON. JOHN MANLEY: Again, I

22   consider it a question that is of a more technical

23   nature than that, because I think that the people

24   that deal in these issues are the ones that are

25   more competent to respond to that kind of

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1   question.

2   From my point of view, I would be

3   concerned if the information was not based on

4   proper investigative techniques, or was unsound or

5   untrue in some fashion that was easily verifiable.

6   If they are trying to respond to a threat that is

7   demonstrably real in which their process must lead

8   them somehow or other to assemble disparate pieces

9   of information into some kind of mosaic out of

10   which they can perhaps save people's lives, well

11   then that's why I would have thought you have to

12   be able to exchange information.

13   MR. WALDMAN: Okay, I understand

14   that.

15   HON. JOHN MANLEY: We had the very

16   clear example of somebody trying to leave Canada

17   with a truckload full of explosives with the

18   intention of blowing up the Los Angeles Airport,

19   and if he had succeeded, it would have caused

20   enormous loss of life and enormous cost to Canada.

21   So, yes, they have to be able to

22   exchange information because maybe that's how they

23   put the pieces together.

24   MR. WALDMAN: Okay. Thank you for

25   that.

1   But aren't you aware that various

2   persons in documents have talked about the

3   different strategies undertaken between Canada and

4   the United States in the war on terrorism?

5   Deputy Commissioner Loeppky in

6   several memos, when dealing with the Arar file,

7   acknowledged that the U.S. and Canada have

8   different strategies.

9   Are you aware that we have

10   different strategies; that the Americans engage in

11   practices that would not be acceptable in Canada?

12   HON. JOHN MANLEY: That's why I

13   suggested to you that perhaps you were asking

14   questions that were of a rather technical nature

15   that somebody else should be responding to.

16   No, I don't know about that.

17   MR. WALDMAN: You weren't aware of

18   Guantanamo Bay during your time as Deputy Prime

19   Minister in charge of negotiating the intelligence

20   sharing agreements as part of the Smart Border

21   Agreement? You weren't aware of Guantanamo Bay?

22   HON. JOHN MANLEY: Well, of course

23   I am aware of Guantanamo Bay.

24   MR. WALDMAN: Do you think

25   Guantanamo Bay is something that would be

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 1      acceptable in Canadian law, under Canadian

 2      standards?

 3                      HON. JOHN MANLEY:  I am not sure

 4      that it has been determined that it's acceptable

 5      under U.S. law.

 6                      MR. WALDMAN:  So your answer is

 7      that it's not acceptable under Canadian law?

 8                      HON. JOHN MANLEY:  Are you asking

 9      me as a lawyer?

10                      MR. WALDMAN:  I am asking you,

11      sir, now as Deputy Prime Minister who negotiated

12      the intelligence sharing agreements.  I think it's

13      relevant for us to know the degree and extent of

14      your knowledge of what was going on in the United

15      States during the time you negotiated the Smart

16      Border Agreement.

17                      Were you aware of the Guantanamo

18      agreement -- the situation in Guantanamo Bay

19      during that time?

20                      HON. JOHN MANLEY:  Well, can you

21      be more particular about what you want me to be

22      aware of?  I didn't visit Guantanamo Bay.

23                      MR. WALDMAN:  Were you aware of

24      the fact that the detainees in Guantanamo Bay

25      where held in conditions that, according to all of
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1   the human rights organisations that reported on

2   it, were considered sub-human and unacceptable?

3   HON. JOHN MANLEY: I was aware

4   that the due process that we would have expected

5   to be applied was perhaps not being applied.

6   MR. WALDMAN: You didn't see

7   photographs of the prisoners walking around

8   shackled, hands and feet, and then --

9   MS McISAAC: Commissioner, really,

10   what does this line of questioning have to do with

11   Mr. Arar?

12   THE COMMISSIONER: It is very far

13   afield.

14   MR. WALDMAN: Mr. Commissioner,

15   with all due respect, I think it's highly relevant

16   that we understand the extent to which Mr. Manley,

17   who was the Deputy Prime Minister and who

18   negotiated the Smart Border Agreement, was aware

19   of what was going on in the United States at the

20   time that he negotiated the agreement, because I

21   suggest to you it's relevant to what happened to

22   Mr. Arar later on.

23   Clearly one of the issues that

24   emerges from this inquiry is whether there are

25   adequate safeguards with respect to the

1   intelligence sharing.

2   MS McISAAC: Mr. Manley in his

3   position as a senior politician would have been in

4   charge of negotiating the framework for the Smart

5   Border Accord, but he would not have been involved

6   in the day-to-day negotiations between various

7   agencies as to how that would be accomplished and

8   implemented, and that's quite a different matter;

9   moving from the policy level that we must chair to

10   the operational level as to when, how, what, under

11   what circumstances, et cetera.

12   MR. WALDMAN: With all due

13   respect, it seems to me that on a policy level it

14   would be extremely important for our Deputy Prime

15   Minister to be concerned about negotiating

16   adequate safeguards to ensure that Canadian

17   citizens --

18   THE COMMISSIONER: All right.

19   Let's --

20   MR. WALDMAN: I have only a few

21   more questions.

22   THE COMMISSIONER: Carry on with

23   the line of questioning.

24   It is just I think if you get into

25   the legalities of Guantanamo Bay, I am not sure

1   that it's fair to ask Mr. Manley, either as a

2   Minister --

3   MR. WALDMAN: I was just asking

4   him if he was aware of it as an example, because

5   his response to my question about whether he was

6   aware that there were different tactics between

7   the United States and Canada was that he didn't

8   know. And Mr. Graham yesterday testified that the

9   American threshold for terrorist activity was

10   somewhat less than in Canada.

11   And given his answer, I felt it

12   necessary to give him a specific example that's

13   well-known and on the public record.

14   If he would acknowledge that there

15   are clear differences in threshold between Canada

16   and the United States, it wouldn't have been

17   necessary for me to go to this length.

18   THE COMMISSIONER: Carry on.

19   MR. WALDMAN: So, sir, getting

20   back to Guantanamo Bay, would you agree with me

21   that what is practised in Guantanamo Bay is not

22   acceptable in Canada?

23   HON. JOHN MANLEY: Could I ask you

24   to be specific as to what practices you are asking

25   me about?

1   MR. WALDMAN: Lack of access to a

2   lawyer? Would that be acceptable in Canada?

3   HON. JOHN MANLEY: I believe that

4   under our law that access to a lawyer is

5   considered a right of an accused.

6   MR. WALDMAN: Holding people for

7   23 and a half hours, 23 hours a day in shackles in

8   a cell. Is that acceptable in Canada?

9   HON. JOHN MANLEY: Well, I am sure

10   it's not acceptable in Canada.

11   But again, I would appreciate it

12   if you could explain to me what your concern is

13   here, because I would rather address the concern

14   than be quizzed --

15   MR. WALDMAN: My concern is

16   whether you were aware that the Americans were

17   undertaking conduct in their war against terrorism

18   that would not be acceptable in Canada.

19   HON. JOHN MANLEY: Can we come to

20   the conclusion of your question, which is, should

21   we have therefore said, "Well, we are not going to

22   negotiate something like the Smart Border Accord

23   with the United States because they may be

24   engaging in practices of which we would not

25   directly approve"?

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 1   And my answer to that is I had too

 2   much at stake for the people that I represent to

 3   say, you know, you may have had thousands of

 4   people killed in your jurisdiction and you may be

 5   going over the top -- that's for someone else to

 6   judge. But for me, I have got to get my citizens

 7   their right to have their employment, and

 8   therefore the fundamental thing that I was

 9   concerned with was making sure that we reached an

10   understanding that was going to protect Canadian

11   interests.

12   MR. WALDMAN: Perhaps you could

13   let me ask my questions, and I still didn't get an

14   answer to the one I asked, which was, just

15   generally speaking, whether you were aware that

16   there were different tactics being used by the

17   Americans than Canada in the war on terrorism?

18   And if you would answer that

19   question, then I could ask the next question,

20   which was not the same as the one that you

21   answered.

22   HON. JOHN MANLEY: Well, I am not

23   aware of tactical considerations. I was not

24   responsible for an agency that engaged in those

25   tactics, so I couldn't have told you what the

1   tactics of our people were or the tactics of their

2   people.

3   MR. WALDMAN: Did we have a

4   Guantanamo Bay in Canada?

5   HON. JOHN MANLEY: Well, not to my

6   knowledge.

7   MR. WALDMAN: Okay. Thank you.

8   If we can acknowledge that at

9   least Mr. Graham was more forthcoming yesterday,

10   and if we assume that his evidence -- as you

11   acknowledged he was the point man on external

12   affairs. He acknowledged yesterday at page 4082

13   of the transcript, if anyone wants to look at it,

14   that the American threshold for terrorist activity

15   was somewhat less than in Canada. What this issue

16   raises is the extent to which we can share

17   information with other societies that don't have

18   the same rules as we do.

19   I think it's fair to say that the

20   Americans can do what they like, but other people

21   have acknowledged that U.S. uses measures that are

22   not acceptable, including Guantanamo Bay. We also

23   know about Abu Ghraib, and we have also heard

24   about rendition.

25   Wouldn't you agree that if the

1   U.S. or any regime is going to use Canadian

2   information and use it on a Canadian citizen, then

3   it better be with an understanding between Canada

4   and the U.S. that there is going to be respect for

5   Canadian civil rights?

6   Wouldn't you agree that would have

7   to be a precondition for any sharing of

8   information?

9   HON. JOHN MANLEY: I think that I

10   was quite clear, in both private discussion with

11   my counterpart and in public comments, that I did

12   not approve of the removal of Mr. Arar under any

13   circumstances, whether it was based on Canadian

14   information or not. I didn't approve of it

15   because he was a Canadian citizen; that he should

16   have been removed to Canada.

17   I would not be prepared to say

18   that we, as a policy matter, ought to impede our

19   ability to exchange information because we need

20   information coming to us as well. I understand it

21   is fundamentally important to our police

22   authorities in order to protect the civilian

23   population.

24   MR. WALDMAN: Well you said,

25   according to the summary that Mr. David took you

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 1          to -- perhaps you could look at it, page 812.
 2                          THE COMMISSIONER:  Tab 812.
 3                          MR. WALDMAN:  Tab 812 of DFAIT,
 4          item 5.
 5                                  "The Minister referred to a
 6                                  'stress point' in
 7                                  Canadian-U.S. relations that
 8                                  must be resolved.  There was
 9                                  no doubt that Canada and the
10                                  U.S. need to exchange
11                                  information on security
12                                  threats, 'but Canadians will
13                                  always insist that laws
14                                  related to civil liberties
15                                  will be respected.'"
16                          So that's what you have said and
17          you have ratified that.
18                          What steps did you take, sir, in
19          your negotiations with Mr. Ridge, to ensure that
20          the rights of Canadians would be respected after
21          you became aware of what happened to Mr. Arar?
22                          HON. JOHN MANLEY:  Well, at most
23          of the time that I was in office, we were still
24          trying to find out what had happened to Mr. Arar.
25          I mean, you are citing something from November
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1   2003. I was leaving office at that point in time.

2   MR. WALDMAN: So is the answer to

3   your question you didn't take any steps to

4   protect -- I mean, you are aware -- let's put it

5   this way. In November of 2003, you were aware

6   that Canadian information had been shared with the

7   Americans. You were aware that the Americans took

8   a decision with or without the consultation of the

9   Canadians to remove Mr. Arar to Syria. You

10   indicated you were aware in general terms that

11   there wasn't due process in Syria.

12   You said that we will insist that

13   laws related to civil liberties will be respected

14   in response to what happened to Mr. Arar.

15   So my question is to you: What

16   steps did you take to ensure that this was going

17   to happen? Or what steps did you take at that

18   time?

19   HON. JOHN MANLEY: I raised the

20   matter with my counterpart.

21   MR. WALDMAN: And that's as far as

22   you went: you raised the matter.

23   Don't you think there would be a

24   need, in light of what happened in Mr. Arar's

25   case, for there to be some kind of caveats put on

1   the sharing of information so that that

2   information that was shared could not be used to

3   violate the civil liberties of Canadians?

4   HON. JOHN MANLEY: I don't know

5   whether what you are suggesting is technically

6   possible because, as I say, the information that

7   is shared in matters of investigation tends to be

8   fragmentary and needs to be compiled with other

9   pieces of information in order to create a

10   picture.

11   Undoubtedly, sometimes the picture

12   created is inaccurate. There are many instances

13   of people having been falsely accused. It's not

14   unknown.

15   What we would be seeking to ensure

16   is that, when accused, a person has the right to

17   be able to make their defence, and that's why we

18   would insist on their civil liberties being

19   respected.

20   MR. WALDMAN: Right. But we know

21   that with Mr. Arar that didn't happen. In other

22   words, he was deported to Syria where, according

23   to him, he was subjected to torture.

24   So my question is: In light of

25   that, what steps were taken while you were still

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1   in government to ensure that another case like

2   Mr. Arar's would not happen?

3   HON. JOHN MANLEY: In fact, after

4   I had left government, an agreement was reached

5   with respect to removal of persons from the United

6   States.

7   MR. WALDMAN: Okay. But the

8   sharing of information does not only occur in

9   terms of Canadian citizens that are in the United

10   States. We know of other circumstances of

11   Canadian citizens who are in other countries where

12   information was shared which led to difficulties.

13   The question is more general.

14   What steps have been taken or were taken while you

15   were still Deputy Prime Minister to ensure that

16   Canadian citizens would be protected so there

17   wouldn't be another Mr. Arar?

18   Or is the only step you took to

19   raise it with Mr. Ridge?

20   HON. JOHN MANLEY: In the

21   fulfilment of my responsibilities, the only avenue

22   that was available to me was to raise it with my

23   counterpart.

24   MR. WALDMAN: Well, you were

25   Deputy Prime Minister and in charge of the cabinet

1   committee that dealt with national security

2   matters. You didn't raise it in that context as a

3   matter of concern?

4   The leadership campaign was over

5   by then.

6   HON. JOHN MANLEY: I did raise it

7   in that, and that's why I raised it with

8   Mr. Ridge. He was my counterpart with respect to

9   that responsibility.

10   MR. WALDMAN: And what was

11   Mr. Ridge's response when you raised it with him?

12   HON. JOHN MANLEY: His response

13   was that it was a matter for Mr. Powell to deal

14   with Mr. Graham on.

15   MR. WALDMAN: I am going to move

16   on to another area.

17   Just give me a second.

18   --- Pause

19   MR. WALDMAN: During this period

20   of time, there are a whole series of government

21   initiatives that took place on the question of

22   accountability of the RCMP.

23   Were you aware of those

24   initiatives that were taking place vis-à-vis the

25   accountability of the RCMP?

1   HON. JOHN MANLEY: If you could be
2   more specific, I might be able to recall.
3   MR. WALDMAN: Perhaps we could go
4   to -- what is it, P-108.
5   And if you are not aware, then we
6   won't have to go through it.
7   HON. JOHN MANLEY: I mean, I was
8   aware of a lot of things, but I didn't necessarily
9   focus my mind on it if it wasn't in my area of
10   responsibilities.
11   MR. WALDMAN: Perhaps you could
12   just look at it, and if you weren't aware of the
13   specific initiatives --
14   HON. JOHN MANLEY: Is there a tab
15   in here?
16   MR. WALDMAN: Tab 17.
17   Do you recall seeing this? I
18   believe there was another one in another location
19   that was sent to you directly and it has the same
20   contents.
21   Do you recall seeing this? Do you
22   recall being aware of these specific initiatives?
23   MS McISAAC: This is a memo to the
24   Deputy Solicitor General.
25   Is there another one that you

1   would like to refer to that Mr. Manley might have

2   seen?

3   MR. WALDMAN: Well, the same thing

4   is reproduced in a memo to the Prime Minister,

5   which is at tab 12 of Volume 5 of P-85. It is

6   copied to the Prime Minister.

7   MS McISAAC: That document would

8   have been after Mr. Manley was no longer Deputy

9   Prime Minister.

10   MR. WALDMAN: All right. So then

11   we will go back to this, and if you are not aware

12   of what is contained in this, I won't ask you any

13   questions on it.

14   It is tab 17 in P-108.

15   HON. JOHN MANLEY: I don't think I

16   have ever seen the document.

17   MR. WALDMAN: Well, were you aware

18   that there were government initiatives to amend

19   the Memorandums of Understanding -- ministerial

20   directives with respect to the RCMP in terms of

21   national security responsibility and arrangements?

22   HON. JOHN MANLEY: Not that I

23   recall.

24   MR. WALDMAN: You weren't aware of

25   that. Okay.

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 1   Were you aware that there was

 2   concern about a lack of oversight with respect to

 3   the RCMP that was expressed at this time?

 4   HON. JOHN MANLEY: I may have

 5   been. Issues around RCMP oversight were

 6   frequently raised, depending on circumstances,

 7   including at the time of the APEC meeting in

 8   Vancouver in 1997. So RCMP oversight is an

 9   ongoing issue.

10   MR. WALDMAN: Just give me one

11   second. I might be done.

12   --- Pause

13   MR. WALDMAN: Thank you. Those

14   are my questions.

15   THE COMMISSIONER: Thank you,

16   Mr. Waldman.

17   Ms McIsaac?

18   MS McISAAC: I do in fact have a

19   couple of very short questions, sir.

20   THE COMMISSIONER: Go ahead.

21   EXAMINATION

22   MS McISAAC: Mr. Manley, I want to

23   take you back to the brief meeting that you had

24   with Mrs. Mazigh at the event for the -- I think

25   it was the Ottawa Muslim Women's Association?

1   HON. JOHN MANLEY: Yes.

2   MS McISAAC: I take it that you

3   were invited in your capacity as the Member of

4   Parliament for Ottawa South to give some opening

5   remarks or some greetings.

6   Is that correct?

7   HON. JOHN MANLEY: I believe

8   that's right, yes.

9   MS McISAAC: So you weren't

10   otherwise involved in that particular meeting?

11   HON. JOHN MANLEY: No.

12   MS McISAAC: This would be a

13   typical event that a Member of Parliament is asked

14   to attend and provide remarks?

15   HON. JOHN MANLEY: Yes.

16   MS McISAAC: When Ms Mazigh spoke

17   to you at the end of that meeting, just to be

18   clear, you went back to your office and at some

19   point spoke to your political assistant,

20   Mr. Klunder?

21   HON. JOHN MANLEY: That's right.

22   MS McISAAC: All right. What

23   would be the purpose of having Mr. Klunder

24   involved? What were you expecting him to do?

25   HON. JOHN MANLEY: I would have

1   said Dr. Mazigh spoke to me -- he may have even

2   been at the event with me. I don't recall.

3   "Would you follow up and see are we doing

4   everything that we should be doing? Is there

5   anyone that we should be speaking to?"

6   I was very sympathetic to the

7   situation that Dr. Mazigh described, and I thought

8   we, the government, collectively, ought to be

9   doing whatever we could to try to resolve it.

10   MS McISAAC: And I take it that

11   Mr. Klunder, from the documents that you looked at

12   with Mr. David, did in fact speak to Mr. Pardy at

13   the Department of Foreign Affairs?

14   HON. JOHN MANLEY: It seems to be

15   the case, yes.

16   MS McISAAC: And you recall from

17   your time at the Department of Foreign Affairs

18   that Mr. Pardy was the senior individual in charge

19   of consular matters.

20   HON. JOHN MANLEY: Yes, I knew

21   Mr. Pardy.

22   MS McISAAC: And if Mr. Klunder,

23   as a result of his discussions with Mr. Pardy,

24   felt there was something further that you, either

25   as Member of Parliament or in your capacity as

StenoTran

1   Deputy Prime Minister, could have done, would he

2   have reported that back to you?

3   HON. JOHN MANLEY: Yes, he would

4   have.

5   MS McISAAC: Can we assume then

6   that he reported back something along the lines

7   that the Foreign Affairs people were doing as much

8   as they could?

9   MR. WALDMAN: How much weight can

10   you give to such a leading question, with all due

11   respect?

12   MS McISAAC: Well, the

13   Commissioner will decide then, won't he?

14   THE COMMISSIONER: I think that's

15   really -- we have heard from others on the issue.

16   MS McISAAC: All right. Did you

17   hear anything back from Mr. Klunder that caused

18   you concern?

19   HON. JOHN MANLEY: Not that I

20   recall. The concern was that we didn't seem to

21   have -- that in general terms, we didn't seem to

22   have a means of resolving this and that, you know,

23   despite various best efforts there had not been a

24   way to satisfy the Syrian authorities that they

25   ought to return Mr. Arar to Canada.

1   MS McISAAC: And when you were

2   Minister of Foreign Affairs, had you had occasion

3   to deal with issues relating to individuals who

4   were citizens of more than one country?

5   HON. JOHN MANLEY: Yes.

6   MS McISAAC: And what was your

7   experience in terms of the consular challenges

8   that those cases arose?

9   HON. JOHN MANLEY: Well, it tended

10   to create particular difficulties. We had the

11   Sampson case, for example. He was in a Saudi

12   prison, a joint Canadian-British citizen. The

13   Saudis tended to prefer to deal with the British

14   authorities, and from time to time Mr. Sampson did

15   as well.

16   But I think that the overall issue

17   with consular cases is that, beyond being able to

18   try to monitor the condition of the citizen, it's

19   very difficult to get, in many countries, the

20   attention of the authorities at a high enough

21   level certainly to bring about the return of the

22   individual to Canada.

23   MS McISAAC: Thank you very much.

24   THE COMMISSIONER: Mr. David?

25   MR. DAVID: I have no further

1   questions, Mr. Commissioner.

2   THE COMMISSIONER: Okay. Well,

3   that completes your evidence.

4   Let me express my thanks to you,

5   Mr. Manley, for the time you have taken in

6   preparing to come here and coming here today. I

7   appreciate it very much.

8   HON. JOHN MANLEY: Not at all.

9   Thank you, sir.

10   THE COMMISSIONER: Thank you.

11   MR. DAVID: We will resume,

12   Mr. Commissioner, at 2:15 with Ms Catterall.

13   THE COMMISSIONER: Ms Catterall is

14   the next witness at 2:15?

15   MR. DAVID: That is correct.

16   THE COMMISSIONER: All right.

17   MR. ATKEY: Commissioner, I wonder

18   if I might have a word or two, before we conclude

19   for the break, as the amicus curiae, on the issue

20   of national security confidentiality?

21   THE COMMISSIONER: Certainly. I

22   think I should excuse Mr. Manley.

23   MR. ATKEY: Yes.

24   THE COMMISSIONER: He need not

25   wait in the witness box.

1   MR. ATKEY: He is welcome to

2   listen.

3   THE COMMISSIONER: He may want to

4   go into the body of the hearing room.

5   Thank you, Mr. Manley.

6   MR. ATKEY: Commissioner, I want

7   to share with you an observation as amicus that I

8   have made over yesterday and today that the

9   position of the government seems to have changed,

10   or at least has been far more accommodating than

11   has been previously been the case, both in regard

12   to the documents that have been filed and evidence

13   given by Minister Graham in terms of his

14   conversations with counterparts in the U.S. and in

15   Syria, and this morning, of course, the Minister

16   giving evidence of his conversations with his

17   counterpart in the U.S.

18   This is clearly national security

19   confidentiality information. Not to say that

20   there is a public interest in disclosure of this

21   information, and perhaps I might observe that the

22   government is waiving its NSC claims it might

23   otherwise have made in this case or perhaps has,

24   in its own way, balanced the public's right to

25   know against the necessity to protect national

1   security confidentiality arrangements.

2   All I can say at this point is

3   that I am observing that this development is

4   positive in its nature and I think is of

5   assistance to you in getting to the bottom of the

6   task you have; that is, to find out what Canadian

7   officials did, to whom, at what time, where and

8   when, et cetera.

9   So I simply at this point wanted

10   to observe that in the participation in the

11   proceedings: that today and yesterday I think did

12   represent a sea change in the position of the

13   government on NSC issues, and that is positive.

14   I might say I am optimistic that

15   you will be able to complete your task and within

16   a reasonable time. I share that with you.

17   THE COMMISSIONER: Thank you,

18   Mr. Atkey. I would make the same observation and

19   would add to your optimism. I am hopeful, as I

20   have said a number of times, that that type of

21   approach will become the norm in this inquiry and

22   that we will be able to proceed and complete the

23   task and have as much information as possible made

24   available to the public during the course of the

25   hearing process. So I, too, see it as a positive

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1   development.

2   We will rise and come back at

3   2:15.

4   THE REGISTRAR: Please stand.

5   --- Upon recessing at 11:34 a.m. /

6   Suspension à 11 h 34

7   --- Upon resuming at 2:16 p.m. /

8   Reprise à 14 h 16

9   THE REGISTRAR: Please be seated.

10   Veuillez vous asseoir.

11   MR. DAVID: Good afternoon,

12   Mr. Commissioner. We have Ms Marlene Catterall,

13   Member of Parliament for Ottawa West and Nepean,

14   who will be testifying this afternoon.

15   THE COMMISSIONER: Would you like

16   to be sworn or affirmed?

17   MS CATTERALL: Sworn.

18   SWORN: MARLENE ANN CATTERALL

19   THE COMMISSIONER: Your full name?

20   MS CATTERALL: Marlene Ann

21   Catterall.

22   THE COMMISSIONER: Thank you.

23   EXAMINATION

24   MR. DAVID: Ms Catterall will be

25   providing testimony, Mr. Commissioner, concerning

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1   her functions and her role as Member of Parliament

2   for the riding in which the Arars lived, and her

3   involvement as of late September 2002 until -- to

4   this day, I guess.

5   MS CATTERALL: Yes.

6   MR. DAVID: I would like to begin

7   by filing Ms Catterall's CV and to briefly review

8   some of the contents.

9   THE COMMISSIONER: 113.

10   MR. DAVID: Thank you.

11   EXHIBIT NO. P-113:

12   Curriculum Vitae of Marlene

13   Catterall

14   MR. DAVID: Ms Catterall, you have

15   been a member, an MP, for your riding which at one

16   time was called Ottawa West and is now called

17   Ottawa West and Nepean?

18   MS CATTERALL: Yes.

19   MR. DAVID: You were first elected

20   in 1988, and you have been re-elected four times

21   since.

22   MS CATTERALL: Yes.

23   MR. DAVID: So you are a five-term

24   MP?

25   MS CATTERALL: Yes.

1   MR. DAVID: You have occupied

2   various functions within Parliament. You were

3   Deputy Government Whip.

4   MS CATTERALL: Yes.

5   MR. DAVID: From 1994 to 2001, and

6   in fact became Chief Government Whip in 2001,

7   until 2003?

8   MS CATTERALL: Yes.

9   MR. DAVID: Mr. Commissioner, when

10   I asked Ms Catterall the functions of a whip, it

11   was a painful experience, and I would suggest to

12   you to rely on my experience in that regard.

13   In point of fact, you have the

14   honour of being the first woman to have that

15   function as being the Chief Whip.

16   MS CATTERALL: Yes.

17   MR. DAVID: In addition to that,

18   you are a member of many committees, parliamentary

19   committees. You are a member of the Standing

20   Committee on Environment, Human Rights and I

21   believe also on Justice?

22   MS CATTERALL: Yes. Procedure and

23   House Affairs.

24   MR. DAVID: Before we actually

25   begin your testimony on your direct involvement in

1   the Arar affair, I would like you to first comment

2   on your experience as an MP with the consular,

3   with the notion of detaining Canadians abroad.

4   You had occasion as an MP in your

5   riding to deal with such cases previous to

6   Mr. Arar's?

7   MS CATTERALL: I had not had a

8   constituent who was in this situation prior to

9   Mr. Arar.

10   MR. DAVID: Your initial contact

11   with the Arars, I believe, came through Ms Mazigh,

12   Monia Mazigh, Mr. Arar's wife?

13   MS CATTERALL: Yes.

14   MR. DAVID: I understand that

15   Ms Mazigh called your office within a day or two

16   from when Mr. Arar was to be in Canada?

17   MS CATTERALL: She contacted my

18   office, I think it was the 29th of September. If

19   these dates are important, I can firm them up for

20   you.

21   MR. DAVID: For your benefit, I am

22   just pointing out to you the fact that we do have

23   a calendar here. This is for October, but if you

24   prefer to have September. This is October 2002,

25   so it may help you in terms of situating the days,

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 1          the events as they unfold at the beginning.

 2                          If we could turn up a tab, and

 3          that would be in Volume 1 of the DFAIT documents,

 4          and that would be tab 19.

 5                          I want to set out with you,

 6          Ms Catterall, the chain of events, how the initial

 7          contact occurred and the flow of events that

 8          occurred thereafter.

 9                          So the genesis of your involvement

10          essentially begins with a call from Ms Mazigh to

11          your office.

12                          MS CATTERALL:  Yes.

13                          MR. DAVID:  Did she speak to you

14          personally, or was it to one of your --

15                          MS CATTERALL:  Not at that time.

16          She spoke to Catherine Clark in my office.

17                          MR. DAVID:  And Catherine Clark

18          occupies what function in your office?

19                          MS CATTERALL:  Catherine was one

20          of two constituency assistants I had to deal day

21          in and day out with constituents with particular

22          issues.  It covers a wide range.

23                          MR. DAVID:  I am showing you a

24          document.  It's within a system of documentary

25          recording that the Department of Foreign Affairs
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1   uses.

2   It is what is called a CAMANT

3   note, that is dated October 2nd, which witnesses

4   the fact that Catherine Clark spoke to a DFAIT

5   civil servant by the name of Nancy Collins on this

6   date, which was Wednesday, October 2nd, and the

7   note says that Ms Collins provided Ms Clark with

8   some background and indicated that:

9   "... we were trying to get

10   consular access and that we

11   were trying to arrange for a

12   visit. Catherine was

13   informed that we are active

14   in this case and that I was

15   in regular contact with

16   subject's brother in

17   Montreal."

18   Ms Mazigh calls. Do you speak to

19   Ms Mazigh right from the beginning?

20   MS CATTERALL: I believe she

21   called at the end of the previous week. Catherine

22   was still trying to get information from me. She

23   had initially called -- or for me. And I spoke to

24   Ms Mazigh early the following week.

25   Catherine had tried to contact

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 1          Mr. Gar Pardy because we had dealt with him before

 2          on a number of cases.  He was absent from Ottawa.

 3                         She then called another woman,

 4          Helen -- I am sorry, I have forgotten her last

 5          name.

 6                         MR. DAVID:  Helen Harris?

 7                         MS CATTERALL:  Yes.  And Nancy

 8          Collins re-called back on behalf of Helen Harris.

 9                         We also received a call from

10          Maureen Girvan, consulate in New York, and had

11          another conversation with her.  I spoke to Gar

12          shortly after he was back in Ottawa.

13                         MR. DAVID:  Okay.  And you have

14          just mentioned that you had dealt with Mr. Pardy

15          in the past in other consular cases.

16                         MS CATTERALL:  Yes.

17                         MR. DAVID:  Would that be in terms

18          of your functions as a Member of Parliament?

19                         MS CATTERALL:  Yes.

20                         MR. DAVID:  And was it for people

21          within your riding jurisdiction?

22                         MS CATTERALL:  Yes.

23                         MR. DAVID:  And were they not

24          cases of Canadians detained abroad?

25                         MS CATTERALL:  Not the particular
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1   first one I remember, which was a case of a child

2   who had been kidnapped and taken to Lebanon.

3   MR. DAVID: So you had had

4   occasion to speak and work with Mr. Pardy in the

5   past?

6   MS CATTERALL: Yes.

7   MR. DAVID: And so the first

8   contact, or the first time you speak to Mr. Pardy,

9   do you recall when that was, concerning Mr. Arar?

10   MS CATTERALL: I can't be exactly

11   sure, no.

12   MR. DAVID: Would it be in the

13   early part of October?

14   MS CATTERALL: It would be in the

15   very early part of October.

16   MR. DAVID: Okay. Now, you

17   eventually called Ms Mazigh back while she was in

18   Tunisia?

19   MS CATTERALL: I would have called

20   her back in Tunisia before I spoke to Mr. Pardy,

21   yes.

22   MR. DAVID: Before you spoke to

23   Mr. Pardy?

24   MS CATTERALL: Yes. That was

25   having had the information from New York and from

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 1      Foreign Affairs here in Ottawa.
 2                   MR. DAVID:  So some background
 3      work had been done, you obtained some information,
 4      and then you called Ms Mazigh back.
 5                   MS CATTERALL:  Catherine had also
 6      been in touch with Minister Graham's office,
 7      Michelle Lebeau.
 8                   MR. DAVID:  Who is an aide to
 9      Minister Graham?
10                   MS CATTERALL:  Yes.
11                   MR. DAVID:  What did you learn
12      from Ms Mazigh when you spoke to her while she was
13      in Tunisia about this situation?
14                   MS CATTERALL:  Well, I learned
15      firsthand what had actually happened to her
16      husband and her very serious concerns about his
17      detention in New York.  She was very much
18      concerned that he might be deported, and certainly
19      any information I had had from anybody, including
20      from the Minister's office, was that this would
21      not happen.
22                   MR. DAVID:  And the concern of
23      deportation, Ms Mazigh identified where the
24      deportation --
25                   MS CATTERALL:  Yes, she was afraid
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1   that he would be deported to Syria. I believe in

2   that conversation she also mentioned that if he

3   were deported there, he could be charged with not

4   doing his military service.

5   MR. DAVID: And was this the first

6   that you heard of a risk or a threat of

7   deportation to Syria, or was that information that

8   you had also obtained from other sources?

9   MS CATTERALL: I can't recall. I

10   do know that I was assured that that simply would

11   not happen. I cannot recall if one of the Foreign

12   Affairs people I had spoken to before had actually

13   said that this possibility had been raised with

14   them. And it must have been because I know in

15   talking to Monia the first time, I did say to her

16   that I had been assured that that would not

17   happen. And I honestly think everybody in Foreign

18   Affairs believed that. It's something which had

19   never happened before.

20   MR. DAVID: Okay. In terms of

21   Foreign Affairs, did you follow up on that fear

22   that Ms Mazigh had, that her husband could be

23   deported to Syria?

24   MS CATTERALL: Yes, I certainly

25   discussed it with Gar Pardy. Again, the

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 1      conviction was that this would not happen.
 2                      THE COMMISSIONER:  Can we just
 3      interrupt?  They are having trouble with the sound
 4      system.
 5      --- Pause
 6                      MR. DAVID:  Okay.  Take 2.
 7                      THE COMMISSIONER:  We will go back
 8      and start again now?
 9                      MS CATTERALL:  I thought we were
10      making progress here.
11      --- Laughter / Rires
12                      MR. DAVID:  I will resist making
13      comments.
14                      You were reassured, or you were
15      assured by various officials within DFAIT that
16      this scenario of deportation to Syria was not
17      going to happen.
18                      Do you recall how that was
19      explained to you?
20                      MS CATTERALL:  Simply that the
21      Americans would not deport a Canadian citizen.  If
22      they did anything, it would be either to send him
23      back to his last point of departure or to send him
24      to Canada, and they fully expected he would be
25      returned to Canada.
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 1   MR. DAVID: So it was clear to you

 2   that DFAIT did not envisage deportation to Syria

 3   as a likely scenario or realistic scenario?

 4   MS CATTERALL: No, they did not.

 5   MR. DAVID: Can you recall who

 6   informed you, Ms Catterall, within DFAIT that

 7   Syria was an unlikely thing to happen; that it was

 8   not going to happen?

 9   MS CATTERALL: I know that that

10   was the opinion provided by Maureen Girvan. I

11   think that was in her discussion with Catherine

12   Clark, which I would have wanted before I spoke to

13   Monia. It was certainly repeated to me by Gar

14   Pardy.

15   MR. DAVID: And was that dealt

16   with fairly early on in terms of the chain of

17   events?

18   MS CATTERALL: Yes. That would

19   have been in that week of October 1st.

20   MR. DAVID: If we could go to tab

21   58 in that same volume, I want to bring you to an

22   entry for October 10th, wherein Catherine Clark is

23   speaking to Helen Harris.

24   Let me just read that with you.

25   It says:

1   "Catherine Clark ... called

2   and wanted information/update

3   on the case."

4   Again, the date is October 10th.

5   It's Thursday.

6   "JPE/Harris explained that we

7   are very cautious about

8   providing briefings without

9   having the authority from the

10   individual to release

11   information. Catherine said

12   she had been contacted by the

13   spouse of the subject and

14   understood and subject was

15   unaccounted for in the

16   American system. JPE/Harris

17   said that a lot of DFAIT

18   Consular resources are

19   working on this at all levels

20   and various locations and we

21   would continue to do so until

22   we have substantive and

23   confirmed information on

24   subject and his whereabouts

25   and wellbeing. Harris also

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 1                          noted that the family (wife,

 2                          brother, family friend) are

 3                          being updated regularly.

 4                          Catherine accepted this but

 5                          noted that Catterall may wish

 6                          to raise this with Minister

 7                          Graham because it is a

 8                          constituent and if the

 9                          Americans have taken the step

10                          of sending the subject to

11                          Syria (where he could be

12                          arrested and charged with

13                          avoiding military service)

14                          when they know he is a

15                          Canadian is unacceptable.

16                          Catherine went on to note

17                          that other constituents have

18                          also raised the NEERS issue

19                          with Ms Catterall."

20                 My first question in regard to

21     this message -- this is October 10th, and this is

22     the date where DFAIT obtains confirmation from

23     American sources --

24                          MS CATTERALL:  Yes.

25                          MR. DAVID:  -- and other sources
```

1   that Mr. Arar has in fact been deported from the

2   United States and is possibly in Syria.

3   My first question is: Did you

4   know, as of this date, that Mr. Arar was no longer

5   in the United States?

6   MS CATTERALL: Only that his wife

7   had been in touch with Catherine and had told her

8   that.

9   MR. DAVID: That day or previous?

10   MS CATTERALL: That day, I

11   believe.

12   MR. DAVID: Okay.

13   MS CATTERALL: Yes.

14   MR. DAVID: And the idea that is

15   being raised here, that you may wish to raise the

16   matter or the issue with Minister Graham, had you

17   been in contact with the office of Minister Graham

18   up to this point?

19   MS CATTERALL: Yes.

20   MR. DAVID: And who had you --

21   MS CATTERALL: Michelle Lebeau.

22   MR. DAVID: Michelle Lebeau?

23   MS CATTERALL: I believe at that

24   time Michelle was the Ontario person in

25   Mr. Graham's office.

1   MR. DAVID: How is it that you

2   learned on a confirmed basis that Mr. Arar had

3   been deported to Syria, and when was that?

4   MS CATTERALL: From Gar Pardy. I

5   can't be specific about when.

6   Just following my normal course of

7   operations, as soon as I knew about this call from

8   Monia, I would have been in touch with Mr. Pardy.

9   MR. DAVID: If we could go to tab

10   87, this is an entry now for October 15th. Again,

11   you are seeking an update from DFAIT and it says

12   the following:

13   "Received a call yesterday

14   from Marlene Catterall ..."

15   So that would have been on the

16   15th of October.

17   "... MP seeking an update on

18   the case. I mentioned that

19   the actions taken by DMCUS

20   and AMMAN to try to locate

21   subject and that MINA..."

22   "MINA" being the Minister of

23   Foreign Affairs.

24   "... was to raise this case

25   with the US Ambassador

 1   yesterday.

 2   She was pleased with this

 3   last point but wanted info on

 4   Gar Pardy's meetings in

 5   Washington. Call was

 6   transferred to Gar."

 7   What did you know of Mr. Gar

 8   Pardy's presence in Washington at this time?

 9   MS CATTERALL: My recollection --

10   and as I warned you, I do not keep detailed notes

11   on conversations I have.

12   My recollection is that Mr. Pardy

13   was in Washington to try and follow the trail and

14   find out what had happened in terms of Maher

15   Arar's disappearance from -- well, deportation

16   from New York.

17   I believe he was meeting -- what I

18   was told is he was meeting with the INS officials

19   there.

20   MR. DAVID: Okay. I will just

21   bring you now to Mr. Pardy's personal notes in

22   this regard if you could take Exhibit P-88, which

23   you don't have but which will be brought to you.

24   Mr. Registrar, I will be referring

25   to Mr. Pardy's notes quite often, so it's probably

1   a good idea if Ms Catterall keeps possession of

2   them.

3   If you could go to tab 1 in this

4   binder and go to page 4, you will see about

5   halfway down there's a reference. It says Marlene

6   Catterall with a phone number?

7   MS CATTERALL: I am sorry, page

8   30 --

9   MR. DAVID: No, page 4, I am

10   sorry. Page 4 at the bottom.

11   THE COMMISSIONER: It is 4 of 33

12   down on the bottom right-hand corner.

13   MR. DAVID: There's an entry, and

14   this is for October 15th?

15   MS CATTERALL: Mm-hmm.

16   MR. DAVID: And it simply says:

17   "Voice mail message from Ms

18   Marlene Catterall, Member of

19   Parliament for Mr. Arar"

20   On the same day, on October 15th,

21   the day that you called and spoke to this fellow

22   by the name of Paquette, who was the deputy

23   director of JP.

24   MS CATTERALL: Yes.

25   MR. DAVID: Do you recall speaking

StenoTran

1   to Mr. Pardy about his meetings in Washington and

2   getting confirmation from him?

3   MS CATTERALL: I can't remember.

4   I know we would have spoken, but I can't be sure

5   if it was while he was still in Washington or

6   after he got back.

7   MR. DAVID: And what did you learn

8   from Mr. Pardy when you did speak to him, if you

9   recall?

10   MS CATTERALL: That there was

11   still a great deal of confusion about what had

12   happened to Mr. Arar, about where he was. I think

13   at that point we still didn't know where he was.

14   MR. DAVID: That is correct.

15   MS CATTERALL: I knew that we were

16   having discussions with the Jordanians because it

17   was certainly suspected that he had flown directly

18   to Jordan; that we were making extensive

19   inquiries, both in Jordan and in Damascus about

20   his whereabouts, and weren't able to find out

21   anything.

22   MR. DAVID: Okay. If you could

23   now go to an entry for October 22nd -- or around

24   that date, I should say, that would be tab 179.

25   MS CATTERALL: In the other book?

 1   THE COMMISSIONER: You have a new

 2   book.

 3   MR. DAVID: I am sorry, that would

 4   be Volume 2.

 5   So it's tab 179. If you could go

 6   to the third page of that tab, and the last

 7   message at the bottom -- this is a compilation of

 8   various e-mails that are being uploaded into this

 9   CAMANT system.

10   I am referring you to a specific

11   message. It's the last one at the bottom of the

12   page. It's a message coming from Robert, and it's

13   going to Gar, and it says:

14   "As soon as we hear anything

15   out of Syria or the US on

16   Arar case please let me know.

17   I need to keep Marlene

18   Catterall in the loop. I

19   know we may not be able to

20   tell her everything all the

21   time but she is very involved

22   in the issue as you know. I

23   know you have spoken to her

24   as well.

25   Let me know if she is calling

1   you in tandem."

2   And it's Robert.

3   This, I would suggest, is Robert

4   Fry, who is in Minister Graham's office?

5   MS CATTERALL: And what was the

6   date? That would be Robert Fry.

7   What was the date of that e-mail?

8   MR. DAVID: We don't have an exact

9   date. The only thing I can tell you is that it is

10   no later than October 22nd that this message came

11   through from Robert Fry to Gar Pardy.

12   MS CATTERALL: I think I have an

13   explanation for the wording of that memo.

14   MR. DAVID: Mm-hmm?

15   MS CATTERALL: I believe it was on

16   October 21st -- and I can confirm this, as

17   necessary -- that the news became public, over the

18   media, that we had learned that Mr. Arar was in

19   Syria.

20   MR. DAVID: I can tell you that

21   Syria did officially confirm that they held

22   Mr. Arar as of October 21st.

23   MS CATTERALL: And I can tell you

24   that the way I found out was in my car over the

25   radio at about supper time. I was on my way to a

1   reception with Mr. Graham, and I was infuriated;

2   that having been in close touch with his office,

3   with Foreign Affairs, about Mr. Arar's case, that

4   I had to learn over the radio what had happened to

5   my constituent.

6   When I arrived at the reception, I

7   hauled Ben Costello, his executive assistant, out

8   of the reception, and tore a strip off him.

9   And that may explain Robert's

10   comments "that we have to keep Ms Catterall in the

11   loop".

12   MR. DAVID: Okay. And I think we

13   will see that you are kept in the loop thereafter,

14   through the documents.

15   Do you recall having spoken to

16   Robert Fry concerning your opinion that DFAIT

17   should be issuing a travel advisory to Canadians

18   going to the United States?

19   MS CATTERALL: Yes, I do.

20   MR. DAVID: Could you give us the

21   context?

22   MS CATTERALL: I confirmed with my

23   office the origin of that request. Again, I

24   believe it was on the 18th of October that I met

25   with a constituent, who does business back and

1   forth with the United States, sells medical

2   equipment. His regular practice was to leave

3   Ottawa at 4 a.m. to drive to New York for meetings

4   by 9 a.m., and he was quite upset by the NEERS

5   process because he said I can't now count on being

6   able to do business in the United States.

7   With him still in my office, I

8   contacted Robert Fry and suggested that we should

9   be issuing a travel advisory to Canadians of

10   origins in the Middle East considering travelling

11   to the United States.

12   Robert laughed. I said, "Robert,

13   this is no laughing matter. It might have been a

14   few weeks ago, but what has happened to Maher Arar

15   can happen to any Canadian citizen born in any of

16   those countries."

17   Tuesday the following week, in

18   fact, a changed travel notice for the United

19   States was issued.

20   MR. DAVID: We move forward now,

21   Ms Catterall, and we are going to go to December

22   of 2002.

23   I understand that you learned at

24   one point that either the RCMP or CSIS had gone to

25   Syria.

1   Do you recall learning that

2   information?

3   MS CATTERALL: I recall knowing

4   that information. I do not recall who told me.

5   MR. DAVID: Okay. And do you

6   recall specifically when you learned that

7   information?

8   MS CATTERALL: No, I am not

9   absolutely sure.

10   MR. DAVID: Would it have been --

11   I suggest to you in December. Is that an accurate

12   month? Or even the month that I have identified

13   may not be accurate.

14   MS CATTERALL: It may not be

15   accurate. I know I knew by December.

16   MR. DAVID: And did you react or

17   act on that information in any way?

18   MS CATTERALL: I certainly would

19   have discussed it with the Minister's office, yes,

20   and whether they knew anything about it.

21   MR. DAVID: Do you recall learning

22   anything from the Minister's office in that

23   regard?

24   MS CATTERALL: No.

25   MR. DAVID: We go now to December

1   16th, 2002, and simply for the record you

2   attended, I believe, a candlelight vigil on

3   Parliament Hill for Mr. Arar, organized by his

4   wife, I believe.

5   MS CATTERALL: Yes. I had had

6   another commitment in my riding before I heard

7   about the candlelight vigil, and so I didn't

8   arrive when the cameras and everybody was there.

9   I did come as soon as I could get away from my

10   other commitment.

11   MR. DAVID: Okay. We go now to

12   December 19th, and that would be tab 264 in Volume

13   3.

14   If you want to take Volume 1 and 2

15   back, that's fine.

16   MS CATTERALL: Sorry. What tab

17   number?

18   MR. DAVID: It's tab 264. This is

19   a briefing note going to Minister Graham, and it's

20   dated December 19th, 2002.

21   In this briefing note it is

22   suggested -- I believe it's a draft -- it's

23   suggested that he call in the Ambassador of Syria,

24   Mr. Arnous, for a discussion.

25   But that's not the point I want to

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 1      get to.
 2                          There is reference, and I bring
 3      you to paragraphs 9 and 15 at page 3 of the
 4      document.
 5                          At paragraph 9 it says the
 6      following:
 7                              "Several Canadian
 8                              parliamentarians have
 9                              expressed a desire to
10                              intervene on Arar's behalf.
11                              If they do travel to Syria,
12                              they could assist in
13                              presenting the compassionate
14                              and humanitarian grounds for
15                              returning Mr. Arar to
16                              Canada."
17                          And at paragraph 15, it says:
18                              "Two parliamentarians,
19                              Mr. Assadourian and Ms
20                              Catterall, have indicated
21                              interest in travelling to
22                              Syria to intervene on
23                              Mr. Arar's behalf.  They
24                              would be briefed on the
25                              results of your meeting with
```

1   Ambassador Arnous."

2   Could you explain to us the

3   circumstances in which this idea was generated,

4   that you and Mr. Assadourian could be going to

5   Syria on behalf of Mr. Arar?

6   MS CATTERALL: Mr. Assadourian is

7   Armenian, but was Syrian born and raised.

8   MR. DAVID: First of all, could

9   you just identify Mr. Assadourian.

10   MS CATTERALL: Sarkis Assadourian

11   was a Member of Parliament, one of my colleagues

12   in the previous Parliament. And as I said, he is

13   Armenian but born and raised and Syria and had

14   been in Canada since he was about 18.

15   He of course knew Syria well, knew

16   many people there, had travelled there a number of

17   times, spoke Arabic. He felt that perhaps he

18   could be helpful by going, and he and I had

19   discussed the possibility of Members of

20   Parliament, such as himself and myself, going to

21   Syria.

22   MR. DAVID: So do you recall

23   specifically whose idea it was in the beginning?

24   MS CATTERALL: It probably

25   originated with Sarkis, from my point of view.

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 1                    MR. DAVID:  Okay.  And the
 2      follow-up that you gave to the idea -- first of
 3      all, did you find it was a good idea?
 4                    MS CATTERALL:  I knew that at that
 5      time Sarkis had been planning a trip to the Middle
 6      East, had intended to be in Syria, and had talked
 7      to Foreign Affairs about whether he could make any
 8      representations on Mr. Arar's behalf while he was
 9      there.
10                    There was no real follow-up on
11      that until into the New Year.
12                    MR. DAVID:  And how did you follow
13      up on the idea of going to Syria?  Who did you
14      speak to?
15                    MS CATTERALL:  It was discussed
16      later with Mr. Pardy, and I frankly can't remember
17      if I raised it with him or if he raised it with me
18      first.
19                    MR. DAVID:  If we could go to
20      Mr. Pardy's personal notes, which you have in the
21      binder to your right, and go to page 17, we will
22      see an entry for February 21.
23                    MS CATTERALL:  I am sorry, under
24      which tab?
25                    MR. DAVID:  Page 17.  It's tab 1.
```

1   MS CATTERALL: One.

2   MR. DAVID: It's the top note, and

3   it's dated the 21st of February.

4   It says:

5   "Marlene Catterall

6   - visit to see Maher.

7   - Possibility of Monia.

8   - 1st March to Australia."

9   Do you recall what that entry may

10   concern?

11   MS CATTERALL: I don't recall. As

12   I said, I don't record all my conversations.

13   MR. DAVID: Okay. Do you recall

14   raising with Mr. Pardy the idea that maybe

15   Ms Mazigh could accompany you on this trip to

16   Syria, and did you speak to --

17   MS CATTERALL: I was concerned,

18   and in a number of meetings she raised regularly

19   with me the fact that it had been so many months

20   since she had seen her husband or spoken to him.

21   So I would have raised with Gar if that might be a

22   possibility.

23   MR. DAVID: And did you discuss

24   the notion with Ms Mazigh?

25   MS CATTERALL: No, I didn't.

```
1                   MR. DAVID:  The next entry,

2      Ms Catterall, is on February 24th, and that is the

3      second candlelight vigil that you attended.

4                   MS CATTERALL:  Sorry, what date

5      was that?

6                   MR. DAVID:  I don't have a

7      document for you.

8                   MS CATTERALL:  What date was that?

9                   MR. DAVID:  It was February 24th.

10                   MS CATTERALL:  Mm-hmm.

11                   MR. DAVID:  Did you attend another

12      vigil on Parliament Hill?  Do you recall?

13                   MS CATTERALL:  I think I attended

14      any vigil there was, yes.

15                   MR. DAVID:  If we could again

16      refer, for an entry on February 27th, to

17      Mr. Pardy's notes at page 17, it says:

18                            "Marlene Catterall

19                            Wayne Easter ...

20                            No problem.

21                            Marlene Catterall ...

22                            Did speak to Wayne & based on

23                            conversation with RCMP -

24                            nothing.  CSIS as well."

25                   MS CATTERALL:  Yes.
```

StenoTran

1   MR. DAVID: Obviously this is in

2   view of a possible trip to Syria.

3   Do you recall speaking to

4   Mr. Easter in regard to your plans of going to

5   Syria?

6   MS CATTERALL: Yes.

7   MR. DAVID: And could you give us

8   the circumstances?

9   MS CATTERALL: First, if I can put

10   that in a bit of a context, one of the things that

11   was very frustrating to me throughout this whole

12   thing, once we knew Mr. Arar was in Syria, was the

13   importance of not offending the Syrians.

14   And why I say it was frustrating

15   was that many things I would have liked to say

16   publicly I refrained from saying publicly because

17   Foreign Affairs was extremely concerned about them

18   withdrawing any access to Mr. Arar.

19   I think it was in that context,

20   though, that I decided that, especially as Chief

21   Government Whip and a representative of the

22   government, not just a Member of Parliament, that

23   it was important that I find out if there were any

24   good reasons I should not take this trip.

25   That is why I called Mr. Easter

StenoTran

1   and --

2   MR. DAVID: So you actually spoke

3   to Mr. Easter in regards to your plan?

4   MS CATTERALL: I am not sure that

5   I spoke directly with Mr. Easter or with

6   Mr. Morill in his office.

7   MR. DAVID: And what feedback did

8   you get?

9   MS CATTERALL: The feedback was

10   that there was no objection to my going from

11   either CSIS or the RCMP.

12   MR. DAVID: Now, was this reported

13   to Mr. Pardy?

14   MS CATTERALL: Yes.

15   MR. DAVID: If we go to an entry

16   for the next date, February 28th, that would be

17   tab 327 in Volume 4.

18   MS CATTERALL: Can I just comment

19   on another item on that page, and that is the

20   Monia Mazigh. I think that was a follow-up from

21   the first notation there.

22   Having talked to Mr. Pardy about

23   the possibility of her going to Syria, he

24   indicated that we could pursue that, if I wished.

25   I did talk to her to see whether

StenoTran

1   in fact she would be interested in doing that, and

2   essentially her comment was that she did not want

3   to give any legitimacy to the idea that the

4   Syrians had the right to hold him, and she did not

5   want to.

6   MR. DAVID: Okay. So coming now

7   to the entry on February 28th, Ms Catterall, and

8   that would bring you to tab 327. And it's the

9   bottom message halfway down. You will see that

10 it's a message coming from Gar Pardy and it says:

11   "I spoke to Ms Marlene

12   Catterall last evening ..."

13   Referring to February 27th, 2003.

14 And it concerns again the planned trip, and four

15 items are noted.

16   The first is that:

17   "(a) in her conversation with

18   Mr. Easter, he checked with

19   both the RCMP and CSIS before

20   providing her with a green

21   light for the visit. Neither

22   organization objected to Ms

23   Catterall's visit.

24   Mr. Easter cryptically seemed

25   to remark that Mr. Arar's

1   problems were caused by this

2   department!"

3   Referring to DFAIT.

4   "I will follow up further on

5   this one."

6   Did you hear anything in that

7   regard, in regard of blame being put on the agency

8   of DFAIT, from Mr. Easter's office when you were

9   in consultation?

10   MS CATTERALL: Yes, I do recall

11   that. I do not recall exactly what he said.

12   Forgive me if I am, you know,

13   sometimes not sure. There were so many

14   conversations of what information I got from Ken

15   Morill in Mr. Easter's office and, when I spoke to

16   Mr. Easter because of course I would see him three

17   or four times a week and might have a casual

18   conversation with him as well.

19   MR. DAVID: Okay. And do you know

20   what was the basis for pointing the finger, if I

21   can say, to DFAIT in terms of explaining the

22   situation that Mr. Arar found himself in?

23   MS CATTERALL: No, I don't. As

24   far as I remember, he wasn't specific at all.

25   MR. DAVID: The second item,

1   paragraph (b), says:

2   "(b) Ms Catterall agrees that

3   a visit to Syria could best

4   be organized with a departure

5   from here on Tuesday, March

6   11 with a return on Friday,

7   March 14. Will be in touch

8   with her office to make

9   travel arrangements."

10   And (c) says that:

11   "(c) Ms Catterall believes

12   that a letter from the

13   Minister..."

14   The Minister of Foreign Affairs.

15   "... would be most valuable."

16   Could you give us some context

17   about this letter? Is it something that you were

18   proposing, you were suggesting, or was that idea

19   already floating around?

20   MS CATTERALL: I believe that idea

21   was already floating around, probably in

22   conversations with Mr. Pardy. I am not sure that

23   I would have initiated it, but if we were going to

24   be trying to meet with Foreign Affairs officials

25   there, it seemed to me that would be the purpose

1   of the meeting, was to deliver a message from the

2   Minister.

3   MR. DAVID: And do you know what

4   the contents of that message would have been?

5   Were you ever briefed on that?

6   MS CATTERALL: I knew that there

7   were substantive discussions going back and forth

8   about the contents of the letter, and I knew that

9   from contacts with the Minister's office.

10   I know that what I, what Ms Mazigh

11   and what Foreign Affairs wanted the letter to say

12   was that there was no evidence in Canada of

13   wrongdoing by Mr. Arar and that we wanted him

14   returned to Canada.

15   MR. DAVID: And I will bring to

16   you documents that deal specifically with that

17   issue so we can get the exact language.

18   But you were basically in

19   agreement with you carrying the letter from

20   Minister Graham --

21   MS CATTERALL: Yes.

22   MR. DAVID: -- to a Syrian

23   counterpart for delivery.

24   MS CATTERALL: Yes.

25   MR. DAVID: Going now to page 18

1   of Mr. Pardy's notes for this same date, February

2   28th, at the very top there's an entry:

3   "Marlene Catterall

4   - Speak to Assadourian.

5   - Any value in letter from

6   Wayne Easter.

7   - Any resistance? From his

8   people."

9   Was there a question, to your

10   recollection, of Mr. Easter issuing a letter, as

11   well as Mr. Graham?

12   MS CATTERALL: I am sorry, I just

13   can't remember absolutely surely about that.

14   MR. DAVID: Okay. We go now to an

15   entry for March 2nd, and that would be tab 330,

16   Ms Catterall.

17   Again there is a compilation of

18   e-mails. I bring you to the first page, at the

19   bottom half. It's an e-mail going from Gar Pardy

20   on March 2nd to John McNee, who is the ADM, the

21   Associate Deputy Minister for Africa and the

22   Middle East.

23   In it says that Mr. McNee had

24   spoken to Mr. Assadourian and confirms his

25   availability to travel with you.

1   The last sentence of the first

2   paragraph refers to the idea that:

3   "It has been agreed that we

4   will not say anything to the

5   family until such time as we

6   have agreement on Syrian

7   visas."

8   Do you recall discussions in that

9   regard?

10   MS CATTERALL: Yes. I had

11   specifically asked that Monia not be told until we

12   knew the visit was going to happen. I was very

13   concerned about getting her hopes up and then not

14   having it occur and having her disappointed again.

15   She was under enough stress, so I really wanted to

16   let her know only when it was sure that we would

17   be going.

18   MR. DAVID: Okay. And going now

19   to tab 328 for an entry on March 3rd, we have

20   coming from GMR, which is the Middle East

21   geographic region of DFAIT, suggested talking

22   points, and I would like to briefly review those

23   with you, because they are suggested talking

24   points for you for JPD use.

25   It says that:

1   "... message to DMCUS should

2   reassure them that we are

3   emphasizing to Mrs. Catterall

4   the importance of emphasizing

5   the positive, as per what

6   follows."

7   And there are five points that are

8   listed.

9   I just want to know if you were

10   apprised or sensitized to these points, the first

11   being:

12   "- I have been asked by

13   Mr. Arar's wife to convey to

14   you her family's concern

15   about Mr. Arar's situation

16   and their ardent hope soon to

17   be reunited. My mission is

18   one of humanitarian concern."

19   Was that one of the messages that

20   you were to bring to Syria?

21   MS CATTERALL: Yes.

22   MR. DAVID: Okay. And the second:

23   "- Mr. Arar's family is

24   grateful that the Syrian

25   authorities have granted

1   consular access to the

2   Canadian Embassy."

3   Was that a message that you were

4 asked to convey?

5   MS CATTERALL: I remember being

6 asked to express our gratitude as government that

7 that access had been granted.

8   MR. DAVID: Okay. The third

9 message refers to the idea that:

10   "- Syria has gone well beyond

11   the customary consular

12   requirements ..."

13   Given the dual nationality

14 situation.

15   Was that also one of the points

16 that you were asked to highlight?

17   MS CATTERALL: Not in those

18 specific terms, in terms of recognizing that Syria

19 has gone well beyond customary consular

20 requirements of international law.

21   But it was certainly stressed to

22 me at numerous times that it was totally

23 discretionary for Syria to allow us consular

24 access; that they regarded him as a Syrian

25 citizen; and that they had no obligation, under

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 1        those circumstances, to provide consular access.

 2        And in fact I was told very early on that it was a

 3        positive sign that they had allowed consular

 4        access.

 5                         And, again, I go back to I was

 6        told regularly how important it was, and I believe

 7        Monia was told this as well, not to be overly

 8        critical of the Syrians, at the risk of

 9        jeopardizing consular access to him.

10                         So, yes, I was certainly asked to

11        express our appreciation for the fact that he had

12        been allowed consular visits.

13                         MR. DAVID:  And that's clearly the

14        points raised in numbers 4 and 5 also.

15                         MS CATTERALL:  Mm-hmm.

16                         MR. DAVID:  We can go now to tab

17        324.  And this is an entry for March 3rd again.

18        And this is a message that is coming from Gar

19        Pardy and it's going to Franco Pillarella in

20        Syria, and it concerns the visit.

21                         Mr. Pardy is providing background

22        to the ambassador in Syria, the Canadian

23        ambassador.

24                         And we see, in paragraph 4, that

25        the visit should be seen, it's explained.
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 1   "... in the context of Ms

 2   Catterall's constituency

 3   responsibility for the Arar

 4   family."

 5   Was that your understanding of the

 6   situation?

 7   MS CATTERALL: Only partly. Do we

 8   know the date of this memo?

 9   MR. DAVID: This is March 3rd of

10   2003.

11   MS CATTERALL: Only partly, in

12   that I was also delivering the letter from the

13   Minister to their Deputy Minister of Foreign

14   Affairs, so I personally regarded that as a little

15   more than just a Member of Parliament going on

16   behalf of her constituent, although that certainly

17   was my prime concern.

18   MR. DAVID: And then paragraph 5

19   refers to the fact that:

20   "JPD and MJM will carefully

21   brief the MPs prior to their

22   departure to provide a clear

23   sense of the context of the

24   visit and to encourage

25   reasonable expectations."

```
 1                         And there is a reference again to

 2         the same talking points that we have reviewed.

 3                         I would simply note that on the

 4         next page there is an addition in terms of talking

 5         points, and it's the second one, the second

 6         bullet.

 7                         It says:

 8                             "- The Canadian government

 9                             would be extremely pleased if

10                             Mr. Arar could be returned to

11                             Canada."

12                         MS CATTERALL:  Yes.

13                         MR. DAVID:  Do you recall that as

14         being one of your messages?

15                         MS CATTERALL:  Yes.

16                         MR. DAVID:  We go now to tab 332,

17         and this is an entry for March 4th.  If you go to

18         page 2, the message is coming from Monia Mazigh to

19         Gar Pardy.

20                         The message is on March 2nd, and

21         the response from Mr. Pardy is on March 4th.

22                         So one of the concerns that

23         Ms Mazigh is expressing, about halfway down, is

24         that:

25                             "My own MP Marlene Catterall
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1   who showed some interest in

2   the case isn't now even

3   returning my messages and do

4   you know what Mr. Bill Graham

5   insisted on telling on the

6   phone conversation he had

7   with me? 'Please, if you

8   have any concern let Marlene

9   know about it ...' he told

10   me."

11   So there is an idea here that

12   maybe Ms Mazigh is not entirely satisfied with the

13   way things are going in terms of your office.

14   MS CATTERALL: I think that's

15   quite understandable. If I had been in her

16   position, nothing would have been enough until my

17   husband was home safely.

18   And much as I would have liked to

19   spend a great deal more time talking with her, at

20   this particular time I was essentially trying to

21   arrange the visit to Syria, not knowing whether it

22   was or wasn't going to happen.

23   And at one point, you know, I just

24   had to decide that I needed to spend -- I could

25   spend the time responding to her on an almost

1   daily basis, or I could spend the time doing the

2   other things on this case that I felt I had to do.

3   MR. DAVID: Okay. Mr. Pardy's

4   response to her on March 4th is -- and refers to

5   in the third paragraph -- the fact that you are in

6   Australia.

7   MS CATTERALL: Yes, I was at that

8   time, yes.

9   MR. DAVID: It says:

10   "Ms Catterall left last

11   Saturday for a week in

12   Australia and is expected to

13   return to Ottawa this

14   weekend. I can assure you

15   that your plight is

16   constantly with her and we

17   spoke on several occasions

18   last week. You can be

19   assured that she will be in

20   touch as soon as she

21   returns."

22   And I believe, in fact, you called

23   Ms Mazigh from Australia?

24   MS CATTERALL: I called her as

25   soon as it appeared that the visit to Damascus

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 1          would take place, because at the time I left for

 2          the parliamentary delegation to Australia, we

 3          still didn't know whether it would or wouldn't.

 4                    MR. DAVID:  And to that effect,

 5          Ms Catterall, I bring you to an entry on March

 6          5th, which is at tab 342, and it would be the

 7          third page of that tab.

 8                    There is a message from Monia,

 9          again going to Gar.  The message is dated March

10          7th, but the actual content I will be referring to

11          refers to an entry for March 5th, and it goes as

12          follows:

13                              "Thank you for your call this

14                              morning.  I hope that we can

15                              meet before Marlene goes to

16                              Syria.  She phoned from

17                              Australia before

18                              yesterday..."

19                    Which would be March 5th.

20                    So that is a reference clearly to

21          your conversation with her?

22                    MS CATTERALL:  Mm-hmm.

23                    MR. DAVID:  And that is when you

24          would have informed Ms Mazigh that you were

25          intending to go to Syria?
```

1   MS CATTERALL: Yes, and I think

2   that was following -- I had called Mr. Pardy from

3   Australia to see if it seemed likely that we would

4   be going to Australia(sic), and as soon as it

5   seemed like that was going ahead, then I called

6   Monia to tell her.

7   MR. DAVID: Okay. And then the

8   next date, on March 5th -- and we have this at tab

9   336 -- Robert Fry is signing off a letter in terms

10   of the Office of the Minister of Foreign Affairs,

11   addressed to you, saying that:

12   "... we would be pleased to

13   provide support to you for a

14   visit to Syria in the coming

15   days in order that you might

16   raise with the Syrian

17   authorities the matter of

18   Mr. Arar's continuing

19   incarceration. We hope that

20   it will be possible for you

21   to meet with Mr. Arar."

22   So we do here have the official

23   sanction from Mr. Graham's office.

24   We go now to an entry on March

25   9th, at tab 338, and here we have a report coming

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 1           from Syria, coming from the ambassador,

 2           Mr. Pillarella, on March 9th, saying that this

 3           trip is not turning out to be the best in terms of

 4           timing.

 5                     The message is rather pessimistic

 6           in terms of your ability to meet the President of

 7           Syria, in terms of your ability to meet the

 8           Foreign Minister of Syria, Minister Shara'a; that

 9           you could meet with the Vice-Minister,

10           Mr. Mouallem, and it was uncertain that you could

11           meet Maher Arar at all, as this required the

12           approval of the General in charge of the

13           intelligence service under which Mr. Arar is being

14           detained.

15                     Were you apprised of this message

16           from Mr. Pillarella at this time?

17                     MS CATTERALL:  I wasn't

18           specifically apprised of this message, I don't

19           believe.  I was aware that there were problems in

20           terms of requests to meet with the President.

21                     That, I believe -- no, I know.

22           That had been raised by Mr. Assadourian in a

23           conversation with the Syrian ambassador to Canada,

24           Mr. Arnous.  Mr. Assadourian had suggested that we

25           would like to meet the President and the Minister
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1   of Foreign Affairs, and Mr. Pardy certainly told

2   me that that had caused some significant concern

3   in Damascus.

4   MR. DAVID: Okay. Now, there was

5   some confusion in fact about the intentions of

6   both yourself and Mr. Assadourian as to meeting

7   with the President and the Foreign Minister,

8   Shara'a, and we see at tab 342 that this issue is

9   being clarified on March 10th.

10   If you could go to page 1 of that

11   tab, the message is coming from Tim Martin, who is

12   the Acting Director of the Middle East Geographic

13   Region, and it's going to Mr. Pillarella, and it

14   says the following:

15   "For your background, I have

16   spoken on the telephone today

17   with Ambassador Arnous. He

18   had spoken with Vice-Minister

19   Mouallem yesterday to clarify

20   matters in terms of who the

21   MPs expected to see. I

22   explained that the request

23   was for a meeting was with

24   Vice-Minister Mouallem and,

25   subject to the necessary

1   approvals, with Mr. Arar. He

2   asked for confirmation in

3   writing of this, so we

4   provided a diplomatic note to

5   the Embassy, the text of

6   which is reproduced below.

7   We will try to speak with

8   Ambassador Arnous tomorrow to

9   see whether he received

10   authorization to issue the

11   visas. Naturally, we would

12   welcome any update from your

13   end before we meet with the

14   MPs tomorrow."

15   And the actual diplomatic note is

16   reproduced just below, and it says at the end of

17   the first paragraph we would:

18   "... be grateful for the

19   assistance of the Government

20   of the Syrian Arab Republic

21   in obtaining a meeting with

22   Vice-Minister Mouallem of the

23   Ministry of Foreign Affairs

24   as well as a meeting with

25   Mr. Arar."

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 1                      And further on we will see that
 2       the confusion seems to have come from a discussion
 3       between Mr. Arnous and Mr. Assadourian in that
 4       regard.
 5                      Do you have any recollection about
 6       that?
 7                      MS CATTERALL:  That is also my
 8       recollection, that Mr. Assadourian had raised this
 9       with Mr. Arnous.
10                      MR. DAVID:  Okay.  If we go to tab
11       343 now, Ms Catterall, it is an entry for March
12       11th.  Again, it is a message coming from
13       Mr. Pillarella in Syria to Gar Pardy and Tim -- I
14       am not sure who Tim is.
15                      MS CATTERALL:  Tim Martin.
16                      MR. DAVID:  Tim Martin; thank you.
17                      And Mr. Pillarella is herein
18       reporting that there are no final confirmations
19       from Mr. Mouallem concerning the trip and that
20       basically everything is still up in the air.
21                      And this was in view of the fact
22       that on March 11th you are meeting Mr. Pardy for
23       the final briefing before you are departing.
24                      MS CATTERALL:  Yes.
25                      MR. DAVID:  So again, were you
```

1   informed of the contents of this message from

2   Mr. Pillarella?

3   MS CATTERALL: I wasn't informed

4   specifically about this memo. Certainly when I

5   was back in Ottawa, I believe I spoke to Mr. Pardy

6   on Sunday night at his home. I knew that the

7   visas had not been received yet, but we were going

8   ahead in any case with the meeting on the Monday

9   morning in my office.

10   So I was aware of the problem with

11   the visas. I wasn't aware of the specific memo.

12   MR. DAVID: The meeting that you

13   had on March 11th was held, as you say, in your

14   office. Mr. Pardy was in attendance and

15   Mr. Assadourian was there. I believe that

16   Ms Mazigh was there also?

17   MS CATTERALL: Yes.

18   MR. DAVID: Do you recall who else

19   was there?

20   There was a friend, I believe, of

21   Ms Mazigh's who accompanied her?

22   MS CATTERALL: Yes.

23   MR. DAVID: And do you recall who

24   that friend was?

25   MS CATTERALL: I am not absolutely

1   sure. I think I know who it was, but I am not

2   absolutely sure.

3   MR. DAVID: And the purpose of

4   this briefing, this meeting, was what?

5   MS CATTERALL: Simply to brief us

6   on what to expect in Damascus, kinds of messages,

7   more general briefing about what was going on in

8   the Middle East.

9   I think Monia and her friend

10   stayed with us for about the first hour perhaps.

11   There was at least one other

12   senior Foreign Affairs official there.

13   MR. DAVID: Okay. I bring you now

14   to tab 344. It is a document that we are not sure

15   as to who authored it. It is dated that same

16   date, March 11th, and it's addressed to you as

17   well as a "cc" to Mr. Pardy.

18   I think that you have had

19   opportunity to review this document.

20   Do you recall if this was the

21   possible contribution of the friend that

22   accompanied Ms Mazigh to this meeting?

23   MS CATTERALL: I honestly am not

24   sure. I have wracked my brains since you showed

25   me this document yesterday, and I cannot be sure.

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1   As I mentioned to you, it

2   reiterates a number of things Monia had said, but

3   then there are other things that aren't consistent

4   with things she had said to me previously.

5   MS McISAAC: I think Mr. Pardy

6   testified that it was prepared by Foreign Affairs

7   political division.

8   I am looking at page 3657 of the

9   transcript of Mr. Pardy.

10   MR. DAVID: Okay. Thank you for

11   that, Ms McIsaac.

12   THE COMMISSIONER: Thank you.

13   MR. DAVID: We go now to tab 345.

14   MS CATTERALL: 345?

15   MR. DAVID: Yes, and if you could

16   go to page 2 of that document, this is a message

17   coming from Tim Martin and it's going to the

18   ambassador in Damascus, Mr. Pillarella.

19   MS CATTERALL: Mm-hmm.

20   MR. DAVID: Confirming that

21   because the visas were not obtained in time for

22   the planned visit, that basically the trip will be

23   postponed, and suggesting that the trip be

24   postponed to some time between April 14th and

25   April 25th in light of the fact that Parliament

1   would be recessed in that time period.

2   MS CATTERALL: Yes, and in part

3   that was because, as Chief Government Whip, I

4   simply couldn't leave while Parliament was

5   sitting.

6   MR. DAVID: This document, in its

7   second paragraph, identifies the confusion that

8   may have existed in terms of who you were

9   intending to visit in Syria, and it says:

10   "The confusion concerning a

11   possible call on the

12   President and the Foreign

13   Minister of Syria stemmed

14   from discussions between the

15   Syrian Ambassador and MP

16   Assadourian."

17   I bring you to the third

18   paragraph, or the third readable, just below the

19   black part.

20   It says:

21   "Mrs. Catterall planned to

22   invite Ambassador for lunch

23   on Parliament Hill in order

24   to explain in a friendly way

25   the interest of the

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1   Parliamentarians in the case

2   and urge a positive response

3   from the Syrian authorities."

4   I understand that you in fact did

5   meet the ambassador in this regard?

6   MS CATTERALL: Yes,

7   Mr. Assadourian and I had lunch with the

8   ambassador, yes.

9   MR. DAVID: We will come to

10   documents that deal with that in detail.

11   The next paragraph says:

12   "Mrs. Catterall noted that

13   the issue of coordination

14   between DFAIT and the

15   Solicitor General is an

16   important one. and indicated

17   that she would consult

18   further with the Solicitor

19   General and seek a letter

20   from him on the Arar case."

21   Could you comment on that, please?

22   MS CATTERALL: It was very clear

23   to me that -- I mean, by that time, we had heard

24   comments from the Americans about RCMP and CSIS

25   being involved in certainly information that was

 1   used to decide on the deportation of Maher Arar.

 2   I was deeply concerned that the

 3   impression was out there, especially after meeting

 4   with Mr. Arnous, that we didn't want him back;

 5   that very mixed messages were getting sent both to

 6   the Americans during his detention in New York,

 7   but since then to the Syrians about the Canadian

 8   position on Mr. Arar.

 9   MR. DAVID: If I could just

10   specify, you meet, I believe, the ambassador on

11   March 21st.

12   MS CATTERALL: Yes.

13   MR. DAVID: This message is dated

14   March 11th and it's raising the issue of you

15   seeking a letter from the SOLGEN.

16   Is that something that you recall?

17   MS CATTERALL: It was very clear

18   to me that different messages were getting sent on

19   Canada's position on Arar's return.

20   I felt that only the Solicitor

21   General could provide a letter saying we have no

22   evidence on which to charge this man and...

23   The only way I can put this is it

24   offends my sense of justice as a Canadian that

25   repeated innuendos can be made about a man that

1   have so dramatically damaged his life and that of

2   his family, and nobody has to put on paper what he

3   is suspected of.

4   My comments at various times had

5   been: Either some charges should be made and he

6   should have the opportunity to defend himself, or

7   somebody should say there are no charges, there is

8   no evidence against this man.

9   And that is what I would have

10 wanted to discuss with Mr. Easter and to have

11 clear from him, either there is evidence and there

12 are charges that can be laid or there isn't. And

13 under our system of justice, that means a man is

14 innocent.

15   MR. DAVID: This, am I to

16 understand, was to respond to the Syrian -- it was

17 to provide further feedback or information to the

18 Syrian government about what this country's

19 position was?

20   MS CATTERALL: It was in the

21 context, certainly, of preparing to go to Syria,

22 but it was just the whole situation of knowing

23 that when we were dealing with people in the

24 States, when we were dealing with people in Syria,

25 there seemed to be two messages. There wasn't a

1   consistent government message.

2   MR. DAVID: And this appreciation

3   that you had, Ms Catterall, was coming from where?

4   What was it based on?

5   MS CATTERALL: Going back to

6   October pretty well, when I was raising

7   questions -- I mean, this just went on for so long

8   and so intensely for me that it's hard to be

9   specific about when did I first learn that, for

10   instance, the RCMP were waiting at Dorval Airport

11   for Mr. Arar's return?

12   I just don't know. I just knew

13   that news kept coming out or suspicions that

14   information had been provided to the Americans

15   about Mr. Arar that led them to deport him; that

16   that deportation was based on information they got

17   from American officials.

18   I know Monia had tried to get a

19   clear statement through lawyer Michael Edelson if

20   there was or was not evidence against her husband.

21   I think it was just a sense I

22   wanted to go to Syria with a very clear message:

23   that the Government of Canada wants him back, and

24   I wanted to be able to say we have no evidence on

25   which to charge this man. There is no evidence

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1   against him.

2   MR. DAVID: Thus the idea that is

3   raised in this document that you obtain a letter

4   from Mr. Easter.

5   Was that pursued by you? Did you

6   in fact ask Mr. Easter to write a letter?

7   MS CATTERALL: Did I ask Wayne

8   directly, or did I ask through Ken Morill I

9   honestly do not remember. But I know it was clear

10   there was not going to be a letter from

11   Mr. Easter; that Mr. Graham's letter was going to

12   be the position of the Government of Canada.

13   MR. DAVID: If we could go to the

14   first page of this very same tab, tab 345, we see

15   the third report coming from Mr. Pillarella about

16   the trip.

17   Now he has spoken to Mr. Mouallem

18   and confirms that Mr. Mouallem will be meeting

19   you, and furthermore confirms that he will arrange

20   for a meeting with Maher Arar, and this

21   confirmation is coming again from Ambassador

22   Pillarella on March 12th.

23   If we could, for the record, go to

24   tab 351, this is again a series of e-mails.

25   The first one I would bring you to

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 1          is on page 2 --
 2                          MS CATTERALL:  I am sorry, was
 3          that 351?
 4                          MR. DAVID:  351.  And we have a
 5          message coming from Gar Pardy to Monia on March
 6          16th, and it's the middle of the page, on the
 7          second page?
 8                          MS CATTERALL:  Mm-hmm.
 9                          MR. DAVID:  It is dated March 16th
10          and it says:
11                                  "Monia, following the
12                                  cancellation of the trip by
13                                  Ms Catterall and
14                                  Mr. Assadourian, we were
15                                  again in touch with the
16                                  Syrian authorities.  The
17                                  Syrian authorities have now
18                                  issued the instructions for
19                                  visas for both and we are now
20                                  working with Ms Catterall and
21                                  Mr. Assadourian on when they
22                                  will be able to visit Syria.
23                                  In their response the Syrians
24                                  stated they would be
25                                  permitted to meet with Maher
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 1                                    and discuss the matter with

 2                                    senior security and foreign

 3                                    ministry officials.  We

 4                                    should have the timing for

 5                                    the visit established later

 6                                    this week.  In the meantime,

 7                                    the embassy is seeking

 8                                    another visit with Maher

 9                                    hopefully this week.  Will

10                                    call later this week."

11                         So we have now the information

12          being passed on to Ms Mazigh.

13                              If I could bring you to the first

14          page of this tab, it is the second message.  It

15          starts on Wednesday.

16                              It is at the top, on Wednesday,

17          March 19th.

18                              MS CATTERALL:  Mm-hmm.

19                              MR. DAVID:  Again it's going to

20          Monia and says:

21                                    "Monia, yes, as I mentioned

22                                    to you earlier this week, the

23                                    visit is still on but the

24                                    timing needs to be worked out

25                                    with Ms Catterall.  I would
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1   hope that by the weekend we

2   would have sense of when this

3   will happen."

4   Again, this is just for the record

5   I was putting that in.

6   Tab 374, Ms Catterall, is an entry

7   for March 19th. And on the first page it is

8   Mr. Fry, who is seeking an update from Gar about

9   the trip, and Gar is responding:

10   "Robert, no new developments.

11   We are waiting for word from

12   Damascus for another visit to

13   Maher. Also Marlene and

14   Sarkis were to meet with the

15   Syrian Ambassador for lunch

16   today..."

17   "Today" referring to March 19th.

18   "... but so far no report. I

19   will be on my cell for the

20   next two days.

21   Take care, Gar."

22   Again, the idea is being raised

23   here of you meeting Ambassador Arnous.

24   We can now go to Exhibit P-99

25   concerning that luncheon meeting with the

1   ambassador.

2   And I would like to bring you

3   through this document carefully.

4   What this document is,

5   Ms Catterall, it's a report that is being drafted

6   by Myra Pastyr-Lupul, who is within DFAIT, and she

7   is reporting on a phone conversation that she had

8   with you on March 21st.

9   In this phone conversation, you

10   provided her with a briefing, basically, about

11   your meeting with the ambassador on that same day,

12   Wednesday, March 21st.

13   Do you recall that meeting?

14   MS CATTERALL: Yes, I certainly

15   recall the lunch.

16   MR. DAVID: Who was present at

17   this meeting?

18   MS CATTERALL: Myself and

19   Mr. Arnous and Sarkis Assadourian.

20   MR. DAVID: So you were three?

21   MS CATTERALL: Yes.

22   MR. DAVID: And how long did the

23   meeting last?

24   MS CATTERALL: We had lunch

25   together, so probably an hour?

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 1                         MR. DAVID:  Okay.  The message

 2          from Ms Pastyr-Lupul begins with the following

 3          reference:

 4                              "Marlene Catterall and Sarkis

 5                              Assadourian met with the

 6                              Syrian Ambassador last

 7                              Wednesday, March 21st.  They

 8                              discussed the case of Maher

 9                              Arar and made a personal and

10                              humanitarian pitch for the

11                              release of Arar and asked

12                              what the Syrians need for

13                              this to happen."

14                         Is that an accurate depiction?

15                         MS CATTERALL:  Yes.

16                         MR. DAVID:  It goes on and it

17          says:

18                              "They learned that..."

19                         And that would be you and

20          Mr. Sarkis.

21                              "...initially during this

22                              case that CSIS officials told

23                              the Syrians that they 'have

24                              no interest in Arar.'  The

25                              Syrians took this to mean
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 1                    that the CSIS have no

 2                    interest in having Arar

 3                    back."

 4              And then the next sentence says:

 5                    "They may have meant that

 6                    they have no security reasons

 7                    to investigate Arar in

 8                    Canada."

 9              Now, that last sentence I just

10    read, "They may have meant that they have no

11    security reasons to investigate Arar in Canada",

12    is that a comment coming from Mr. Arnous or is

13    that a comment coming from Myra Pastyr-Lupul?

14              MS CATTERALL:  No.  That came

15    during our conversation with Mr. Arnous, and it

16    was Sarkis particularly that said, "I think you

17    misunderstood what they said.  They might have

18    said this is not a person of interest to us",

19    which usually means we have no -- you know, we are

20    not investigating this person.

21              Clearly the Syrian government had

22    taken whatever they said to mean that we have no

23    interest in having him returned to Canada.

24              MR. DAVID:  So there are two

25    notions here, and I want to make the record very
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1   clear in this regard.

2   On one hand, what Ambassador

3   Arnous is informing you is that the way they have

4   interpreted what CSIS has told them is that it

5   basically means that CSIS is quite content with

6   Arar staying in Syria?

7   MS CATTERALL: Yes, that the

8   impression they got was that they there was no

9   interest in having Arar back in Canada.

10   MR. DAVID: In Canada?

11   MS CATTERALL: Yes.

12   MR. DAVID: Okay. And this is

13   being communicated to you by the ambassador.

14   MS CATTERALL: Yes.

15   MR. DAVID: Now, the idea that

16   they may have meant -- so in other words, the

17   speculation as to what CSIS really meant by its

18   message to the Syrians, this speculation is coming

19   from Mr. Sarkis Assadourian?

20   MS CATTERALL: Yes.

21   MR. DAVID: Okay.

22   MS CATTERALL: Sarkis responded to

23   that.

24   MR. DAVID: The message goes on to

25   say:

1   "Due to the miscommunication,

2   the Syrians believed that

3   CSIS did not want Arar back

4   in Canada and therefore

5   decided to detain him/keep

6   him in Syria."

7   Was this something that was

8 conveyed to you by the ambassador?

9   MS CATTERALL: Yes.

10   MR. DAVID: The next paragraph are

11 suggestions that are being provided by Myra

12 Pastyr-Lupul, and it says:

13   "What we need to do now is

14   send a clear message in

15   writing to the Syrians from

16   CSIS that outlines clearly

17   that we have no information

18   which has led us to believe

19   that Mr. Arar poses a

20   security threat to Canada.

21   Furthermore, the Syrians need

22   to hear from the security

23   people and DFAIT in writing

24   that if we do not have any

25   information that shows any

1   involvement in terrorist

2   activity that we will charge

3   him in Canada and deal with

4   his case through the usual

5   law enforcement channels."

6   Those suggestions that are being

7   made in this document by Ms Pastyr-Lupul, were

8   they discussed with you on the phone, or is this

9   simply her own report?

10   MS CATTERALL: This is her report.

11   I had not seen this memo before you showed it to

12   me. But frequently, if Mr. Pardy wasn't

13   available, I would talk to Myra, knowing that the

14   information would get to him and that anything she

15   told me I could rely on as coming from him.

16   MR. DAVID: My question, though,

17   is did Myra and you discuss what she is suggesting

18   in this document: that, for instance, CSIS and

19   DFAIT send messages to Syria?

20   Is that something that you

21   discussed with Myra Pastyr-Lupul, or is this

22   simply Myra noting this idea in her report?

23   MS CATTERALL: I would have said,

24   because I had been saying it for some time, that

25   we need a clear message from the Government of

1   Canada, all elements of the Government of Canada,

2   that Canada wants this man back.

3   MR. DAVID: Did you --

4   MS CATTERALL: I would maybe

5   not -- I would likely not have been specific about

6   who that should come from.

7   MR. DAVID: So the reference that

8   CSIS should be doing that would be not from you,

9   would be from Myra?

10   MS CATTERALL: I would think so,

11   yes.

12   MR. DAVID: The next paragraph

13   says -- and these are suggestions that are coming

14   from you:

15   "Ms Catterall suggested that

16   Gar Pardy meet with

17   Ambassador Cellucci or

18   Mr. Kelly this week to

19   request their influence in

20   ensuring that Mr. Arar be

21   released and returned to

22   Canada."

23   Do you recall suggesting that to

24   Myra?

25   MS CATTERALL: I do not recall who

1   Mr. Kelly is.

2   MR. DAVID: That's two of us.

3   --- Laughter / Rires

4   MR. DAVID: No. Mr. Kelly

5   actually is the Deputy Ambassador of the U.S.

6   Embassy in Ottawa.

7   MS CATTERALL: I knew he was a

8   senior person at the embassy. That was all I

9   could recall.

10   MR. DAVID: Okay. So do you

11   recall making that suggestion to Myra in your --

12   MS CATTERALL: I don't recall

13   specifically. If she says so in her notes, I am

14   sure I did.

15   MR. DAVID: Okay. And the last

16   paragraph says:

17   "Ms Catterall and

18   Mr. Assadourian are planning

19   to visit Syria as soon as

20   things calm down in the

21   Middle East and would ask

22   that we work on these

23   requests as a parallel plan."

24   Do you recall making such a

25   request?

1   MS CATTERALL: I can't be

2   absolutely sure that I would have said that in

3   that particular conversation.

4   MR. DAVID: Did Mr. Arnous at this

5   meeting that you had with him on March 21st say

6   anything else about CSIS to you in regard to

7   Mr. Arar?

8   MS CATTERALL: Not that I recall.

9   MR. DAVID: So essentially the

10   message that was conveyed is reflected in this

11   document?

12   MS CATTERALL: Yes.

13   MR. DAVID: And upon hearing such

14   a message coming from the Ambassador of Syria,

15   what was your reaction to these comments, to this

16   information, your personal assessment of the

17   situation?

18   MS CATTERALL: It was simply

19   another confirmation, in fact, that there were

20   mixed messages being given from the Government of

21   Canada; that whatever Foreign Affairs was

22   attempting to do in securing Mr. Arar's release

23   was being undermined or counteracted by what was

24   being said and done by others.

25   MR. DAVID: Did you indicate

1   anything to Ambassador Arnous that this was a very

2   serious misinterpretation that the Syrians were

3   making?

4   MS CATTERALL: Yes, we both did.

5   MR. DAVID: You both did?

6   MS CATTERALL: I do recall it was

7   Mr. Assadourian who first sort of said -- jumped

8   on this and said that, you know, he thought this

9   was a misinterpretation of what had been said. I

10   would certainly have added that Foreign Affairs,

11   in my experience, was doing -- it speak did for

12   the Government of Canada and was doing everything

13   possible to have Mr. Arar returned.

14   MR. DAVID: So the message to the

15   ambassador was that we were speaking with one

16   voice, and that there was one message, and that is

17   that we want Mr. Arar in Canada?

18   MS CATTERALL: Yes.

19   MR. DAVID: That was conveyed to

20   Mr. Arnous.

21   MS CATTERALL: Yes.

22   MR. DAVID: Now we will see, and

23   we will see this in detail, you in fact go to

24   Syria. You are in Syria, and you are meeting with

25   various officials on April 22nd.

1   Did you do anything during your

2   time in Syria to clarify this serious

3   misinterpretation on the part of the Syrians in

4   regard of their understanding of what CSIS wished

5   or did not wish?

6   MS CATTERALL: I would not have

7   referred to this specific conversation.

8   --- Pause

9   MS CATTERALL: Again, this is one

10 of those times I wish I had kept detailed notes.

11   I did say verbally words to the

12 effect that there were no charges against Mr. Arar

13 in Canada; that if there were evidence of

14 wrongdoing, he would be charged in Canada.

15   That was, you know, part of a much

16 larger conversation.

17   MR. DAVID: And did you follow up

18 with this information that you learned from the

19 ambassador with either Mr. Easter or with

20 Mr. Graham?

21   MS CATTERALL: I would have made

22 both of them aware of it.

23   MR. DAVID: And did you seek a

24 letter from CSIS to clarify the issue, the matter?

25   MS CATTERALL: I would not ever

1   have gone directly to CSIS, no.

2   MR. DAVID: That's not what I

3   mean.

4   MS CATTERALL: Through the

5   Minister.

6   MR. DAVID: Would you have

7   suggested, did you suggest to either Minister that

8   CSIS should be sending a letter directly to the

9   Syrians in this regard, to clarify this

10   misinterpretation?

11   MS CATTERALL: I don't recall

12   specifically. I do recall raising the issue and

13   basically being told that the Minister couldn't do

14   that; that any communications with the Syrian

15   government were going to be from the Minister of

16   Foreign Affairs.

17   MR. DAVID: And do you recall,

18   Ms Catterall, whether you shared this information

19   with Monia Mazigh?

20   MS CATTERALL: I don't remember.

21   MR. DAVID: Okay.

22   Mr. Commissioner, maybe now would

23   be an appropriate time for the afternoon break.

24   THE COMMISSIONER: All right. We

25   will rise for 15 minutes.

1   MR. DAVID: Thank you.

2   THE REGISTRAR: Please stand.

3 --- Upon recessing at 3:38 p.m. /

4   Suspension à 15 h 38

5 --- Upon resuming at 3:59 p.m. /

6   Reprise à 15 h 59

7   THE REGISTRAR: Please be seated.

8 Veuillez vous asseoir.

9   THE COMMISSIONER: My apologies

10 for the delay. I got on the phone. My

11 responsibilities from my other life occasionally

12 intrude.

13   Please proceed.

14   MR. DAVID: Ms Catterall, a

15 further entry on March 24th in Mr. Pardy's notes

16 refers to a conversation you had with him.

17   I would like to bring you to page

18 19 of his notes, and there's a reference to Arar:

19   "Marlene Catterall

20   - Mtg with Syrian Amb.

21   - CSIS

22   - Clear msg to Syrians no

23   threat/risk..."

24   Do you recall discussing the

25 contents of your meeting with Mr. Arnous with

1   Mr. Pardy?

2   MS CATTERALL: I don't recall

3   clearly discussing it with Mr. Pardy. As I say, I

4   had so many conversations with him over the

5   months. But clearly it reflected what Myra had

6   put in a note to him.

7   MR. DAVID: Moving on now to the

8   same page, April 1st however, at the bottom,

9   there's a reference to a phone conversation

10   between yourself and Mr. Pardy and it says:

11   "- Ken Morill/Easter's

12   Office.

13   - No paper from Easter."

14   Really, I think that is the only

15   entry I want to bring you to.

16   Do you recall speaking to

17   Mr. Pardy about discussions that you may have had

18   with Ken Morill from Mr. Easter's office?

19   MS CATTERALL: I don't recall

20   specifically that conversation.

21   MR. DAVID: Was the issue of the

22   letter being discussed at this time from

23   Mr. Easter?

24   MS CATTERALL: I mean, it's pretty

25   evident from Mr. Pardy's notes that that is the

1   case. As I said, you know, I had hundreds of

2   conversations over this file.

3   MR. DAVID: If you can go to an

4   entry on page 21 for April 10, it's at the top.

5   It says:

6   "- Spoke to Bill Graham.

7   Possibility of a letter.

8   - Spoke to Wayne Easter.

9   Supports Mr. Graham's

10   position.

11   - Rob Fry. Mr. Graham has

12   agreed to a letter.

13   - Tim Martin.

14   - Money.

15   - Monia."

16   Does that jog your memory in any

17   way?

18   MS CATTERALL: I believe at this

19   time I knew we were getting close to the possible

20   time for a visit. I knew that a letter was being

21   prepared for Mr. Graham's signature for us to take

22   to Syria with us. And I knew that there were

23   discussions back and forth between Mr. Easter's

24   office and Mr. Graham's office about the contents

25   of that letter.

1   MR. DAVID: So the reference to

2   "Spoke to Wayne Easter, supports Mr. Graham's

3   position" would be in reference to Mr. Graham's

4   letter?

5   MS CATTERALL: Yes.

6   MR. DAVID: Okay. If we could go

7   now to tab 376, this is an entry for April 12th.

8   There are two memos on the first page, and if we

9   start with the top one, that's a memo coming from

10   Gar Pardy on April 12th, going to Monia.

11   Mr. Pardy is reporting to Monia

12   the difficulties in getting the visas that you

13   require for your travels.

14   He goes on to say in the third

15   paragraph, and this is where I want to bring you

16   to:

17   "I do not agree with your

18   analysis of the relationship

19   between Syria and Canada, or

20   Syria and any other country

21   for that matter."

22   And what Ms Mazigh was saying was

23   that basically Canada is a big country and Syria

24   is a small country and our weight should have more

25   impact on what is happening to Mr. Arar.

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 1                        And Mr. Pardy says:

 2                                "A major part of the problem

 3                                here is that not everyone in

 4                                the government of Canada

 5                                agrees with what we are doing

 6                                in support of Maher.  The

 7                                Syrians are well aware of

 8                                that and that undoubtedly

 9                                influences their willingness

10                                to be more cooperative.  As

11                                well, the Syrian authorities

12                                have made certain claims with

13                                respect to Maher and it does

14                                not matter whether or not we

15                                believe them, the Syrians are

16                                acting as if they were true."

17                        So this seems to be, again,

18        pointing out to the theme that you have already

19        evoked, and that's the mixed messaging that the

20        Syrians may be getting from various government

21        agencies?

22                        MS CATTERALL:  Yes.

23                        MR. DAVID:  Were you getting this

24        message also from Mr. Pardy?

25                        MS CATTERALL:  Yes.
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           1   MR. DAVID: That it was a major

           2   problem?

           3   MS CATTERALL: Yes.

           4   MR. DAVID: And were you getting

           5   this message from anybody else than Mr. Pardy?

           6   MS CATTERALL: I think certainly I

           7   was reading and hearing comments from various

           8   American officials that -- I think the famous

           9   quote from Cellucci was "ask your own people."

          10   MR. DAVID: Okay. We now have to

          11   go to PCO documents, tab 16, and that would be

          12   Volume 1, P-48.

          13   MS CATTERALL: Which tab, sorry?

          14   MR. DAVID: It is tab 16.

          15   It is a diplomatic report that is

          16   going to PCO. It is dated April 16th. It is from

          17   Tim Martin and it is going to Ambassador

          18   Pillarella.

          19   First of all, he confirms that the

          20   visas have been approved for your travel to Syria,

          21   and secondly, on the second page it says that your

          22   access to Mr. Arar has been confirmed by the

          23   intelligence authorities in Syria. And was what

          24   explained the delay in the issuance of the visas.

          25   MS CATTERALL: What was the date

1   of this?

2   MR. DAVID: This is April 16th.

3   MS CATTERALL: April 16th. And

4   the question was...?

5   MR. DAVID: Were you aware of this

6   approval?

7   MS CATTERALL: No. In fact,

8   before leaving for Syria, I was not aware that we

9   would be able to see Mr. Arar. In fact, when I

10   arrived in Damascus, and in my briefing that first

11   morning with the ambassador, I wasn't told that we

12   would be able to see Mr. Arar. As far as I knew,

13   that decision was made in our meeting with the

14   Deputy Foreign Minister.

15   MR. DAVID: We go now to

16   Mr. Pardy's notes once again, at tab 1, and if you

17   could go to pages 21 and 22.

18   There is a reference at the bottom

19   for Thursday, April 17th:

20   "Marlene Catterall"

21   And the next page says:

22   "Damascus. Trying to arrange

23   - Letter

24   - Manley"

25   Do you know what this refers to?

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 1                    MS CATTERALL:  We would have

 2       discussed the letter from Mr. Graham in terms

 3       of --

 4                    MR. DAVID:  When you say "we", is

 5       that --

 6                    MS CATTERALL:  Myself and

 7       Mr. Pardy.

 8                    MR. DAVID:  Okay.

 9                    MS CATTERALL:  We would have

10       discussed the letter that was still up in the air

11       in terms of the contents; the letter from

12       Mr. Graham that we were hoping to deliver when we

13       went to Damascus.

14                    MR. DAVID:  And the reference to

15       Manley, do you know what that refers to?

16                    MS CATTERALL:  I am not sure.

17                    MR. DAVID:  Okay.  Tab 388, the

18       top message.

19                    The top message is from Gar, and

20       it says -- I am not sure who it's going to, but it

21       must be Robert Fry because the second paragraph

22       says:

23                         "Robert, Ms Catterall was

24                         hopeful of obtaining a letter

25                         from Mr. Easter.  Have you
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1   heard if she was successful?

2   Gar."

3   Do you recall this still being an

4   issue at this time?

5   MS CATTERALL: I don't recall that

6   still being an issue at that point, no.

7   MR. DAVID: And do you recall any

8   interest on the part of Mr. Graham's office, or

9   Mr. Fry, in discussions that you would have had

10   directly with his office in this regard?

11   MS CATTERALL: I was aware that

12   the letter that had originally been drafted for

13   Minister Graham was being revised based on input

14   from the security perspective.

15   MR. DAVID: Now at this tab, tab

16   388, we have in the bottom portion of the message

17   a copy of the first draft that we have of

18   Mr. Graham's letter that you would be bringing to

19   Syria.

20   Let me just point out that there

21   is a difference between this language in this tab

22   and the language that you will find in the final

23   version, which is at tab 385. There seems to be

24   two significant changes between those two

25   versions.

 1   So let's deal with the first
 2   version first.
 3   MS CATTERALL: The first draft?
 4   MR. DAVID: Yes, the first draft,
 5   tab 388.
 6   The first paragraph refers in the
 7   last sentence. It says:
 8   "I asked Ms Catterall and
 9   Mr. Assadourian to visit your
10   country at this time in order
11   to bring to the attention of
12   your government our hopes
13   that Mr. Arar would be
14   permitted to return to Canada
15   at the earliest possible
16   time."
17   So there is a fairly encompassing
18   language here, and there is certainly language
19   that indicates direct involvement from Mr. Graham
20   and in fact reflects the position of the
21   Government of Canada in terms of our hopes.
22   If you go to the final version of
23   this letter -- and I am now at tab 385 -- that
24   same reference is phrased very differently and
25   says:

1   "Ms Catterall and

2   Mr. Assadourian are visiting

3   Syria at this time in order

4   to reaffirm their hope..."

5   It's no longer our hope; it's

6   their hope.

7   "... that Mr. Arar would be

8   permitted to return to Canada

9   at the earliest possible

10   time. I fully share their

11   desire."

12   Do you have any comments about the

13 evolution of this language?

14   MS CATTERALL: I don't know how it

15 evolved but it's a significant change. I felt

16 that Sarkis and I were going with the blessing of

17 the Minister, as his representatives, to deliver

18 this letter personally, this letter to the Foreign

19 Minister, and this change clearly suggests that we

20 are going on our own initiative as individual

21 Members of Parliament.

22   The other significance of the

23 change from the previous draft is that the

24 previous draft said "we wanted to bring to the

25 attention of your government our hope", i.e. the

1   government's hope, that Mr. Arar would be

2   permitted to return to Canada. That is, in my

3   mind, significantly different than saying that the

4   two MPs are visiting Syria in order to reaffirm

5   their hope that Mr. Arar would be permitted to

6   return to Canada at the earliest possible time.

7   MR. DAVID: And was this change of

8   language discussed with you?

9   MS CATTERALL: Not specifically,

10   no.

11   MR. DAVID: By anybody within

12   Mr. Graham's office?

13   MS CATTERALL: No, not

14   specifically.

15   MR. DAVID: And did anybody, any

16   Canadian official, provide you with any

17   explanation for this change of language?

18   MS CATTERALL: No. As I say, I

19   wasn't aware of the original draft language.

20   MR. DAVID: Right.

21   MS CATTERALL: I was aware of the

22   second major change in this letter from the draft,

23   having to do with the security concerns and how we

24   would express that part of our interest in

25   Mr. Arar.

1   MR. DAVID: So let us come to

2 that, Ms Catterall.

3   I bring you to the second

4 paragraph of the first draft, which is at 388, and

5 it says -- and it's the last sentence of the

6 paragraph:

7   "Canadian officials have

8   determined that Mr. Arar has

9   not contravened any Canadian

10   laws and since arriving in

11   Canada with his family many

12   years ago has been a good

13   citizen of this country."

14   That's the first draft.

15   And then the final version is at

16 385 and it says:

17   "Let me again assure you that

18   there is no Canadian

19   Government impediment to

20   Mr. Arar's return to Canada."

21   So you were apprised of this

22 language evolving?

23   MS CATTERALL: Yes.

24   MR. DAVID: And could you just

25 give us your appreciation of what was involved in

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1   those two different versions, and what occurred to

2   bring on the second, the final draft?

3   MS CATTERALL: I think this change

4   from the draft to the final letter that was sent

5   is at the very nub of the problem that faced

6   Foreign Affairs in trying to secure Mr. Arar's

7   release, because the first draft is a very clear

8   statement -- I frankly would have liked to see it

9   even stronger -- is a very clear statement that

10   Mr. Arar has not contravened any Canadian laws,

11   which he hasn't. That's a matter of fact. And I

12   don't know why a matter of fact would be removed

13   from a letter going to a foreign government.

14   That is substantially stronger

15   than saying "let me assure you that there's no

16   Canadian government impediment to his return".

17   This language also came out,

18   "since arriving in Canada with his family many

19   years ago has been a good citizen of this

20   country".

21   As far as anybody knows, that's

22   the truth. Why would a simple statement of fact

23   be removed?

24   It is that kind of fudging on

25   Mr. Arar's status, based on no evidence, no

1   charges, no opportunity to defend himself against

2   anybody's suspicions that I find so offensive.

3   I know my personal opinion doesn't

4   count for much. You want information from me.

5   But this kind of thing just should not happen in a

6   democracy.

7   MR. DAVID: And who is it that

8   informed you of the back and forth, if I can say,

9   that was going on on the language?

10   MS CATTERALL: I would have been

11   aware of it from probably both Robert Fry and Gar

12   Pardy.

13   MR. DAVID: We go now to tab 389

14   for an entry on April 18th, Ms Catterall. If you

15   could go to page 3 of this tab, Mr. Pardy is

16   simply reporting that he has now briefed you for

17   your trip and it says -- it is the middle message,

18   dated April 18th.

19   It's going from Gar to Franco

20   Pillarella, and I just want to bring you to the

21   third paragraph of that message.

22   It says:

23   "I spoke to Ms Catterall last

24   evening in Cairo and

25   everything is in place for

1   her arrival on Monday

2   evening."

3   That would be in Syria.

4   "I briefed her on all recent

5   developments both specific to

6   the case and more generally

7   in the region. As discussed

8   you will want to meet with

9   her at the earliest possible

10   time in order to provide her

11   with details on any

12   developments on Monday. Take

13   good care. Gar."

14   Do you recall this briefing, this

15   conversation that you had with Gar at this time?

16   And could you tell us what was discussed, if you

17   can recall.

18   --- Pause

19   MS CATTERALL: I don't recall the

20   details of that conversation, no.

21   MR. DAVID: Okay. In fact you

22   arrive in Syria, and you are in Syria on April

23   22nd of 2003, and I would bring you to tab 395 in

24   regard to your presence in Syria.

25   I have broken it down in basically

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 1          four different meetings for your time in Syria.

 2                          The first meeting -- and we will

 3          go through each meeting in detail.  The first

 4          meeting is your meeting with Deputy Foreign

 5          Minister Mouallem, and the second meeting is with

 6          the security officials at the prison where

 7          Mr. Arar was brought to you, and the third meeting

 8          would be the meeting that you had with Mr. Arar at

 9          this facility, and then the final meeting I want

10          to discuss with you is your debriefing with

11          Ambassador Pillarella after having met Mr. Arar.

12                          Before we analyze those meetings,

13          there was first and foremost a debriefing by

14          Mr. Pillarella?

15                          MS CATTERALL:  Yes.

16                          MR. DAVID:  I would like you now

17          to describe that to us,  what Mr. Pillarella and

18          you discussed.

19                          MS CATTERALL:  The briefing before

20          we met with Minister Mouallem?

21                          MR. DAVID:  That's correct.

22                          First of all, where did the

23          briefing take place?

24                          MS CATTERALL:  At the Canadian

25          embassy in Damascus in a secure room.
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1   MR. DAVID: And who was present?

2   MS CATTERALL: The ambassador,

3   myself, and Sarkis Assadourian. I am not sure if

4   there was a fourth person.

5   I think likely. I think so, but I

6   am not absolutely sure.

7   MR. DAVID: Okay. And do you

8   recall the approximate duration of that meeting?

9   MS CATTERALL: It would have been

10 a good hour.

11   MR. DAVID: And can you now tell

12 us about what was discussed, what was said?

13   MS CATTERALL: Primarily the

14 ambassador was briefing us on the consular visits

15 that had been held with Mr. Arar, the fact that

16 there had not been any consular visits at that

17 point for several months, but also conversations

18 he had had with security officials in Damascus and

19 their concerns about Mr. Arar's involvement in

20 terrorist activities.

21   MR. DAVID: So discussions with

22 security officials of Syria?

23   MS CATTERALL: Yes. Yes.

24   MR. DAVID: And did Mr. Pillarella

25 provide you with details of what he had been told

1   by these Syrian intelligence officials about

2   Mr. Arar?

3   MS McISAAC: I don't want to

4   interrupt, but if Ms Catterall was provided any

5   details in confidence, then perhaps we need to be

6   careful.

7   I don't know what she was told, so

8   I am at a bit of a loss.

9   THE COMMISSIONER: Did

10   Ms Catterall have top secret clearance?

11   MS CATTERALL: No.

12   THE COMMISSIONER: So she would

13   not have been told anything.

14   MS McISAAC: I am not sure what

15   she was told, so I simply don't know.

16   THE COMMISSIONER: Well, I don't

17   know either.

18   MR. DAVID: I do. I think I do.

19   MS McISAAC: Then we will rely on

20   Mr. David.

21   THE COMMISSIONER: Do we start out

22   with the notion that if it was told to

23   Ms Catterall, who isn't sort of classified to

24   receive top secret information, that there

25   wouldn't be a problem. Is that not a good

1   starting point?

2   She is a Member of Parliament.

3   Did you receive this information as a result of

4   any undertaking you gave not to disclose it?

5   MS CATTERALL: No. I was aware

6   that we were being briefed in a room that could

7   not be bugged, though.

8   THE COMMISSIONER: Right.

9   MS CATTERALL: No, I wasn't asked

10   for any undertaking not to disclose.

11   MS McISAAC: I just wanted to

12   check, sir, because I have no idea what was

13   discussed.

14   THE COMMISSIONER: Right.

15   MR. DAVID: If it's appropriate,

16   maybe I could take a one-minute recess and have a

17   discussion with Ms McIsaac.

18   THE COMMISSIONER: Do you just

19   want to do it while I stay here?

20   MR. DAVID: Sure. Maybe that

21   would be a good idea.

22   --- Pause

23   MR. DAVID: It's my belief,

24   Mr. Commissioner, that the information that

25   Mrs. Catterall can relate to us is essentially all

1   on the public record in one form or another as it

2   stands.

3   THE COMMISSIONER: Go ahead.

4   MR. DAVID: And that there will be

5   no new earth-shattering revelations by this

6   information.

7   Could you provide us with what you

8   learned from Mr. Pillarella with regard to

9   information that he had obtained from Syrian

10   officials about Mr. Arar's involvement in various

11   organizations?

12   MS CATTERALL: That they had

13   serious concerns that he had been involved with

14   al-Qaeda, had perhaps attended training in

15   Afghanistan.

16   MR. DAVID: Was it specified when

17   he would have been trained in Afghanistan to you?

18   MS CATTERALL: I don't believe so.

19   MR. DAVID: It was simply a

20   reference to --

21   MS CATTERALL: I did learn that at

22   some point in time, but ...

23   MR. DAVID: But not from

24   Mr. Pillarella?

25   MS CATTERALL: I can't be sure.

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 1                    MR. DAVID:  Okay.  So, so far you

 2     are hearing involvement with al-Qaeda?

 3                    MS CATTERALL:  Yes.

 4                    MR. DAVID:  You are hearing

 5     training in Afghanistan?  What else do you learn?

 6                    Is there any reference to being a

 7     member of the Muslim Brotherhood?

 8                    MS CATTERALL:  Yes, but I had

 9     heard that before; that there might be more

10     concern -- that the initial concerns were that he

11     had skipped his military training and, two, that

12     the Syrians would probably be more concerned,

13     however, about any involvement he had had with the

14     Muslim Brotherhood.

15                    But that was speculation that

16     those might be concerns of the Syrian government,

17     and reasons that he might in fact be detained and

18     face charges in Syria.

19                    But I had that information

20     earlier.

21                    I had not previously had

22     information directly that the Syrians were

23     concerned about an involvement with al-Qaeda and

24     training in Afghanistan.  That was brand new

25     information.
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 1                    MR. DAVID:  You had never heard

 2    any reference of Mr. Arar having gone to

 3    Afghanistan?

 4                    MS CATTERALL:  No.  Not in any

 5    briefings I had had in Canada.

 6                    MR. DAVID:  And as a result of

 7    this information that you are getting from

 8    Mr. Pillarella, are you now sensing that there is

 9    a good chance that Mr. Arar will be charged, will

10    face charges, in Syria?

11                    I guess basically how do you react

12    to this information?

13                    MS CATTERALL:  I remember saying

14    that this was not information that we had had in

15    Canada; that this was new information to me.  And

16    I was quite surprised, in fact, that I had not

17    been given this kind of information before we left

18    Canada.

19                    MR. DAVID:  Did you have any

20    personal assessment about now his facing charges

21    in Syria?

22                    MS CATTERALL:  It was clear to me

23    that the situation -- I didn't jump to the

24    conclusion that that means he is going to be

25    facing charges, but it was quite clear to me that
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 1      the situation was even much more serious.

 2                      MR. DAVID:  If we could now go to

 3      tab 395, we will review what is being reported by

 4      the embassy in Syria, by the Canadian Embassy,

 5      about this meeting.

 6                      If you go to the last page it's

 7      drafted by someone by the name of Ian Shaw,

 8      consulted was Leo Martel and approved is the

 9      ambassador in terms of its contents.

10                      THE WITNESS:  Mm-hmm.

11                      MR. DAVID:  I would like to review

12      the contents of this document with you.

13                      MS McISAAC:  I don't want to tell

14      my friend how to do his job, but wouldn't it be

15      better to ask Ms Catterall to tell us about the

16      meeting with the Syrian authorities in her own

17      words?

18                      MR. DAVID:  I think you are

19      telling me how to do my job.

20                      THE COMMISSIONER:  I think

21      Mr. David can approach the line of questioning as

22      he sees fit.

23                      MS McISAAC:  All right.

24                      MR. DAVID:  So in terms of the

25      first meeting, Ms Catterall, that is a meeting
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 1          with the Deputy Foreign Minister --

 2                    THE COMMISSIONER:  Unless, of

 3     course, just to finish that point, you have some

 4     reason to believe this is an inaccurate memorandum

 5     prepared by the ministry staff.

 6                    MS McISAAC:  No, sir, I just

 7     thought it would be useful to have Ms Catterall

 8     tell us about the meeting.

 9                    MR. DAVID:  Well, my approach will

10     be to ask Ms Catterall to certainly comment and to

11     add anything that you wish on the contents of this

12     document.

13                    The first paragraph refers to your

14     meeting with Deputy Foreign Minister Walid

15     Mouallem on April 22nd, and if you could go to the

16     second page --

17                    MS CATTERALL:  May I stay on the

18     first sentence of that memo?

19                    MR. DAVID:  Sure.

20                    MS CATTERALL:  This, I think, is

21     one of the problems, and I think this is one of

22     the things that was of great concern to me during

23     my briefing with the ambassador.

24                    The second line at the end says

25     the visit:
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 1                              "... regarding the case of

 2                              Maher Arar, a terrorist

 3                              suspect..."

 4              Now, I don't know on what grounds

 5  a Canadian official defines Mr. Arar as a

 6  terrorist suspect.

 7              MR. DAVID:  Okay.  I bring you to

 8  paragraph 3 with regard to this meeting with the

 9  Deputy Foreign Minister.

10              About halfway down there's a

11  sentence that starts with:

12                              "She thanked Mr. Mouallem..."

13              MS CATTERALL:  Mm-hmm.

14              MR. DAVID:  I will just read that

15  to you.

16                              "She thanked Mr. Mouallem for

17                              the opportunity to discuss

18                              the Arar case, and handed

19                              over a letter from Foreign

20                              Minister Graham to Foreign

21                              Minister al-Sharaa, in which

22                              the former reiterated

23                              Canada's hope that Mr. Arar

24                              would be permitted to return

25                              to Canada.  She explained
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1   that Mr. Arar was not wanted

2   in Canada for any criminal

3   activity and that Mr. Arar's

4   wife and two young children

5   were experiencing a very

6   difficult time since his

7   deportation to Syria.

8   Mr. Arar was the breadwinner

9   of the family, and since his

10   arrest, the family has no

11   source of income."

12   Does this reflect, as you recall,

13   your discussions, your conversation, with the

14   Deputy Foreign Minister?

15   MS CATTERALL: Yes, I certainly

16   said all those things. I would also have

17   commented on the fact that we were grateful that

18   Syria -- I would have recognized their position

19   that Mr. Arar is a Syrian citizen, again just

20   having been advised to take this approach, and

21   that we appreciated the consular access that we

22   had been granted to Mr. Arar.

23   MR. DAVID: Had anybody suggested

24   that there were certain topics you should not be

25   discussing? Were there limits, in other words,

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1    placed on you in terms of what you should be

2    saying or not saying?

3                    MS CATTERALL:  No, except the

4    general limit that I had been living with for many

5    months.  We don't want to offend the Syrians; that

6    can only make Mr. Arar's situation worse.

7                    MR. DAVID:  And this meeting took

8    place where?  Do you recall where?

9                    MS CATTERALL:  In Mr. Mouallem's

10   office.

11                   MR. DAVID:  This was a different

12   location than where you eventually went to when

13   you met Mr. Arar?

14                   MS CATTERALL:  Yes.

15                   MR. DAVID:  And did the

16   conversation take place in English?

17                   MS CATTERALL:  Yes, in English.

18                   MR. DAVID:  In English.  The

19   reference, Ms Catterall, to the fact that you

20   would have explained that Mr. Arar was not wanted

21   in Canada for any criminal activity, is that the

22   extent of what you would have said to

23   Mr. Mouallem?

24                   MS CATTERALL:  I can't be sure.

25   It was at least a half-hour conversation, from my
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1   recollection.

2   MR. DAVID: And do you recall why

3   you made a point of saying that, of underlining

4   that?

5   MS CATTERALL: Probably recalling

6   my conversation with the ambassador in March. I

7   wanted to ensure --

8   MR. DAVID: With the Syrian

9   ambassador, Mr. Arnous.

10   MS CATTERALL: Yes, with

11   Mr. Arnous.

12   I wanted to be -- I believe I also

13   said at the same time that, were there any

14   evidence, that charges would be laid, but that

15   there were no charges against Mr. Arar.

16   MR. DAVID: Okay. And at the end

17   of this meeting, what did Mr. Mouallem do? Do you

18   recall?

19   MS CATTERALL: Yes. He said, "Do

20   you want to see Mr. Arar?" And I said, "Yes, of

21   course." He picked up the phone, spoke in Arabic,

22   and put down the phone seconds later to say you

23   can go and see him now.

24   That came as a great surprise to

25   me because nobody had told either myself or

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 1          Mr. Assadourian that we would be able to see him.
 2                          MR. DAVID:  So how did you get to
 3          where Mr. Arar was going to be met?
 4                          MS CATTERALL:  We were driven
 5          there.  We drove in the ambassador's car and we
 6          were escorted.
 7                          MR. DAVID:  And do you recall how
 8          long that drive took?
 9                          MS CATTERALL:  Perhaps 15 minutes.
10          I wasn't watching my watch.
11                          MR. DAVID:  Just before we leave
12          the meeting that you had with Mr. Mouallem, the
13          letter that you handed over to him from
14          Mr. Graham, did Mr. Mouallem actually read it in
15          front of you?
16                          MS CATTERALL:  I don't recall.
17                          MR. DAVID:  And this letter was
18          addressed to the Foreign Minister?
19                          MS CATTERALL:  Yes, it was.
20                          MR. DAVID:  Was there any
21          discussion with regard to the delivery of that
22          letter to the Syrian Foreign Minister?
23                          MS CATTERALL:  Only when I
24          presented it to him, I would have said, "This is a
25          letter from our Minister of Foreign Affairs to
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1   yours."

2   MR. DAVID: Okay. We go now to

3   the second meeting, and it's paragraph 6 that

4   essentially provides the summary about this

5   meeting. That is with security officials at the

6   actual location where you met Mr. Arar.

7   Did you know where this was, what

8   this building was, what this facility was?

9   MS CATTERALL: No, I didn't know.

10   MR. DAVID: Did it seem to you to

11   be a prison, or to be something else?

12   MS CATTERALL: It didn't seem to

13   me to be a prison. It seemed to be an office

14   building.

15   MR. DAVID: Okay. I am sorry, I

16   missed something about the first meeting.

17   If I could bring you to paragraph

18   5, it still concerns that first meeting with

19   Mr. Mouallem.

20   It says:

21   "Turning to the Arar case,

22   the Deputy Foreign Minister

23   explained that the US

24   decision to deport Arar to

25   Syria via Jordan had taken

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1                          his government by surprise.

2                          The Syrians had not asked for

3                          Arar and had expected him to

4                          be deported to Canada."

5              How did you react to this

6   revelation?  Was this told to you by the Deputy

7   Minister -- Foreign Minister?

8              MS CATTERALL:  I don't think I

9   realized the significance of it until I saw it in

10  this memorandum.

11             What this indicated clearly to me,

12  as I read this, was that they had known when he

13  was in custody in the United States.  The fact

14  that they say they had expected him to be deported

15  to Canada makes it clear that they knew of his

16  detention in the United States before he was

17  actually deported.

18             That raises all kinds of questions

19  of why they would not -- when we were making so

20  much effort to find out if he was in Syria, if the

21  Syrians knew his whereabouts for nearly ten days,

22  as I recall, that they would not have indicated

23  any knowledge of him to our officials.

24             It also indicates to me, however,

25  that the Americans were in touch with them, and I
```

1   can only -- I am speculating totally and if that's

2   valid, I will go ahead and do it.

3   As I understand international

4   law -- and I am not a lawyer, so it's a totally

5   lay understanding -- you have to provide consular

6   access to a foreign citizen you detain on your

7   soil. We had trouble getting that for Mr. Arar.

8   You have to notify his country of

9   citizenship before you take action against him.

10   So it seems to me that while we

11   were having discussions with the Americans, they

12   were also having discussions with the Syrians.

13   And I think that i's perhaps beyond the scope of

14   this inquiry. I wish it weren't.

15   MR. DAVID: The paragraph goes on

16   to say:

17   "Since Mr. Arar had dual

18   Syrian-Canadian citizenship,

19   he had to be treated under

20   Syrian law as a Syrian

21   citizen. Since Syria was

22   committed to the

23   international campaign to

24   combat terrorism, it had no

25   choice but to take custody of

1   Mr. Arar and question him on

2   his alleged affiliation with

3   al-Qaida. The result of this

4   questioning was that the

5   Syrian Security Services

6   still had concerns that

7   Mr. Arar could be connected

8   to al-Qaida. Then in the

9   presence of the MPs, the

10   Deputy Foreign Minister

11   phoned General Hassan Khalil,

12   the head of the Syrian

13   Military Intelligence, to

14   arrange for an immediate

15   visit with Mr. Arar."

16   I forgot to bring you to that

17   paragraph about that first meeting.

18   MS CATTERALL: Mm-hmm.

19   MR. DAVID: Dealing now with the

20   second meeting, which is with the security

21   officials at the location where Mr. Arar was met

22   by you, the reference in the document is at

23   paragraph 6, and it says:

24   "At the Syrian Military

25   Intelligence, the MPs,

1   accompanied by the Ambassador

2   and Political Counsellor, met

3   with Colonel George (no

4   surname was given) and

5   several other officials. The

6   Colonel explained that they

7   had finished their

8   investigation of Mr. Arar and

9   would shortly be sending him

10   to stand trial on charges of

11   belonging to al-Qaida and

12   having received military

13   training in al-Qaida camps in

14   Afghanistan. Mrs. Catterall

15   again explained that the

16   Solicitor General had

17   indicated that Mr. Arar was

18   not wanted in Canada for

19   criminal activity and that

20   his young family was

21   suffering tremendously

22   because of detention. She

23   conceded that for the Syrian

24   Government, Mr. Arar was a

25   Syrian citizen. The Colonel

1   said that the case would now

2   be the responsibility of the

3   Syrian courts.

4   Mr. Assadourian asked if

5   Mr. Arar's family would be

6   able to attend the court

7   proceedings. The Colonel

8   responded that whether the

9   trial would be open or closed

10 would be decided by the

11 court. In response to the

12 Ambassador's inquiry, the

13 Colonel also said that once

14 Mr. Arar was handed over to

15 the court authorities, he

16 would be moved to another

17 detention centre and that the

18 Embassy would need to go

19 through the Ministry of

20 Foreign Affairs to ensure

21 continued consular access to

22 Mr. Arar at this new

23 facility. The Colonel then

24 called in Arar and asked the

25 MPs to confine their

1   questions to matters related

2   to his health and family

3   matters and not raise

4   questions relating to the

5   substance of the case."

6   My first question is: Does that

7   reflect, to your best recollection, the contents

8   of the meeting that you had with this official?

9   MS CATTERALL: Yes.

10   MR. DAVID: And do you have

11   anything else to add in terms of -- in terms of

12   you are now being informed that Mr. Arar is going

13   to be charged. Did you seek further clarification

14   about the basis of those charges, about what

15   justified them charging that he was a member or

16   was connected to al-Qaeda?

17   MS CATTERALL: I did not. I was

18   stunned to hear that. I asked if he had been

19   informed of that. I wanted to know before he came

20   into the room if he already knew that.

21   MR. DAVID: Was there any

22   reference made to the basis of the charges being

23   tied somehow to belonging to the Muslim

24   Brotherhood?

25   MS CATTERALL: No.

1   MR. DAVID: And was there any

2   reference to the charges being related to the fact

3   that he had not fulfilled his military

4   obligations?

5   MS CATTERALL: No.

6   MR. DAVID: So that the charges

7   were clearly only related to some sort of

8   participation in al-Qaeda?

9   MS CATTERALL: Yes.

10   MR. DAVID: And reference to

11   training in Afghanistan in that regard.

12   MS CATTERALL: Yes.

13   MR. DAVID: Your second reference

14   to the fact that Mr. Arar was not wanted in Canada

15   for criminal activity says that you would have

16   attributed that to the Solicitor General.

17   The message, if you read it, says:

18   "Ms Catterall again explained

19   that the Solicitor General

20   had indicated that Mr. Arar

21   was not wanted in Canada for

22   criminal activity."

23   It's about the fourth or fifth

24   line down.

25   MS CATTERALL: Yes.

1   MR. DAVID: Do you have any

2   comments on that reference?

3   MS CATTERALL: No, I don't. I

4   would not have said that, though, had I not heard

5   that from Mr. Easter.

6   MR. DAVID: Okay. And did you

7   seek to identify the more precise evidence that

8   the Syrians may have against Mr. Arar?

9   MS CATTERALL: No, I did not.

10   MR. DAVID: Was there any reason

11   why you didn't pursue that?

12   MS CATTERALL: I think it was just

13   that, frankly, I was stunned to hear that they

14   were planning to charge him soon, was the word

15   they used.

16   MR. DAVID: Could you explain to

17   us -- the next meeting is with Mr. Arar -- how

18   those two meetings meshed and how it evolved; how

19   Mr. Arar came to be in your presence,

20   Ms Catterall?

21   MS CATTERALL: To be perfectly

22   honest with you, I left the room for a minute to

23   use the washroom, which is right next door, and

24   when I got back to the room, Mr. Arar was already

25   there.

StenoTran

1   MR. DAVID: Okay. So you met

2   Mr. Arar in the exact same room --

3   MS CATTERALL: Yes.

4   MR. DAVID: -- where you had met

5   this person by the name of Mr. George?

6   MS CATTERALL: Yes.

7   MR. DAVID: Could you just give us

8   a sense of that meeting. How long did it last?

9   MS CATTERALL: Perhaps 15 to 20

10   minutes.

11   MR. DAVID: And was it a

12   controlled exercise?

13   MS CATTERALL: Very controlled.

14   MR. DAVID: Just give us a sense

15   of that.

16   MS CATTERALL: He was only allowed

17   to speak in Arabic.

18   MR. DAVID: Was that made clear to

19   Mr. Arar --

20   MS CATTERALL: Yes.

21   MR. DAVID: -- in your presence?

22   MS CATTERALL: Yes.

23   MR. DAVID: So Mr. Arar was to

24   speak to you in Arabic only?

25   MS CATTERALL: Yes.

1   MR. DAVID: And you were permitted

2   to speak to him in English?

3   MS CATTERALL: Yes. There was no

4   other option.

5   MR. DAVID: And Mr. Assadourian

6   was, however, fluent in Arabic?

7   MS CATTERALL: Yes.

8   MR. DAVID: So somehow he was able

9   to monitor.

10   MS CATTERALL: That's one of the

11   reasons I was very happy to have him there, so I

12   didn't have to rely only on their translators.

13   MR. DAVID: You had never met

14   Mr. Arar before?

15   MS CATTERALL: I had never met him

16   before, no.

17   MR. DAVID: In fact, before

18   Ms Mazigh called your office in the latter part of

19   September of 2002, you had had no connections

20   whatsoever with this family?

21   MS CATTERALL: No, none.

22   MR. DAVID: When you met Mr. Arar,

23   how did you present yourself? Just give us a

24   sense of what preliminary steps or preliminary

25   matters of that meeting.

1   MS CATTERALL: I honestly can't

2   remember if I introduced myself or if the

3   ambassador did. I had pictures of his family,

4   messages from Monia, drawings his daughter had

5   done to give him, and that's the first thing I

6   did.

7   It was a very emotional meeting

8   for all of us, and I think he was very happy to

9   see us, to see me, to know that I had been in

10   touch with Monia, that I had met his children and

11   been at his home. I made a point of telling him

12   how hard Monia was working on his behalf.

13   MR. DAVID: In terms of his

14   appearance, Ms Catterall, could you give us your

15   appreciation of his condition, his physical

16   condition, his mental condition, his emotional

17   condition.

18   Was he oriented? Just give us

19   your appreciation.

20   MS CATTERALL: He was pale, which

21   was understandable. He looked thinner than

22   photographs I had seen of him which had been taken

23   during their holiday in Tunisia.

24   --- Pause

25   MS CATTERALL: He was clean; had

 1   clean clothes on. I was asked a number of times

 2   after did I see any signs of torture, and all I

 3   could say was, no, I saw no visible signs that he

 4   had been mistreated. But I always qualified that

 5   by saying, but I am no expert on detecting if

 6   people have been tortured.

 7   MR. DAVID: Was he handcuffed, was

 8   he shackled when he was in your presence?

 9   MS CATTERALL: No, he was not.

10   MR. DAVID: And in terms of

11   orientation?

12   MS CATTERALL: I know he is

13   described in this memo as seeming somewhat

14   disoriented. Never having met him before, I had

15   nothing to compare with, and that wasn't a strong

16   impression I had.

17   Clearly anybody would not be

18   totally at ease walking into a room full of people

19   who had just flown in from Canada just to see him,

20   of people he had never met before, being in this

21   strange situation.

22   I would want to hear the

23   ambassador explain that terminology.

24   MR. DAVID: Were you the principal

25   interlocutor? Was Mr. Assadourian participating

1   in the meeting?

2   MS CATTERALL: Yes, he was as

3   well.

4   MR. DAVID: Who was speaking the

5   most?

6   MS CATTERALL: I think I did,

7   simply in terms of talking to him about his wife

8   and the efforts she was making in Canada for his

9   return, and trying to reassure him that the

10   Canadian government was doing everything possible

11   for his return as well.

12   MR. DAVID: Did you provide

13   Mr. Arar with any additional messages apart from

14   Ms Mazigh's letters? Did you provide him with any

15   additional messages from Monia?

16   MS CATTERALL: Just to tell him --

17   and I don't think she said this in her message to

18   him -- of her efforts on his behalf in Canada.

19   MR. DAVID: Did you inform

20   Mr. Arar of the fact that Mr. Graham had sent a

21   letter along with you to the Foreign Minister of

22   Syria?

23   MS CATTERALL: I don't recall if I

24   did or not.

25   MR. DAVID: And did you discuss

1   the fact of what you had just learned in your

2   previous meeting with the colonel, the fact that

3   he was going to be charged?

4   MS CATTERALL: No.

5   MR. DAVID: Did you discuss

6   anything to do with links he may have to al-Qaeda,

7   to training in Afghanistan --

8   MS CATTERALL: No. It was very

9   clear before he came into the meeting that these

10   were things not to be discussed.

11   MR. DAVID: And that was made

12   clear by whom?

13   MS CATTERALL: By the colonel.

14   MR. DAVID: Okay. In regard to

15   the consular report for this meeting, I would

16   bring you to paragraph 7.

17   It says:

18   "Mr. Arar was brought into

19   the room and introduced to

20   the MPs and Embassy staff.

21   He appeared tired and

22   disoriented but generally in

23   good health."

24   I think you have provided a

25   sufficient context to that comment.

```
 1                    MS CATTERALL:  Mm-hmm.

 2                    MR. DAVID:  And:

 3                         "Mr. Arar was instructed by

 4                         Colonel George to speak only

 5                         in Arabic (so that the Syrian

 6                         staff could understand what

 7                         he was saying).  During the

 8                         interview, this restriction

 9                         was relaxed several times,

10                         especially when it came time

11                         for Mr. Arar to dictate a

12                         letter to his wife."

13                    Do you recall that portion of your

14      meeting?

15                    MS CATTERALL:  His dictating the

16      letter to his wife?  Yes.

17                    MR. DAVID:  And who took down the

18      letter?

19                    MS CATTERALL:  Mr. Shaw.

20                    MR. DAVID:  And that was done in

21      English?

22                    MS CATTERALL:  Yes.

23                    MR. DAVID:  "The Colonel also told

24                         Mr. Arar to refrain from

25                         commenting on security
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1   aspects of his case and to

2   speak about his health,

3   prison conditions and family

4   members."

5   Did he discuss in any way with you

6 his prison conditions with the Syrians?

7   MS CATTERALL: I don't think so.

8 I don't recall that, no.

9   MR. DAVID: Okay.

10   MS CATTERALL: I don't recall that

11 he did.

12   MR. DAVID: We will go on to

13 paragraph 8 now.

14   "Ms Catterall explained that

15   she was a Member of

16   Parliament for the

17   constituency in with Mrs.

18   Arar lived, and it was

19   because of his wife's strong

20   efforts that Mrs. Catterall

21   and Mr. Assadourian had come

22   to Syria to see him. Mrs.

23   Catterall gave Mr. Arar some

24   recent family photos,

25   drawings by his children and

1   two letters from his wife.

2   The meeting was emotionally

3   charged, with Mr. Arar close

4   to tears on several occasions

5   as he received news of his

6   family from Ms Catterall."

7   Is that an accurate reflection?

8   MS CATTERALL: Yes.

9   MR. DAVID: Okay.

10   "He was particularly moved

11   when he learned that Mrs.

12   Catterall had visited his

13   family in their Ottawa home."

14   Is that accurate?

15   MS CATTERALL: Yes.

16   MR. DAVID: "On several occasions,

17   he expressed his belief that

18   he would be freed soon

19   because he was innocent."

20   Is that also accurate?

21   MS CATTERALL: Yes.

22   MR. DAVID: "In the letter that he

23   dictated to the Political

24   Counsellor, he again

25   expressed this hope and

1   thanked his wife for all her

2   efforts to secure his return

3   to Canada. The only copy of

4   this letter was given

5   immediately to Mrs. Catterall

6   to convey to Mrs. Arar."

7   Was that done?

8   MS CATTERALL: Yes.

9   MR. DAVID: "No copy of the letter

10   was requested by the Syrian

11   officials present. Only once

12   during the meeting was

13   Mr. Arar gently reminded by

14   the Colonel to refrain from

15   discussing details of his

16   case."

17   Does that seem accurate?

18   MS CATTERALL: I don't recall

19 that.

20   MR. DAVID: You don't recall of

21 the reminding?

22   MS CATTERALL: No.

23   MR. DAVID: Okay.

24   "At the end of the meeting,

25   Mrs. Catterall asked Mr. Arar

1   whether he needed anything.

2   He asked if his wife could

3   every six months send him

4   some money."

5   Is that accurate?

6   MS CATTERALL: Yes.

7   MR. DAVID: Do you have anything

8   else that you would like to add about this meeting

9   with Mr. Arar before we move on?

10   --- Pause

11   MS CATTERALL: I guess only that

12   in retrospect, I would do different things. And I

13   think it's safe to say that Mr. Arar was not the

14   only person in that room close to tears. A number

15   of us were.

16   MR. DAVID: Okay. Mr. Arar was

17   then escorted out of the room and the meeting

18   continued.

19   MS CATTERALL: Yes, for a few

20   minutes.

21   MR. DAVID: Were the same players

22   present at this follow-up meeting?

23   MS CATTERALL: Yes.

24   MR. DAVID: What was discussed?

25   Who said what at this time?

1   MS CATTERALL: We went on to ask

2   further about court. I believe it was the

3   ambassador who particularly raised the issue of

4   resuming consular visits. At that time there had

5   not been a consular visit since December, if my

6   memory is correct, and that was becoming of

7   increasing concern. That was why actually seeing

8   him face-to-face was so important.

9   It also led me to wonder, however,

10   why Mr. Martel wasn't at the meeting since he was

11   the one who had had previous visits with him and

12   would have noticed probably better than anybody

13   else any changes.

14   MR. DAVID: Was there any

15   indication or discussion about when the trial

16   would be taking place and in what circumstances?

17   MS CATTERALL: No. Just they said

18   he would be charged soon, and of course April,

19   May, June, July, August -- four months later, he

20   still hasn't been charged.

21   MR. DAVID: And was there any

22   discussion of providing assistance to Mr. Arar in

23   facing this trial in Syria?

24   MS CATTERALL: Yes. I don't

25   remember which of us asked would his family have

1   access to the court? We asked about legal

2   representation. Would the embassy be able to have

3   access to the court?

4   And there was particular emphasis

5   on renewing visits with him.

6   They said very clearly that once

7   he was charged, that would be -- well, they said

8   two contradictory things, really. That it would

9   be up to the courts to determine various things,

10   but at the same time they also said that that

11   would have to be arranged through Foreign Affairs.

12   But they had been saying that to

13   the ambassador for several months, and requests of

14   Foreign Affairs in Syria for visits had not

15   received any positive response, in fact had

16   virtually not received a response, according to

17   Mr. Pillarella.

18   MR. DAVID: Was there any

19   discussion, if you recall, about having a Canadian

20   legal observer present during the trial?

21   MS CATTERALL: I don't recall that

22   we asked specifically about legal representation,

23   but there was a question about whether the

24   Canadian embassy would have access, I believe.

25   Yes, I think that was asked. I

1   know we asked about the family having access.

2   MR. DAVID: Ms Catterall, it's now

3   about three minutes to five. Are you content in

4   continuing on a bit, or is it preferable that we

5   adjourn at this time?

6   MS CATTERALL: I do have to be

7   somewhere else at six and I would prefer to

8   adjourn now, if that is all right.

9   THE COMMISSIONER: What is the

10   schedule for tomorrow, Mr. David? How much longer

11   will you be?

12   MR. DAVID: I would estimate about

13   an hour, Mr. Commissioner.

14   THE COMMISSIONER: How long will

15   you be, Mr. Waldman?

16   MR. WALDMAN: I don't anticipate I

17   will be more than an hour.

18   THE COMMISSIONER: Two hours.

19   Ms McIsaac?

20   MS McISAAC: Possibly an hour.

21   THE COMMISSIONER: That's three

22   hours.

23   As I understand the schedule

24   tomorrow, we can start at two o'clock and you have

25   to leave at five?

1   MS CATTERALL: I have to be back

2   in Parliament for votes, yes, at the end of the

3   day.

4   THE COMMISSIONER: Are we going to

5   be able to make it? All I am thinking is if there

6   is any more time we can use now or whatever. If

7   we don't finish tomorrow, then you have to come

8   back another day.

9   MS CATTERALL: I want to be

10   helpful in any way I can to the Commission and I

11   will make myself available.

12   THE COMMISSIONER: Okay. But it

13   strikes me that we should be able to finish this

14   witness, working together, in three more hours.

15   MR. DAVID: All right.
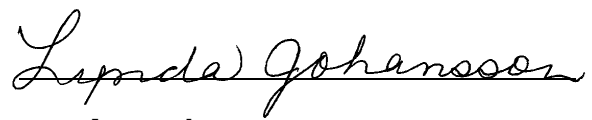
16   THE COMMISSIONER: With that then,

17   we will rise. We are going to start tomorrow

18   morning at nine o'clock, Mr. David?

19   MR. DAVID: That is correct.

20   THE REGISTRAR: Please stand.

21   --- Whereupon the hearing adjourned at 5:00 p.m.,

22   to resume on Wednesday, June 1, 2005, at

23   9:00 a.m. / L'audience est ajournée à 17 h 00,

24   pour reprendre le mercredi 1er juin 2005

25   à 9 h 00

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